

The Urban Poor in Globalising India

Dispossession and Marginalisation

Groundspeak Series

The Urban Poor in Globalising India

Dispossession and Marginalisation

Edited by
Lalit Batra

South Asian Dialogues on Ecological Democracy (SADED), CSDS



Vasudhaiva Kutumbakam Publication Private Limited

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Commissioned by: South Asian Dialogues on Ecological Democracy,
Centre for the Study of Developing Societies,
29, Rajpur Road
Delhi – 110054

Published by: Vasudhaiva Kutumbakam Publication Pvt. Ltd.
XC-7, Sahvikas Apartments
68, Patpadganj
Delhi-110092
email: vkpublication@gmail.com

Distributed by: Daanish Books
B-802, Taj Apartments
Gazipur
Delhi-110 096
Tel: 011-22230812, 6578 5559
Email: daanishbooks@gmail.com

ISBN 978-81-89654-33-7 (Pb)

Price: Rs. 75

Layout: Daanish Books, Delhi
Cover Design & Illustration: Jagdish Chandra

Price : Rs. 75/

Produced and printed by SADED and Vasudhaiva Kutumbakam Publication Pvt. Ltd. at

The Groundspeak Series

Information is always processed by the perspective of the analyst. Perspectives that suit the needs and interests of the dominant sections – internationally, nationally and locally – tend to become the dominant ‘knowledge’. A major segment of publications present this top-down ‘knowledge’ as ‘the truth’, whether in the natural sciences, applied sciences or the social sciences. For a wholesome understanding of reality, it has to be grasped through putting together of diverse perspectives from different vantage point.

This series is meant to highlight perspectives from the ground level, realities of the large majority that tend to remain marginalised. Academics, activists, academic-activists, activist-academics, ‘lay people’, lay-activists, lay-academics, all are equally valuable in this exercise of articulating the ‘non-dominant’ perspectives. The publications in this ‘groundspeak’ series will not attempt to iron out the styles of the authors. Thereby they will reflect the academic styles of some, the ‘oral tradition’ of others. They will include monographs of individual authors as well as edited compilations from several. We hope the series will reflect the great diversity of social contexts and positions even within the non-dominant on a wide range of issues that are relevant to a wholesome understanding of our times and an equally relevant praxis.

THIS VOLUME

Policies for planned development in the post-Independence period tended to follow the colonial patterns of development, only extending them further for wider coverage of the population. In the past two decades, the shift in policies towards greater liberalisation, globalisation and privatisation has added new dimensions. The welfare state model and its stated

responsibilities for the wellbeing of its citizens as well as the dream of the democratic state providing concrete shape to the aspirations of the poor and marginalised seems to have been given up by the ruling classes. Meanwhile the ideas of equality and development have got strengthened among 'the ruled'. Our ruling classes, who are more inclined to align with the global elite than with the poor and rural, formulate policies based on perspectives generated by the urban and industrialised high-income societies, pushed by a neo-imperialism of the corporate multi-nationals. Therefore, policy analysis from those who have consciously attempted to understand various dimensions of life from the vantage point of the poor is crucial for any democratic development. In this series we will bring out volumes dealing with urban and rural development, health and wellbeing, water, agriculture,

This volume presents analyses of current urban development policies as well as of civil society initiatives and collective action by the urban poor. People in long-term engagement with issues of the urban poor and working among them, have penned these down for laypersons interested in democracy and development and for those working on other spheres of development. We hope it will contribute to a better understanding of the issues and formation of cross-cutting linkages to build a coherent and comprehensive vision and a coalition for comprehensive democracy.

Vijay Pratap

Series Editor

South Asian Dialogues on Ecological Democracy (SADED), CSDS
and

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Contents

<i>Acknowledgements</i>	ix
<i>Preface</i>	xiii
Urban Land Rights:A Disturbing Silence for Long <i>Darshini Mahadevia</i>	1
The Human Rights to Adequate Housing and Land: Legal Commitments, Ongoing Violations <i>Miloon Kothari and Shivani Chaudhry</i>	16
Demolishing Delhi: Notes from a World-Class City-in-the-Making <i>Amita Baviskar</i>	39
The Footprints of a Global City: What It Means for the Poor: Sharing the Mumbai Experience <i>Amita Bhide</i>	45
Forced Evictions in Chennai <i>Dr. K. Shanmugavelayutham</i>	52
Slums: Whose Habitat and Whose Eyesore? <i>D. Leena</i>	57
Situating Urban Displacement: The Mumbai Experience <i>Shweta Damle</i>	61
The Devil Called Urban Governance (read Urban Apartheid) <i>Indu Prakash Singh</i>	71
A Place-Based Typology for Creating Child Friendly Cities from Children's Perspective <i>Sudeshna Chatterjee</i>	83

viii	The Urban Poor in Globalising India	
	Life of Marginalised Communities in Slums: Some Pointers	93
	<i>Biju Laal</i>	
	The JNNURM and Urban Reforms in Globalising India	98
	<i>Lalit Batra</i>	
	Community Participation Law (CPL):	
	What Participation? Whose Community?	111
	<i>Vinay Baindur and Lakshmi Aiyar</i>	
	JNNURM and the Reform Process in Indian Cities	122
	<i>Lalitha Kamath and Vinay Baindur</i>	
	Squatting, Security of tenure and Social Exclusion:	
	The Latin American Urban Experience	126
	<i>Diya Mehra</i>	

Acknowledgements

- To all the authors for readily agreeing to contribute their work for this compilation and delivering it in a very short span of time.
- To The Groundspeak Series Editor Sh. Vijay Pratap for coming up with the idea of this compilation and Ritu Priyaji for pushing me hard to complete it.
- To South Asian Dialogues on Ecological Democracy, CSDS and Vasudhaiva Kutumbakam for publishing this volume.
- To Daanish Books for agreeing to distribute this volume.
- To Chris for seeing me through this and constantly encouraging me.

Lalit Batra

Preface

The present volume was originally conceived as a supplement to the newsletter being brought out by Vasudhaiva Kutumbakam and South Asian Dialogues on Ecological Democracy (SADED), CSDS, on the occasion of the India Social Forum, 2006. As the work moved forward, we decided to give the volume a life of its own, that is, a potentially longer shelf life than a newsletter supplement. While the deadline of publishing it before the ISF could not be achieved, we are somewhat satisfied to have brought it out on time for the World Social Forum that is going to take place in Nairobi between 20-25 January 2007.

As I was scrambling and struggling to put together the present compilation to complete it in time for the ISF 2006, the city I have lived in all my life seemed to be in a state of siege. Television channels were saturated with images of angry traders – small, big, also workers working in their shops – taking to the streets while officials of the Municipal Corporation of Delhi went about sealing their shops amidst unprecedented presence of Police and Rapid Action Force. The drama that unfolded in Delhi in, particularly, the second half of the 2006, on the issue of ceiling of shops functioning in ‘non-conforming’ areas was, for me, symptomatic of the tension between the ‘actually existing present’ and the ‘desirable present’ of urban India with the highest court of the land and the ruling elite firmly putting their weight behind the new India exotica, the mythical “world class city” thought to be attainable through firm application of the ‘rule of law’ by the coercive apparatus of the State and efficient ‘management’ of cities by a coalition of corporates and ‘citizens’. While policy makers, elected and unelected political leaders, experts and ‘civil society’ endlessly discussed ramifications of relative dispossession of traders for the city; there are other ways in

which the landscape, political economy and social fabric of cities are being violently transformed.

Perhaps the most brutal manifestation of the quest to transform urban India is the way millions of poor working men, women and children of our cities are being continuously robbed and dispossessed of their livelihoods, shelter and resources, without so much as a passing glance from 24x7 channels. In the past seven years alone, close to a million slum dwellers have been displaced from Delhi. Mumbai managed to evict four lakhs in just four months last year. The progressive government of West Bengal did not as much as blink an eyelid before ordering a city wide crackdown on thousands of hawkers under the 'Operation Sunshine' and torching homes of the poor in Tolly Nalla and banishing them out of Kolkata. In the line of fire is not just the shelter and livelihood of the poor but their very life and dignity. One could go on recounting hundreds of such gory tales of State-led assault on the poor; the important point however is that the Indian state, irrespective of the ideological leanings of the parties in power in different states, in coalition with 'national' and transnational corporate interests and 'India Shining' middle class have launched by far the most powerful attack against the urban poor. This kind of an assault simply has no precedence in the post independence history of the country.

At a juncture like this the constellation of forces opposed to neoliberal globalisation is not just required but a life and death question for millions across the country. The struggle against neoliberal policies is being waged by sections of people at various levels. New formations, new platforms, new ideas are emerging from several different quarters. The development discourse that once focused exclusively on rural India has been broadened to include issues of the urban poor. Moreover, with increasing urbanisation and setting up of 'elite spaces' such as Special Economic Zones in the hinterland, there is an emerging commonality in the experience of distress between rural and urban areas. Displacement, for instance, is a phenomenon, today shared by the poor everywhere.

The articles and papers in the volume basically fall in four different, but not mutually exclusive, categories. Most of the articles tend to be city specific while at the same time raising larger questions common to all cities. There are a few articles on specific sections of the urban poor –

homeless, children, Dalits and Muslims. A set of articles deal with the urban reform agenda being pushed in all cities today while the final article of the volume seeks to draw out relevant lessons from Latin American experiences of slum organising and claim making.

I hope the activists and activist-academicians working amongst/on the issues related to the urban poor find the compilation useful in their quest to contribute to challenging the hegemonic stranglehold of the neoliberal Empire.

The volume I am sure will exhibit all the weaknesses of a non-professional editor. The blame, I must say, lies squarely with me.

Lalit Batra

Urban Land Rights

A Disturbing Silence for Long

Darshini Mahadevia¹

INTRODUCTION

After almost four decades of urban land use planning and government regulatory as well as direct intervention in the land market, right to housing and land remains a distant dream for majority of the urban dwellers, especially in the metropolitan cities, where land has many contending uses, including speculation. On one hand, land use planning and regulations are necessary in the larger public interest in the urban areas so that overall public hygiene is maintained and the equitable access to land is ensured for all in the cities. On the other hand, the planning standards and regulations, the planners' vision of cities and the bias of the planning authorities against the poor have together excluded the poor from the formal planning processes, excluding them from the 'formal land market' and thereby converting them into 'illegal citizens' of the cities. The regulations for demonopolising land supply, in effect, because of the weak framing, procedural delays and insincere implementation, accompanied by corruption, have made goal of land rights in urban areas illusive. 'Informal land market' means arena for the vested interests and non-market forces to operate. The real estate business has considered land regulations stifling their business growth. There is dissatisfaction with land policies on all fronts. The latest in the group of dissatisfied is added the public bodies themselves, mainly the urban local bodies who stake claim on all the existing lands legally under their ownership for using it for raising funds for urban development, mainly the urban infrastructure projects and beautifying their cities.

2 The Urban Poor in Globalising India

While, such have been the contradictions regarding the land policies and their implementation with regards to the urban poor, there is some kind of silence in the urban policy realm, media and also in the NGO sector (with exceptions) with regards to urban poor's right to land and housing, which have not been satisfactory. In the whole of urban India, in 1994, estimated 22.5 percent population lived in the slums and squatter settlements². Alternatively, the NSSO's 44th round (1988-89) survey placed only 14.7 percent households living in slums and *bustees* [Department of Statistics 1992a], a reduction from 20.5 percent in the 43rd round (1987-88) [Department of Statistics 1992b] and 20.1 percent in 38th round (1983) [NSSO 1987]. In large cities much higher proportion of population is living in slums and squatter settlements. For example, in 1991 in Mumbai, 55.3 per cent³, in Chennai 40 percent, and in Ahmedabad 40 per cent⁴ of population and in 1996-97, in Pune 38.8 percent, in Bangalore 22.2 percent and in Hyderabad 29.9 percent lived in slums⁵, which is significant. Living in slums indicates not only poor quality of housing but also insecure land tenure.

In the current context, land rights issue has become all the more important, because, after the economic reforms begun in the early nineties, urban centres, mainly the metropolitan cities are under big transformation to attract new business. These cities need land to develop recreational areas such as river fronts, for commercial activities such as trade centres, and for selling the same in the land market so that funds can be raised for building flyovers, widening the roads, and so on. For example, Mumbai Metropolitan Regional Development Authority (MMRDA) has set up infrastructure fund through the sale of developed lands in Bandra-Kurla complex, a new Central Business District (CBD) developed by it. Ahmedabad wanted to emulate this example by developing International Finance and Trade Centre (IFTC), a plan that did not take-off due to depression of real estate and financial markets. Many metros have incurred debt through market borrowings from financial institutions or capital market for urban projects and are offering public lands as some kind of security against these borrowings. Because of all these, during the last few years, from many cities in India, mainly the metropolitan cities, instances of demolitions and evictions of small and large slum pockets are streaking in. All across the metros, hawkers are

being removed from places where they have vended for last many years for road widening and environment clean up exercises. In short, public authorities have begun an exercise of reclaiming urban land, a precious commodity from the poor. Land rights of the urban poor therefore have become a non-issue for the urban local bodies. Long silence on the land rights issue therefore is disturbing.

The NGOs working in the urban areas (and by now most cities have these organisations) for and with the poor are focussing on partnership projects for housing or are involved in issues on urban governance or income-generation programmes mainly with women. They are also involved in housing credit programmes in a manner that land rights do not remain an issue. For example, large NGOs are availing Line of Credit from the housing finance agencies for renewals and upgradation of shelter units which may not have *dejure* but may have *defacto* land rights. Land rights issue therefore has gone into the background, when in reality, it is going to be a very important issue in the cities, especially when the evictions and demolitions have increased in nearly all the metro cities in the last few years and city-level projects are being proposed that would increase the same. In the decade of the eighties, housing rights movement did bring attention to this issue. In the eighties, National Campaign for Housing Rights (NCHR) had taken this issue to a level of movement, to influence the public agency actions and national housing policy. It was a resistance to increased pace of evictions and slum demolitions witnessed in the Indian metropolises. The movement faded and the beginning of the nineties shifted the focus of discussions to the Structural Adjustment Programmes (SAP) introduced in 1991.

In the official policy realm, just before the first UN Habitat Conference in Vancouver in 1976, in India, access to urban land was the key issue of discussion. Agreement to nationalise urban land led to amendment of Indian Constitution⁶. Urban Land Ceiling Act came into existence in 1976. This legislation has now been repealed. While the first Habitat Conference stressed on the importance of land tenure, the international development organisations came up with the programmes such as sites and services and slum upgradation. Ironically, India went ahead and did both, promulgated legislation to nationalise urban land and also implement programmes that approached land rights issue within the

4 The Urban Poor in Globalising India

existing land ownership structure in the cities, like the World Bank programmes. In the land policy realm, India has come a full circle and went back to situation prior to framing of land ceiling act, but under new economic conditions of globalisation and ideology of privatisation and commercialisation in the urban sector.

This paper is urging to look at the land rights issue in the urban sector under the new conditions of economic reforms, globalisation, privatisation and commercialisation of urban development in India. The second section briefly and critically overviews the past national level efforts to address the issue of land rights in the cities. Certain city-specific efforts are overviewed in section three. The last section looks at the urban policies and dynamics in the post-reforms period along with reporting of the evictions and demolitions in this period. It also concludes by urging to make land and housing rights into a co-ordinated movement across the urban centres in India.

FAILED HOUSING PROGRAMMES

There are two types of programmes for increasing land supply and catering to the low-income groups in the cities; the general programmes, implementable at all-India level and the city-specific programmes, which are discussed in the following section. The general programmes are: (a) sites and services programmes, (b) slum upgradation programmes and (c) giving of *pattas*.

Sites and Services (S&S) Schemes

This programme is to make serviced urban land in small lot size accessible to the poor and the beneficiaries are expected to construct their houses primarily through self-help. Programme introduced during the Fifth Plan, initially meant for the poor was extended to include other sections to cross-subsidise the poor. Public housing agencies were to implement the S&S scheme by obtaining funds from different funding agencies, namely the Housing and Urban Development Corporation (HUDCO), the World Bank and the central government (under the Integrated Development of Small and Medium Towns – IDSMT). Impetus to S&S came with the involvement of the World Bank in Madras Urban Development Project (MUDP) – I and II and then Tamil Nadu

Urban Development Project (TUDP). Subsequently, the World Bank took up several other S&S schemes in different cities, namely Kanpur in 1981, Indore in 1982 and a number of cities in Gujarat in 1985.

In Mumbai, 85,000 serviced plots have been provided under the Bombay Urban Development Project (BUDP). Of these, 61 percent are the smallest size plots of 26 sq. m [BMRDA 1995: 274]. During the project period (1984-91), 22 percent of the formal sector supply of new housing was through the BUDP. In the whole city, the formal sector contributed only 47 percent of the total housing requirement of the city [BMRDA 1995: 246]. Thus, on the whole, BUDP contributed 10 percent of the total annual supply of new housing.

Implementation of this programme in any major way in any other cities in India is not reported. Also, wherever the programme has been implemented, a broad trend of transfer of allotted plots to slightly better-off households, either because of higher standards or good location to attract the better-off or high unit cost that exceeded the affordability of the urban poor and even entry of higher income groups to the schemes for the poor, due to corruption have been reported. For example, in S&S project at Dindoshi, only 16 percent of the allottee households came from squatter settlements; 75 percent households were the original allottees and the rest 25 percent of the same were displaced by the better-off. Half the plots in Sector 21, New Bombay remained with the original allottees [Hart and Walson 1989: 120-121]. In Chennai, only 53 percent of the plots in MUDP-I, MUDP-II and TUDP projects were occupied and of these, only 28 percent belonged to the original allottees [NIUA 1993: 25].

The more important criticism of sites and services schemes is that the lands available for the schemes are at very distant and inconvenient locations. In Mumbai, sites and services schemes were located beyond 30 km from the city centre [Mahadevia 1998]. In Chennai, these were located outside the municipal corporation area [Mahadevia forthcoming].

Slum Upgradation Programme (SUP)

This programme for the provision of shelter and basic services was started in the Fifth Plan at the instance of the World Bank. Currently HUDCO finances SUP under its Repairs and Additions Scheme for EWS and LIG categories and inner city areas. Like the S&S scheme, it was first taken up

6 The Urban Poor in Globalising India

in Chennai as a component of MUDPI. Under this programme, land *patta* is given, either on a leasehold (in Mumbai) or freehold basis (in Chennai).

Upgradation programmes are taken up only in slums that are compatible with the zoning and land use restrictions in the Development Plan of the city. Besides, slums close to a *nullah*, on land which can get water-logged, near high tension power lines, railway tracks, airports, sensitive defence establishments and on hill slopes are not selected. By this criteria, around half the slums in the metro cities would be classified as objectionable and thus be disqualified for upgradation or reconstruction [Mahadevia forthcoming]. In Mumbai, it was decided that at least 10 percent of the total 100,000 slum households to be covered under the SUP (as a part of BUDP), would be on the private lands, which did not happen in spite of concerted efforts [BMRDA 1995: 322].

Giving of *Pattas*

Though tenure regularisation or giving of land *pattas* to the slum dwellers has been accepted in policy, not many state governments in India initiated it. Madhya Pradesh government did so and passed legislation in 1984 to confer tenurial rights for 30 years on leasehold basis to households squatting on public land in 47 municipal corporations and civic bodies. Success of this scheme was quite limited. In Bhopal, only 43.0 percent of the households squatting on the public lands got 30 years lease. Another 13.3 percent households, which were on objectionable lands such as road side, near public buildings and houses of important persons such as ministers, and so on, got only one year lease. Another 15.6 percent households came under the category of disputed cases and remaining large proportion, 27.6 percent were not considered at all for tenurial rights [Rishbud 1988]. In Delhi, under the slum regularisation programme, which includes giving of *pattas*, of the total 3,332 unauthorised colonies identified by the Delhi Development Authority (DDA) and Municipal Corporation of Delhi (MCD) officials, only 615, that is 18 percent, were regularised till 1993⁷.

PIECEMEAL EFFORTS AT CITY LEVEL

In some metropolitan cities, in the decade of the 1990s, city governments have initiated innovative special programmes, which however have

gained larger than life attention from all quarters. The city specific programmes discussed are: (a) slum networking programme of Ahmedabad and Indore, (b) slum redevelopment scheme of Mumbai and (c) public-private partnership in Haryana, Lucknow and New Bombay.

Slum Networking Programme (SNP)

This programme has been implemented in Ahmedabad and Indore. It is a slum improvement programme with individual water supply, latrines and sewerage connections, paving of the streets, garbage collection and street lighting and the beneficiaries participating through contributing upto 30 percent of the cost. The private sector and the local authority share remaining cost and that is the grant for the project. A NGO is involved in the implementation to ensure financial participation of the people. Slum covered under the SNP has guaranteed tenure for 10 years, which is a way to skirt the land tenure issue. In Ahmedabad, after successful implementation of SNP in one slum, 25 other slums were either being improved or proposed to be covered till the end of 1998-99 budget⁸. The scale at which the programme in Ahmedabad is being implemented is too slow to make city level impact. In Indore, the post project surveys have found a big gap between the claims made from the project and real achievements [Verma 2000]. This programme however does not address land rights issue.

Slum Redevelopment Scheme (SRS)

This scheme is only for Mumbai city and was introduced with the idea to convert slums in the city into *pucca*, multistoreyed buildings and giving free of cost units (of 225 sq. ft. of carpet area minimum) to the existing slum occupants. The cost of the scheme is covered through exploiting high land prices in the city. The scheme is to be implemented by the private developers or the co-operative of the slum dwellers. To make scheme attractive to the private developers, additional free-sale area, determined on the basis of total built-up area required to re-house the existing dwellers is permitted and for which norms are set. For example, in the island city, 75 percent of the rehabilitation area is permitted as free-sale area; in the suburbs it is 100 percent and in Dharavi 133 percent. Additional free-sale area is achieved by increasing the FSI to 2.5. FSI is

8 The Urban Poor in Globalising India

the floor space area permitted in relation to the size of the plot of land. The land is to be leased to the co-operative of the slum dwellers. It is prescribed that after the scheme is fully functional in the city, no new slums would be permitted to come up in the city. The scheme is a way to circumvent the land rights issue as well as give the developers access to prime lands locked up under the slums in the city. The scheme has not picked up and has remained a non-starter.

Public-Private Partnership in Land Development

Realising the inability of the public bodies in delivering serviced land at the rate the demand increase in the large cities, the National Housing Policy (NHP) of 1994 and the draft National Housing and Habitat Policy of 1998 have recommended encouraging public-private partnerships for increasing land supply in and around the large cities. The public authority's role here is to make raw land available to the private developers or facilitate developers' purchase of agriculture land by ensuring required clearances, and provide off-site infrastructure. The private developers' role is to plot the land after developing the infrastructure. It is stipulated that the private developer can allocate upto 55 percent of the developed area to housing and keep at least 45 percent for public facilities and amenities. Some reservation of for the EWS category is mandatory, which the public authority either gets back free of cost or at some pre-determined rates. There is therefore a stipulation of social housing as a part of the public-private partnership agreement. To make this model attractive, generally higher FSI than normal, about 2.5, is permitted.

Few such partnerships have come to light. One of the most know one is of City and Industrial Development Corporation (CIDCO)'s, in New Bombay where the CIDCO buys back 35 percent of the built-up area at pre-determined rates for selling to the poor. However, the CIDCO rates are so prohibitive (around Rs. 15,000 in 1994-95) (based on CIDCO reports), that the poor cannot afford these plots. Haryana Urban Development Authority (HUDA) in Gurgaon is another example, where the private developers have to reserve 20 percent of plots for the EWS to be sold by HUDA at nominal rates (now Rs. 200 per sq. m.). The plot size is average 50 sq. m. The plot would therefore cost Rs. 10,000. On paper this appears to be a good scheme. But, in reality, the plot prices have

increased to at least 20 times, leading to the resale of the plots and displacement of the poor [Andani 1999]. Third example is of Lucknow Development Authority (LDA) where the private developer has to construct 40 percent of the housing in EWS category (area 30 sq. m.), as per HUDCO norms to avail the loan. It took so long to get HUDCO loan that the EWS unit cost went up to Rs. 65,000.

The public-private partnership in land development offers promises only if implemented by urban development authorities with sincerity. On the contrary, these bodies of late are interested in making profits through land sales. LDA, for example, resorted to selling EWS unit at a price above Rs. One lakh [Andani 1999]. CIDCO also has similar interest. Public agencies bodies look at the public-private partnership model as passing their own responsibility of land development to the private sector rather than see it as a practical way of pursuing social housing programmes.

POST-REFORMS RECLAIMING THE LAND FROM POOR

After economic reforms two housing policies have come; the National Housing Policy (NHP) of 1994 and the draft National Housing and Habitat Policy of 1998. Both have emphasised to supply side factors in addressing urban housing and land problems in general and of the poor in particular. The 2005 draft Housing and Habitat Policy does the same. Point to note is that the land is being viewed as a commodity to be accessed through market and not a basic good that is the right of the urban population. These policies are not legislation and it is upto the discretion of the city governments to decide whether they would want to address the issue of land rights of the poor in their cities. Instead of addressing these issues, the city governments are behaving in the manner that makes it very clear that they do not encourage poor migrants coming to the cities and would want to treat the poor as secondary citizens of the cities.

Deregulating the land and better management of land are two instruments through which land supply is proposed to be increased. As a part of deregulation, Urban Land Ceiling Act was repealed in 1999. Individual land regulations are being relaxed in some cities. For example, in Mumbai, new Development Control Regulations (DCRs), such as increase in FSI (from 1.33 to 2.5 under certain conditions) and recycling

of textile mill lands have been introduced in 1991. In Ahmedabad and other cities of Gujarat, the violators of municipal bye-laws are proposed to be granted indemnity after paying the impact fee as determined by the corrupt officials of the local planning bodies. Rent control legislation is also proposed to be amended (in Delhi it has already been amended) to increase rental supply of housing.

For better land management, in place of master plan, guided urban development is proposed. Urban land information systems (LIS) are being upgraded and computerised, using Geographic Information System (GIS) and remote sensing technology. The LIS is expected to keep information not only on the size and use of the plot but also of ownership, sale prices at different time points, tax liability, tax payment, and so on. Densification of existing areas is another way proposed to increase land supply. Through better land management, land supply is also proposed to be increased. For example, through public-private partnerships, land pooling and so on. In Mumbai a new concept of Transfer of Development Rights (TDR) has been introduced. This is granting of development rights elsewhere, through increase in the FSI, if a plot of land is required for any specific purpose in the prime location of the city. As mentioned before, for the SRS in Mumbai, TDR is being used.

While number of changes have been proposed to increase the supply of land, it is also being viewed as a critical and important resource for increasing urban finances, especially for infrastructure development. There are number of ways through which this is possible, argue Ansari [1999]. These are land taxation, land banking and town planning schemes, public-private partnerships in land development and fees and charges of various kinds. In practice, some of the local authorities have begun selling (auctioning) their prime urban lands to raise finance for infrastructure. For example, in Mumbai, CIDCO has proposed railway expansion through selling (using) of extra land along the railway tracks in important locations for commercial purposes. All along the railway tracks in Mumbai, there are slums, which will be displaced as a consequence. MMRDA has already set up Infrastructure fund through sale of lands commercially as mentioned earlier. Walled city revitalisation proposal in Ahmedabad and river front redevelopment projects proposed in Ahmedabad, Hyderabad, Indore and Delhi also depend on the same approach for raising funds. Urban

development authorities of cities around Delhi too have taken this option for raising finance for infrastructure.

In the metro cities, infrastructure finance has become important after the economic reforms. This is so because, first of all, after the economic reforms, large cities have entered into competition to attract business. For this cities are improving their infrastructure and taking up city beautification projects. For example, flyovers for easing traffic pressure on road and increasing the travel speed on the roads, are under construction in Delhi, Mumbai, Hyderabad, and so on. Public land, mainly belonging to the local authorities is being viewed as a resource for raising funds. In that case, land availability for housing of the poor is going to be adversely affected. Secondly, the India Infrastructure Report [Expert Group on the Commercialisation of Infrastructure Projects 1996] states that Rs. 2,803.5 billion (US\$ 74 billion), that is Rs. 282.97 billion (US\$ 7.5 billion) per year (1994 prices) will be required if all the urban infrastructure needs were to be met till 2005. Against that, in 1995, only Rs. 50 billion were available per year from all the sources put together. A strong case therefore has been made for the privatisation and commercialisation of urban infrastructure. Public land is being viewed as important source of raising the money to repay or give as guarantee.

In last few years, thus, evictions and demolitions have increased in the cities, especially the metros. Roads are being widened. Land is being freed of the slums for beautification projects. In this group are projects that would entail large-scale displacement, such as river front development project proposed in Ahmedabad, Hyderabad and Indore. In these three cities, proposal is to create additional land along the river front for commercial and recreational purposes by reducing the river width through land reclamation⁹. It would mean displacement of 10,000 households in Ahmedabad and 3,000 households in Hyderabad. In Ahmedabad, rehabilitation is proposed on sites outside the project area but on the riverbank whereas in Hyderabad, it is on a site 15 kms away from the city. In Ahmedabad, river front development has been included in the city master plan upto 2011 [AUDA 1997]. In Indore, slums covered under the SNP, that got much acclaimed Best Practice Habitat award in 1996 are to be evicted [Verma 2000]. In Delhi too, evictions for Yamuna Development Plan have begun.

12 The Urban Poor in Globalising India

In a small metropolis such as Indore spate of demolitions have been reported. In 1999 itself, the Indore Development Authority evicted 835 slum households (IPT 1999). This was called 'operation flush-out'. In Bhubaneswar, evictions are anticipated for the proposed Metro Rail Transit System (MRTS). In Delhi, besides for Yamuna development plan, evictions of *Jhuggi-Jhompri* (JJ) colonies, displacing some 80,000 households, are expected for getting back public lands, and for mega-projects such as MRTS. The relocation sites for these displaced households is proposed at sites 40 kms away from the city centre and without any facilities. In Mumbai City, evictions have taken place to protect or improve urban environment. For example, 2,500 households were evicted from a colony in Santa Cruz (W) because of a Public Interest Litigation (PIL) filed by a local citizen's group asking the Court to widen the road as per the provisions of the master plan. About 86,000 households have been evicted from Sanjay Gandhi National Park in May 2000 based on a PIL filed by Bombay Environment Action Group (BEAG) seeking protection of the national park against encroachment (by the tribals)¹⁰.

In the cities of India, and especially in the metropolitan cities of the country, which are playing a key role in the globalisation process in the country, land rights of the poor do not remain a matter of concern for the public authorities. On the contrary, what remains of concern to them is to improve the city image for attracting business. Even the inherent biases of the urban rich against the poor are surfacing, the former wanting to usurp the cities for themselves, by either pushing out the poor or making them second-grade citizens. Amidst such housing crises emerging, focus of some of the NGOs on only housing credit programmes does not look appropriate. Right to land in the city is the basis of urban citizenship. This is more so for the urban poor. It is therefore disturbing to know that there has been such a long silence on the issue of land rights in the urban areas, when in the period of economic reforms, they are being sacrificed for the lop-sided development of the cities.

NOTES

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2. The estimates are given in NIUA (1995) and are worked out using TCPO compendium of Indian Slums in 1985.
3. Mahadevia (1998) based on data from Municipal Corporation.
4. Mahadevia and D'Costa (1997), based on Ahmedabad Municipal Corporation Statistical Outline.
5. For Pune, Bangalore and Hyderabad, slum data is from respective municipal corporation documents. See Pangotra (1998).
6. Framing of this act has interesting history that should not be forgotten. Before 1976, the Right to Property was recognised in the Constitution as a Fundamental Right [articles 19(1)(f) and 31]. This right was a hindrance in implementing rural land reforms and acquiring lands for public sector industrial townships. Government was forced to pay large amounts as compensation for land acquisitions (Sarkar 1991). Soon after, therefore, through the First (Constitution) Amendment in 1951, articles 31A and 31B were introduced, which saved the State from being challenged in court for violating fundamental rights of equality before the law (article 14), of freedom to acquire, hold and dispose property (article 19 (1)(f)) and of compensation for acquired property (article 31) (Mehta 1990). It was thought that the government would be able to acquire lands inexpensively through these amendments. In spite of the amendments, however, land reforms in rural areas and acquisition of adequate land for housing in the cities ran into problems. Subsequently, through the Forty-fourth (Constitution) Amendment Act in 1978, article 19(1)(f) and article 31 were deleted from the Constitution. This, it was hoped, would enable the State to redistribute rural and urban land for the benefit of the poorer classes. At the same time, article 300A was introduced which stated that a person couldn't be deprived of his/her property save by authority of law. This was a protection given to the individual against the State executive. This Constitutional amendment was introduced to operationalise ULC Act framed in 1976.
7. Based on the records of DDA and MCD.
8. Based on various budget documents of the Ahmedabad Municipal Corporation.
9. The proposal in the three projects is surprisingly similar because one Ahmedabad-based Planning Consultant firm is the designer of the three projects.
10. The information on evictions and displacements is based on the presentation of the participants of Housing Rights workshop at the National Conference on Human Rights, Social Movements, Globalisation and the Law, held at Panchgani, from December 26, 2000 to January 1, 2001, and organised by Socio-Legal Information Centre of Mumbai.

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The Human Rights to Adequate Housing and Land

Legal Commitments, Ongoing Violations

*Miloon Kothari and Shivani Chaudhry*¹

The majority of India's population continues to live in dismal housing conditions. In urban areas the number of people living in distressed and inadequate housing is rapidly rising. According to the Census 2001 data, 82 million of India's total urban population of 285 million lives in slums and other low-income informal settlements. Across the country we see multiple forms of distressed housing – people and communities living in slums, on pavements, alongside railway tracks, under railway platforms and bridges, on streets and roadside embankments, in shelters made from plastic sheets, cardboard, aluminium and tin, in water pipes, on degraded lands, in areas prone to earthquakes and floods, on denuded hillsides. Aggravating this already dire situation is the phenomenon of *ghettoisation*, discrimination and forced evictions and slum demolitions across the country where people belonging to marginalised communities, including the working poor, are forced to live in segregated areas with little or no access to civic services, including water, sanitation and electricity.

Over the last few years, discrimination against the urban poor has intensified, and disturbingly, has even gained legal sanction from the judiciary. Recent judgements of both the Supreme and High Courts have overturned a decade of progressive judgements of the eighties by blatantly going against people and denying the urban poor their basic human rights to adequate housing, freedom of choice of residence, and livelihood. The combined forces of neoliberalism and elitism are driving

planning processes with Master Plans and urban renewal projects favouring shopping malls over housing for the poor, highways over public hospitals, and entertainment complexes over public parks. Urban land is increasingly being coveted for profitable ventures at the cost of the lives and livelihoods of the working poor.

MEASURES THAT PROMOTE URBAN EXCLUSION AND VIOLENCE

The egregious crisis of inadequate housing and living conditions is fuelled by certain structural factors, which reveal a failure of governance and a severe abrogation of government obligations to promote and protect citizens' human rights. The continued prevalence of these phenomena leads to exclusion, dispossession, and violence becoming endemic to societies. This absolute failure of governance has also led, in various countries, to the institutionalisation of insecure and inadequate housing and living conditions. Some of the most common abuses are described below.²

Insecurity of home, land and person: public authorities are unwilling to recognise and provide legal security of tenure to residents, thereby failing to protect them from forced evictions and abuse by landlords and slumlords.

Misuse of planning mechanisms: regional plans and city development plans often discriminate against the poor with government authorities manipulating planning mechanisms to further their aims (or the aims of the forces with which they are in collusion, such as land developers or politicians).

Abuse of law: laws often contain loopholes and are open to misuse; where effective laws exist to protect human rights, they are often not implemented or diluted and in many cases dismantled (as in the case of the Urban Land Ceiling Act).

The denial of essential civic services (potable water, electricity, sanitation, and healthcare) and the growing trend of privatisation of these services making them unaffordable for the majority of people.

Inability to control market forces: state authorities fail to control the ravages of unbridled land speculation, thereby forcing people to live in increasingly marginal and unsafe areas.

The prevalence of forced evictions: governments fail to control the conditions that lead to forced evictions; instead, they are often responsible for

forced evictions in collusion with landowners and other beneficiaries, resulting in the use of violence and brutality.

LARGE INFRASTRUCTURE PROJECTS THAT RESULT IN MASSIVE DIS-PLACEMENT WITHOUT ADEQUATE REHABILITATION

The integration of national economies into global economies: pre-dominant neoliberal ideology results in a reduction in State subsidy and controls on the land and housing sector, which leaves the pricing of land and housing resources to the whims of the market and the demands of the profit-taker. Housing is thus reduced to the status of a commodity to be bought and sold, while the State withdraws from spending on social sectors and dismantles welfare provisions to protect people's access to housing and land.

The loss of common property resources: the failure of States to recognise the importance of common-property resources leads to destruction of the natural resource base and the common-property resources upon which local economies depend, often resulting in internal displacement and forced migration.

The creation of ethnic and economic ghettos: governments fail to prevent (and in many cases collude in creating) the segregation of different ethnic groups and economic classes in cities, towns, and villages.

Non-compliance with national and international legal human rights instruments: India has blatantly abrogated its constitutional duties and human rights obligations under international law that protect housing and land rights. Furthermore it has failed to reconcile the often contradictory obligations imposed by trade treaties, debt agreements, and structural adjustment policies with human-rights obligations.

In order to challenge this neoliberal developmental paradigm and reverse these hostile trends, the human rights framework needs to be adopted and implemented across the country. This framework guides and flows from the Indian Constitution as well as from international human rights instruments that India has ratified. The recognition and implementation of overarching principles that underpin human rights instruments, such as non-discrimination and indivisibility offer powerful means to tackle the growing phenomenon of eviction, segregation, homelessness and insecurity that millions across the country face. The

indivisibility approach to adequate housing, for example, would require equal attention to the human right to adequate housing, the right to security of the home and security of the person as well as the right to health, food, water, sanitation, healthcare, and livelihood. Any legislative or policy formulation that creates a conflict between these rights would be inconsistent with human rights obligations.

THE HUMAN RIGHT TO ADEQUATE HOUSING AND LAND

The UN Special Rapporteur has defined adequate housing as: “The right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.”³ This right has been widely interpreted and guaranteed as a human right in international, regional and national law. As a human right, it creates both a moral imperative as well as a legally binding obligation on States to respect, protect and fulfil its normative content and entitlements.

DOMESTIC OBLIGATIONS

Although India’s Constitution does not explicitly refer to the right to adequate housing, it is recognised and guaranteed as a subset of other fundamental rights.⁴ Article 21 provides that no person be deprived of his or her life and personal liberty. The Supreme Court affirms that the right to life necessarily implies access to basic amenities. To that end, the right to adequate shelter is a constitutional guarantee.⁵ Because the practice of forced eviction results in the loss of livelihood, it is a *prima facie* transgression of Article 21.

In addition, Article 14 and 15 guarantee substantive equality, obliging the State to take affirmative action in facilitating opportunities for the disadvantaged and prohibiting discrimination on the grounds of religion, race, caste, sex or place of birth.⁶ Read together, these provisions not only prohibit the exclusion of those marginalised from basic housing needs and land rights, but also implicate State action in redressing these deprivations.

India’s commitment to justice and equality on an international level is enshrined in Article 51 of the Constitution.⁷ The Supreme Court has declared that the provision enjoins the State to respect and promote the standards of international law. In particular, the court holds that legislative

and executive actions must conform to the principles established in international covenants.⁸

INTERNATIONAL COMMITMENTS

Since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, the right to adequate housing has been recognised as an important component of the right to an adequate standard of living, and has come to be widely recognised as a basic human right guaranteed to all human beings through several international instruments.

International instruments ratified by India that recognise and protect the right to housing include: Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR, Article 11, para. 1), the Convention on the Rights of the Child (CRC, Article 27, para. 3), and the non-discrimination provisions found in article 14, paragraph 2 (h), of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, paras. 19-22).⁹

Acts of ratification legally bind the State to implement its obligations. Timely implementation and progressive realisation of rights emanating from international instruments is imperative.¹⁰ This duty obliges State parties to move expediently towards the realisation of economic, social and cultural rights. Resource constraints do not in any way eliminate a State's obligation to fulfil these minimum levels of rights.¹¹

The Universal Declaration of Human Rights (UDHR) of 1948, clearly states under Article 25 (1) that, "*Everyone* has the right to a standard of living adequate for the health and well being of himself and his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."¹²

On the basis of the provisions established in the UDHR, the right to adequate housing was elaborated and reaffirmed in 1996 by the International Covenant on Economic, Social and Cultural Rights (ICESR): "*The State Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family,*

including adequate food, clothing and housing, and to the continuous improvement of living conditions.” (Article 11.1).

Through its General Comments, the Committee on Economic Social and Cultural Rights (CESCR) has given a holistic understanding to the issue of housing. According to General Comment No. 4 of CESCR on the right to adequate housing adopted in 1991, in order for housing to be adequate it must provide more than just four walls and a roof over one’s head. It must include the following seven core elements:

- Legal security of tenure, including legal protection against forced evictions
- Availability of services, materials, facilities and infrastructure
- Affordability
- Habitability
- Accessibility for disadvantaged groups
- Location
- Cultural Adequacy¹³

The normative content of the human right to adequate housing has since been developed by housing rights groups as well as the UN Special Rapporteur on adequate housing and has been expanded to include the following entitlements: physical security; participation and information; access to land, water and other natural resources; freedom from dispossession, damage and destruction; resettlement, restitution, compensation, non-refoulement and return; access to remedies; education and empowerment; and freedom from violence against women.¹⁴

General Comment 7 of the Committee on Economic, Social and Cultural Rights on forced evictions clearly condemns the practice of forced evictions and recognises it as an abrogation of liberty, justice, security and privacy that violates international human rights law. The UN Commission on Human Rights has also recognised forced evictions as a gross violation of human rights, particularly the right to adequate housing.¹⁵

In 1996, the Istanbul Declaration and the Habitat Agenda¹⁶ reinforced the responsibilities of all governments to the provision of adequate housing, as exemplified by their creation of ministries or agencies,

by their allocation of resources, and by their policies, programmes and projects. It also stated that the provision of the right to adequate housing required joint action by government organisations, communities and local authorities, as well as partner organisations and entities of the international community.

Clearly, the human right to housing and its adequacy have internationally been construed to include other elements constituting livelihood sources and survival, such as agricultural land, common property resources, natural resources for subsistence, basic civic infrastructure and facilities concerning health, education, water, food, and a clean and healthy environment. The human right to adequate housing and land is closely and intrinsically linked to other rights guaranteed by the body of human rights instruments, which are affected when the right to housing is affected. For example, it has been recognised that conditions in the housing environment have direct consequences for enjoyment of the right to health.¹⁷ This link also crosses the categories of rights embodied in the two International Covenants on Economic, Social and Cultural Rights (ICESCR), and on Civil and Political Rights (ICCPR). The denial or fulfilment of the human right to information (Article 19 of ICCPR), as in cases related to building materials, design, conditions of resettlement or finance, could thus affect the right to adequate housing. The full enjoyment of other rights, such as the right to freedom of expression, the right to freedom of association (such as for tenants and other community-based groups), the right to freedom of residence, the right to information and prior informed consent, the right to participate in public decision-making, the right to health, the right to a healthy environment, the right to land and other natural resources, the right to livelihood and work, and the right to food, is indispensable if the right to adequate housing and land is to be realised and maintained by all groups in society. Similarly, the right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence constitutes a very important dimension in defining the human right to adequate housing and land. Underlying all these rights is the fundamental human right to life with dignity, which is the core for the realisation of all other human rights.

Apart from the legally binding international human treaties is the body of declarations, recommendations and resolutions. These are

generally documents of intent often perceived as “soft law,” and in most cases do not create legally binding obligations on the countries that have signed them. In some instances, a declaration and/or recommendation may gain the force of binding law if its contents are widely accepted by the international community.¹⁸

The UN Human Rights Council’s *Basic Principles and Guidelines on Development-based Evictions and Displacement*¹⁹ build on General Comment 7 as well as on the *United Nations Comprehensive Human Rights Guidelines on Development-based Displacement*²⁰ to address the human rights implications of development-linked evictions and related displacement in urban and/or rural areas. They offer several new prescriptions, based on experiences gathered worldwide since 1997, which clearly render the obligations of States within this context. These include: the need for States to conduct comprehensive impact assessments in advance of evictions that take into account their differential impact on women, children and other vulnerable groups; calling for States to take intervening measures to ensure that market forces do not increase the vulnerability of low-income and marginalised groups to forced eviction; affirming the obligation of States to recognise the fundamental human rights of evicted persons to return, resettlement and fair and just compensation; and the requirement that all affected persons be notified in writing and sufficiently in advance with a view towards minimising the adverse impacts of evictions; the enumeration of detailed steps to be taken by States to protect human rights prior to, during and after evictions; and the establishment of stringent criteria for initiating and carrying out evictions in exceptional circumstances.

Accordingly, the courts, the legislature and executive bodies must abide by international law in their decision-making, policies and practices.

Of particular importance is the impact of housing and land rights violations on women and children, and the need for special protection for them and other marginalised groups.

WOMEN’S RIGHTS TO ADEQUATE HOUSING AND LAND

Women’s multi-dimensional role within the family and the household has brought about the need to articulate “adequate housing” from a

gendered perspective. Despite the formal protections conferred upon women through national instruments, local customs continue to exist that deny women rights of ownership and inheritance. The severe impact on women arising from housing violations has been highlighted by the UN Commission on Human Rights, including in a comprehensive study by the UN Special Rapporteur on adequate housing, which confirms that women's right to adequate housing and land is being violated across the world.²¹

While there are many social, economic and political situations that render people insecure, homeless, and without a sustainable source of livelihood, women are particularly vulnerable given the low socio-economic status accorded to them in most societies. The effect of rising poverty resulting from unjust and unbalanced "development" policies and projects has had a devastating impact on women and their right to adequate housing and land. Poverty particularly affects women as they face a greater risk of homelessness. Customary practices continue to impinge women's ability to claim and control property, thereby increasing the threat of poverty.²² Overcrowding and precarious housing threaten women's right to security of the home and person and the right to privacy and leave them vulnerable to ill-health and violence.

In urban areas, women living in slums and on the streets are greatly impacted due to the absence of proper shelter, adequate water, health, sanitation and hygiene. Women are adversely affected by evictions owing to, for example, urban slum demolitions, or as a result of large-scale development projects. Women suffer not just from loss of home, but also livelihoods, relationships and support systems, physical and psychological trauma and even increased morbidity and mortality. Women particularly suffer where forced evictions are accompanied by violence.²³

Violence within the home is one manifestation of women's particular vulnerability in relation to housing rights. It is estimated that spousal violence occurs in 50 percent of marriages in India; in most cases perpetrated by the male.²⁴ In regions where customary law precludes women from managing, owning or renting property independently of the man, the woman's security options are foreclosed. The threat of homelessness hinders escape from abusive situations.²⁵ Indeed, violence in the home is a gross violation of the right to adequate housing, the right to security of

person and security of home are denied. In sum, breach of the right to housing causes and is a consequence of violence against women in the form of:

- a) Discriminatory laws or customary practices that hinder women's access to property ownership, thereby limiting sources of security of women.
- b) Inadequate living and housing conditions that are conducive to violence and that deny women the right to privacy and dignity.²⁶

In this context, the recent notification of *The Prevention of Women from Domestic Violence Act 2005*, is significant and holds promise, if implemented appropriately. Of particular relevance is the provision for a woman to stay on in her matrimonial home or to demand maintenance if thrown out or seek protection orders from the abusive partner. Similarly, the September 2005 amendment to the *Hindu Succession Act, 1956*, removed gender inequalities in the inheritance of agricultural land, and made Hindu women's land rights legally equal to men's across states by making daughters, especially married daughters, coparceners in joint family property.²⁷

Women's right to adequate housing and land needs to be understood in terms of its entitlements. This means that women enjoy the inalienable and equal right to own, access, use, manage, and control land, housing and property.²⁸ This includes the right to legal security of tenure, which is the right to own, lease, rent, mortgage or dwell on land, housing and property, and the right not to be forcibly evicted. Furthermore it holds that women have a right to take decisions on how housing and land resources should be used, including whether it can be leased out, mortgaged, or sold.

In addition to the broad recognition of women's rights to housing and land, it is critical to recognise that special attention is required for groups of women who are more vulnerable than others, at higher risk of becoming homeless or suffering from the consequences of inadequate housing.²⁹

Article 16 of the *Convention on the Elimination of Discrimination Against Women* lays down the State's obligation to ensure equality of access for both men and women, to property, rights of ownership and

administration. Emerging from these international instruments is recognition that full realisation of the right to adequate housing and land is central to a woman's right to self-determination. In review of India's progress in fulfilling its CEDAW obligations, the *Committee on the Elimination of Discrimination Against Women* stated that denial of inheritance rights in land results in gross exploitation of women's labour and their impoverishment.³⁰

General Comment No. 16 of CESCR on "The equal right of men and women to the enjoyment of all economic, social and cultural rights" (article 3 of the International Covenant on Economic, Social and Cultural Rights)³¹ further strengthens the principle of substantive equality beyond the prohibition of discrimination.³²

CHILDREN'S RIGHT TO ADEQUATE HOUSING

The unique vulnerability of children is most comprehensively addressed in the Convention on the Rights of the Child (CRC). The right to a safe and secure environment is integral to the realisation of other basic rights as the home is the frame of reference for the child's formative period of development. Adequate housing is of particular importance for children as the environment in which they grow up and the living conditions they have to confront, greatly impact their physical, emotional and psychological development. A child's self confidence and identity depends significantly on her/his access to a secure place to live in peace and dignity. Several international instruments of human rights law guarantee children's rights to adequate housing.³³ Article 27(3) of CRC calls on State parties to assist parents and guardians in providing the child with proper food, clothing and housing, while Article 16(1) protects the child from unlawful or arbitrary interference with his or her privacy, family, home or correspondence. The Concluding Observations of the Committee on the Rights of the Child notes that India's efforts to implement legislation with respect to child rights have been inadequate, considering the high percentage of children living in inadequate housing, including slums, and the continued occurrence of forced evictions.³⁴

The absence of a secure environment may lead to deprivation of many basic rights of children, including their right to health, education, protection from economic exploitation and abuse, and even the right to

a legal identity. During the National Consultation on Children and Habitat, home was described by children as a place where there is warmth, where they can eat, laugh, play, cry and which is a stable place providing them with opportunities to grow and develop.³⁵ While children's need for adequate housing is critical, apart from the number of inadequate dwelling units in which children across India live, is the rapidly escalating number of street children in the country. India has the largest population of street children in the world.³⁶

The practice of forced evictions severely impacts children as it erodes family security, and destroys communities and cultural identities. Children struggle to come to terms with a community dispersed and bonds severed. After demolitions, livelihoods are lost and the child's means to security and access to food, water and clothing are severed. Reports indicate that drop out rates increase due to family financial insecurity.³⁷

States need to take special efforts to guarantee and protect the right to adequate housing of vulnerable groups, including women, children, persons with disabilities, older persons, migrants, people living with HIV/AIDS, and groups facing historical discrimination such as dalits, adivasis and religious and sexual minorities.

The human right to adequate housing and land, as mentioned before, is an integral component of the human right to an adequate standard of living. The full realisation of this right is not possible unless the related rights to water, adequate sanitation, electricity, education, food, healthcare, information, participation, and livelihood and work are guaranteed.

HUMAN RIGHT TO WATER

Worldwide, more than 1.2 billion people have no access to safe drinking water and 2.4 billion do not have adequate sanitation services. According to UN-Habitat, the number of urban dwellers not receiving safe water has more than doubled during the last decade, from 56 million in 1990 to an unprecedented 118 million in 2000. Graver still, three times as many people are estimated to be living without even minimal sanitation facilities.³⁸ Given the indivisibility and mutual inextricability of all human rights, the failure to secure the right to water results in a reciprocal cycle

of deprivation, impeding the enjoyment of related human rights such as the right to adequate housing, the right to food and the right to health.³⁹

The right to water has been recognised and upheld as a human right in General Comment No. 15 by the Committee on Economic, Social and Cultural Rights (CESCR) in November 2002.⁴⁰ It reaffirms the right to water as indispensable for a dignified human life and for realising other human rights, in particular the rights to food, health and housing.⁴¹ With regard to international obligations, the General Comment sets the normative parameter of water as a “social and cultural good, and not primarily as an economic good” (para.11), and provides guidance to States and international organisations to formulate policies consistent with their obligation under the Covenant. The General Comment also delineates availability, quality and accessibility as three components of adequacy of the right to water that are in turn critical to the understanding of the holistic dimensions of the right to housing (para. 12).

As a human right, the right to water entitles everyone, on the basis of non-discrimination, to sufficient, safe, physically accessible and affordable water, which is of an acceptable quality, for personal and domestic uses. However, the poor and other marginalised groups have the greatest difficulty in accessing sufficient and safe water and adequate sanitation. In many slums and informal settlements around the world, having no water connection means that the residents have to pay higher prices to buy water from distribution tankers. Diseases associated with contaminated drinking water and unsanitary living conditions are among the leading causes of ill health, and a significant contributor to infant and child mortality in developing countries.⁴²

The growing privatisation of water across the country is resulting in escalating costs and is gradually restricting access of low-income groups to this vital resource, thereby constituting a human rights violation. The legal recognition of water as a human right essentially precludes its privatisation and makes it binding on the state to ensure unimpeded and non-discriminated accessibility of all to safe, clean, and potable water.

HUMAN RIGHT TO LIVELIHOOD AND WORK

Integral to human survival and the right to life with dignity, is the human right to livelihood and work, which though protected and guaranteed in

international and national law, is increasingly being violated in the urban context. With forced evictions and the involuntary relocation of communities to the peripheries of cities, people lose not just their homes but also their livelihoods and access to habitual places of work. The disruption of lifestyles and the annihilation of security that accompanies such urban phenomena constitute an egregious violation of both the Indian Constitution as well as international human rights law, as India has ratified the main instruments that guarantee the human right to livelihood and work.⁴³

Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) deals most comprehensively with this right. In article 6, paragraph 1, States parties recognise “the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.” The right to work is essential for realising other human rights and forms an inseparable and inherent part of human dignity. On 24 November 2005, CESCR adopted General Comment 18 on the Right to Work, which deals with the normative content of article 6, the obligations of States parties, violations, implementation of the right to work at the national level, and obligations of actors other than States parties. It also addresses the right to work of women, older persons, migrants and persons with disabilities and also includes a section on child labour.

HUMAN RIGHTS TO FOOD, HEALTH AND HEALTHCARE

As explained above, the indivisibility of human rights mandates that the rights to adequate housing, land, livelihood and work, water, food, health and healthcare be guaranteed simultaneously. The human right to food is directly violated with loss of livelihood and work, as the ability to access food is greatly impeded. It is thus incumbent on the State to respect, protect, and fulfil the right to food along with other economic, social and cultural rights. General Comment 12 of CESCR (1999) on the right to adequate food (Article 11 of ICESCR) clearly identifies the normative components of this right as well as State obligations. The Committee declared that “the right to adequate food is realised when every man, woman and child, alone or in community with others, has

physical and economic access at all times to adequate food or means for its procurement.⁴⁴

Loss of housing and livelihood and forced resettlement in hazardous areas or inadequate living conditions has deleterious health effects, especially on children and women. Article 12 (1) of ICESCR, among several international instruments guarantees the right to health by affirming that: “The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” This was further expanded in CESCR General Comment No. 14 on ‘The right to the highest attainable standard of health.’⁴⁵

HUMAN RIGHT TO PARTICIPATION AND INFORMATION

Meaningful participation in decisions that affect one’s life is a human right as well as a means to ensure enjoyment of all human rights, including the right to adequate housing. Without the active, informed, timely and regular participation of affected communities and individuals in plans, designs, processes, and policies related to housing, work and living conditions, rights cannot be effectively realised. Most violations of human rights occur because people are not consulted in decisions that directly affect their lives and livelihoods. Meaningful participation mandates that the process of consultation be ongoing. It must also guarantee the right to adequate information. The Right to Information Act 2005 in India builds on international human rights standards of information and participation⁴⁶ and its entitlements must be protected and implemented without any dilution.

VIOLATIONS OF HUMAN RIGHTS

De jure ratification of international legal instruments has not substantively translated into improved housing and living conditions nor quelled the pattern of forced evictions. The vast schism between existing legal entitlements and the current social reality of living conditions in India is symptomatic of State apathy in implementing its national and international obligations.

Despite the fact that the majority of the urban population lives in slums in Mumbai (around 60 percent of the population) and in Delhi

(around 50 percent of the population), there is no concerted, integrated effort to develop human rights-based policy or to provide improved housing, especially the availability of low cost housing. Instead, slum dwellers have been facing intensive eviction drives and are being relocated in city outskirts under the pretext of urban renewal, development and beautification. In contravention of national and international law, evictions are carried out without looking at alternatives such as *in situ* upgradation, proper notification, and without prior consultation with the affected communities. The relocation sites are invariably situated in the urban periphery where evictees have to commute at great cost, forcing the urban poor to turn increasingly towards informal occupations. Insufficient space is allocated to families and colonies are densely populated and the living environments of these sites are often not inhabitable, devoid of basic facilities such as electricity, potable drinking water, and sanitation systems.⁴⁷ Added to this is the rising incidence of urban homelessness and the complete lack of state response to address it.

Over the last decade, one of the major factors affecting human rights, especially of the urban poor, has been the shift in economic policies towards globalisation, structural adjustment programmes and the growing involvement of the private sector in delivery of essential services. The continued existence and implementation of draconian and archaic laws such as the Land Acquisition Act, 1894, are used by the state to take over land, ostensibly in the “public interest” which, however, is never clearly defined and extends to all state-sponsored projects be they highways or housing colonies for the rich. The draft National Policy on Resettlement and Rehabilitation 2006 also fails to address the human rights implications of involuntary displacement.

RECOMMENDATIONS

The human rights approach to adequate housing and an adequate standard of living relies on domestic and international legal mechanisms to create accountability for acts of commission and omission. In India, the State’s response to obligations created by these mechanisms has been inadequate. Poor implementation of domestic legal obligations, failures to meet international obligations, and a dearth of reflection and analysis of violations have lead to a clear erosion of human rights. It is opportune,

32 The Urban Poor in Globalising India

therefore, that the following steps be taken by governments at various levels and civil society to recognise the enormity of the housing and land crisis, to seek redress and to design alternatives to the violations that are taking place almost on a daily basis.⁴⁸

The government must implement domestic law in accordance with international human rights standards

The State must use all available means to facilitate the conditions required for the realisation of the human right to adequate housing, including checking against forced evictions. When displacement is unavoidable, the government must establish appropriate procedural safeguards based on international human rights principles and instruments.⁴⁹

The central and state governments must maintain dialogue with civil society to ensure transparency and accountability

Laws and policies must be developed through inclusive, cooperative, and participatory mechanisms. They must also take into consideration the cultural norms of affected communities. Obstacles such as discrimination against historically marginalised groups must be acknowledged and addressed as causes of deprivation and dispossession. Policy-makers must consider solutions to housing issues within the context of historical and social realities.

India should be diligent in its reporting obligations to the international instruments she has ratified and make more use of the mechanisms that exist

International transparency and accountability can only exist when States fulfil their reporting obligations to international human rights treaties.⁵⁰ Furthermore, bringing national concerns to the attention of various international bodies is a means for generating technical and financial assistance that contributes to effective national implementation of human rights norms. India has several overdue reports to the UN treaty monitoring bodies, including three to the Committee on Economic, Social and Cultural Rights. India should make all reasonable efforts to submit these reports, and in the case of ICESCR pay particular attention to the reporting obligations outlined in the General Comments of the

Committee.⁵¹ India should also invite relevant UN Special Rapporteurs to visit the country.⁵²

State and civil society have a mutual responsibility to report violations of human rights and monitor the measures taken during relief.

It is imperative that the government assumes a more substantive role in monitoring relief and rehabilitation schemes. As in the case of the 2002 Gujarat carnage and post-tsunami Tamil Nadu, deplorable living conditions in relief camps and temporary shelters are often linked to the government's failure to monitor and implement rehabilitation efforts, whether sponsored by the State or civil society. It is ultimately the State's responsibility to assess whether its citizens have access to basic amenities and then assure the fulfilment of their rights to those amenities

Civil society must make creative use of the human rights framework, which includes international legal instruments and emerging advocacy networks, to seek redress for violations of rights.

Emerging conceptions of human rights challenge traditional assumptions about 'duty holders.' In contrast to an approach that only holds States as violators, the contemporary human rights regime not only identifies the State as a vehicle for change but also creates additional opportunities for civil society to raise objections to State actions and publicly address violations. Ultimately, the project of ensuring progressive realisation of economic, social and cultural rights falls to the holders of these rights; civil society can then contribute to the structure and use of a human rights framework that is most conducive to this task. Human rights education and learning at all levels is essential for the creation of a widespread temper imbued with human rights consciousness.

NOTES

1. Miloon and Shivani are both associated with the *Housing and Land Rights Network* (www.hic-sarp.org) in New Delhi. Miloon Kothari is also the Special Rapporteur on adequate housing with the United Nations Human Rights Council. Details on the mandate and reports of the Special Rapporteur can be obtained at: <http://www.ohchr.org/english/issues/housing>

34 The Urban Poor in Globalising India

2. This section draws from Miloon Kothari, "The global struggle for a place to live," in *Development and Rights*, Deborah Eade (ed.), Oxfam GB, 1998.
3. Report of the Special Rapporteur on adequate housing, to the Commission on Human Rights, 25 January 2001. E/CN.4/2001/51.
4. Originally, the right to property was included in the list of fundamental rights. The 44th Amendment Act 1978, strikes off the right to property from the list of constitutionally protected rights. Because the right is not constitutionally guaranteed, any person deprived of property in contravention of the law has limited means of redress against the government, including restricted access to judicial contestation in the Supreme Court and limited right to compensation.
5. *Francis Coralie v. The Union Territory of Delhi*, 1981 SCC 608.
6. *Panchayat Varga Shramaji Samudaik Sahakari Khedut Cooperative Society v. Haribhai Mevabhai* A.I.R 1996 S.C. 2578.
7. Article 51, Constitution of India states: "The State shall endeavour to foster respect for international law and treaty obligations in the dealing of organised people with one another."
8. *Madhu Kishwar v. State of Bihar* (1996) 5 SCC 125.
9. For the complete text of the provision protecting the human right to housing in these instruments see: <http://www.ohchr.org/english/issues/housing>
10. *Limburg Principles*, UN Doc. E/CN.4/1987/17, 1987, specifically used for interpretation of the *International Covenant on Economic, Social and Cultural Rights*.
11. General Comment No. 3 of CESCR, "The nature of States parties obligations."
12. It is now clearly established that the male-specific language of international human rights instruments is inclusive of women.
13. General Comment No. 4 'The Right to Adequate Housing' (Art. 11 (1) of the Covenant), Committee on Economic Social and Cultural Rights, 1991, Sixth session, para. 7 and 8.
14. These include the Housing and Land Rights Network (www.hlrn.org). See reports of the Special Rapporteur on adequate housing, including the questionnaire on women and adequate housing at: <http://www.ohchr.org/english/issues/housing/women.htm>
15. UN Commission on Human Rights resolution 'Forced Evictions', E/CN.4/1993/77.
16. The Istanbul Declaration and the Habitat Agenda, Second United Nations Conference on Human Settlements (Habitat II), Istanbul, 1996.

17. *Health Principles of Housing*, World Health Organisation, Geneva, 1989. And, General Comment No. 14. 'The right to the highest attainable standard of health' (2000), Committee on Economic, Social and Cultural Rights.
18. For a complete listing of international legal provisions guaranteeing the human right to adequate housing, see *International Human Rights Standards for Post-disaster Resettlement and Rehabilitation*, HIC-HLRN, PDHRE, 2005. Available online at: <http://www.hic-sarp.org/Post-Disaster%20Compilation.pdf>
19. *Basic Principles and Guidelines on Development-based Evictions and Displacement*. From the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari. E/CN.4/2006/41, March 2006. <http://daccess-ods.un.org/TMP/9170820.html>
20. E/CN.4/Sub.2/1997/7, Annex.
21. For more information on the work done by the UN Special Rapporteur on women and housing, see: <http://www.ohchr.org/english/issues/housing/women.htm>
22. Bina Agarwal, "Who Sows? Who reaps? Women and Land Rights in India." *The Journal of Peasant Studies*, Vol. 5, No. 4 July 1988.
23. Report of UN Special Rapporteur on Adequate Housing, Miloon Kothari, on women and housing, Commission on Human Rights, E/CN.4/2005/43, 25 February 2005.
24. "Home and the World: Revisiting Violence," Bina Agarwal and Pradeep Panda, *Indian Express*, August 7, 2003.
25. *UN Committee on Elimination of Discrimination Against Women*, General Recommendation 21, 1994.
26. For more information and case studies and testimonies from India, see, Proceedings of the Asia Regional Consultation on "Interlinkages between Violence against Women and women's Right to Adequate Housing," Asia Pacific Forum on Women, Law and Development, Chiang Mai, 2004. See: www.apwld.org and www.hic-sarp.org
27. For more information see, "Landmark Step to Gender Equality" by Bina Agarwal, in *The Hindu*, 25 September, 2005.
28. See the resolution entitled "Women's equal ownership of, access to and control over land and equal rights to own property and to adequate housing." UNCHR Resolution 2005/25. http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-25.doc

36 The Urban Poor in Globalising India

29. “Study by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination, in accordance with Commission Resolution 2002/49,” 59th Session, E/CN.4/2003/55, 26 March, 2003.
30. Committee on the Elimination of Discrimination Against Women, Concluding Observations: India (2000). <http://www1.umn.edu/humanrts/cedaw/india2000.html>
31. E/C.12/2005/4. Adopted by the Committee on Economic, Social and Cultural Rights at its thirty-fourth session, Geneva, 25 April – 13 May 2005.
32. For a complete listing of international legal provisions guaranteeing women’s human right to adequate housing, see *International Human Rights Standards for Post-disaster Resettlement and Rehabilitation*, HIC-HLRN, PDHRE, 2005. Available online at: <http://www.hic-sarp.org/Post-Disaster%20Compilation.pdf>
33. For a complete listing of international legal provisions guaranteeing children’s rights, see *International Human Rights Standards for Post-disaster Resettlement and Rehabilitation*, HIC-HLRN, PDHRE, 2005. Available online at: <http://www.hic-sarp.org/Post-Disaster%20Compilation.pdf>
34. *Committee on the Rights of the Child: Concluding Observations: India*, 23rd Session, CRC/C/15/ADD.15, 23rd February, 2000.
35. *National Consultation on Children and Habitat: A Statement*, Plan International, UNICEF and YUVA, New Delhi, 1995.
36. United Nations Development Programme (UNDP), *Human Development Report, 1993*, New York, 1993, p. 24.
37. “The Child in Search of the State: Alternate Report to the India Country Report on the Implementation on the Right to Housing,” (HRE, LAYA, YUVA, 1998).
38. Annual report of the Special Rapporteur on adequate housing to the Commission on Human Rights (UN Doc. E/CN.4/2003/5).
39. “Obstacles to Making Water a Human Right” by Miloon Kothari in *The Human Right to Water*, Eibe Riedel, Peter Rothen (eds.), BWV, Berlin, 2006.
40. General Comment 15 on the right to water, Committee on Economic, Social and Cultural Rights (E/C.12/2002/11).
41. Specifically it stated that, “[t]he human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses” (para. 2).
42. Joint Statement by the Special Rapporteur on adequate housing, Special Rapporteur on the right to food, and Special Rapporteur on the right to the

highest attainable standard of physical and mental health under the Commission on Human Rights, Third World Water Forum, Kyoto, 17 March 2003.

43. These include: Articles 17, 22, 23, 24 UDHR, 1948; Articles 6, 7, 8, 9 ICESCR 1966; Articles 8, 22, ICCPR 1966; Article 11 CEDAW, 1979; Article 5 ICERD, 1965; Articles 26, 32 CRC, 1989; and Article 24 (Part V), International Labour Organisation Convention concerning Indigenous and Tribal Peoples in Independent Countries.
44. See: <http://www.ohchr.org/english/issues/food/index.htm>
45. General Comment No. 14. 'The right to the highest attainable standard of health' (2000), Committee on Economic, Social and Cultural Rights. Available online at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/40d009901358b0e2c1256915005090be?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/40d009901358b0e2c1256915005090be?Opendocument)
46. These include, among others: Article 21, Universal Declaration of Human Rights, 1948, Articles 19, 25, International Covenant on Civil and Political Rights, 1966, Article 7, Convention on the Elimination of All Forms of Discrimination against Women, 1979. ⁴⁷ For more international legal provisions on participation and information, see *International Human Rights Standards for Post-disaster Resettlement and Rehabilitation*, HIC-HLRN, PDHRE, 2005. Available online at: <http://www.hic-sarp.org/Post-Disaster%20Compilation.pdf>.
47. *Fact Finding Mission Report: Restructuring New Delhi's Urban Habitat, Building an Apartheid City?* (Habitat International Coalition-Housing and Land Rights Network, New Delhi, 2002).
48. See Miloon Kothari "The Human Right to Adequate Housing: India's Commitment and the Struggle Towards Realisation" *Journal of the National Human Rights Commission, India*, Volume 2, 2003, pp. 133-147.
49. *Basic Principles and Guidelines on Development-based Evictions and Displacement*. From the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari. E/CN.4/2006/41, March 2006. <http://daccessdds.un.org/doc/UNDOC/GEN/G06/118/59/PDF/G0611859.pdf?OpenElement>
50. India's letter seeking election to the UN Human Rights Council (<http://www.un.org/ga/60/elect/hrc/india.pdf>) affirms its commitment to protecting and promoting economic, social and cultural rights. The government should be held accountable to such declarations.
51. India's letter seeking election to the UN Human Rights Council (<http://www.un.org/ga/60/elect/hrc/india.pdf>) affirms its commitment to

38 The Urban Poor in Globalising India

protecting and promoting economic, social and cultural rights. The government should be held accountable to such declarations.

52. The Housing and Land Rights Network is coordinating an ongoing process of parallel reporting to the UN Committee on Economic, Social and Cultural Rights on the housing and land rights situation in India. The report submitted to the Committee in August 2004 titled *Acts of Omission, Acts of Commission*, is available at: <http://www.hic-sarp.org/documents/HIC-2.pdf>. For more information, including on how to join the process, write to: hic-sarp@hic-sarp.org
53. As of July 2006, 55 countries have extended a standing invitation to UN thematic procedures; India is not one of them.

Demolishing Delhi

Notes from a World-Class City-in-the-Making¹

Amita Baviskar²

Banuwal Nagar was a dense cluster of about 1,500 homes, a closely-built beehive of brick and cement dwellings on a small square of land in north-west Delhi, India. Its residents were mostly masons, bricklayers and carpenters, labourers who came to the area in the early 1980s to build apartment blocks for middle-class families and stayed on. Women found work cleaning and cooking in the more affluent homes around them. Over time, as residents invested their savings into improving their homes, Banuwal Nagar acquired the settled look of a poor yet thriving community – it had shops and businesses; people rented out the upper floors of their houses to tenants. There were taps, toilets, and a neighbourhood temple. On the street in the afternoon, music blared from a radio, mechanics taking a break from repairing cycle-rickshaws smoked *bidis* and drank hot sweet tea, and children walked home from school. Many of the residents were members of the Nirman Mazdoor Panchayat Sangam (NMPS), a union of construction labourers, unusual in a country where construction workers are largely unorganised.

In April 2006, Banuwal Nagar was demolished. There had been occasions in the past when eviction had been imminent, but somehow the threat had always passed. Local politicians provided patronage and protection in exchange for votes. Municipal officials could be persuaded to look the other way. The NMPS union would negotiate with the local administration. Squatters could even approach the courts and secure a temporary stay against eviction. Not this time. Eight bulldozers were driven up to the colony. Trucks arrived to take people away. With urgent haste, the residents of Banuwal Nagar tore down their own homes, trying

to salvage as much as they could before the bulldozers razed everything to the ground. Iron rods, bricks, doors and window frames were dismantled. TV sets and sofas, pressure cookers and ceiling fans, were all bundled up. The sound of hammers and chisels, clouds of dust, filled the air. There was no time for despair, no time for sorrow, only a desperate rush to escape whole, to get out before the bulldozers.

But where would people go? About two-thirds of home-owners could prove that they had been in Delhi before 1998. They were taken to Bawana, a desolate wasteland on the outskirts of the city designated as a resettlement site. In June's blazing heat, people sheltered beneath makeshift roofs, without electricity or water. Children wandered about aimlessly. Worst, for their parents, was the absence of work. There is no employment to be had in Bawana. Their old jobs are a three-hour commute away, too costly for most people to afford. Without work, families eat into their savings as they wait to be allotted plots of 12.5 sq. m and 18 sq. m. Those who need money urgently sell their entitlement to property brokers, many of them moonlighting government officials. Once, they might have squatted somewhere else in Delhi. Now, the crackdown on squatters makes that option impossible. Some will probably leave the city.

One-third of home owners in Banuwal Nagar couldn't marshal the documentary evidence of eligibility. Their homes were demolished and they got nothing at all. Those who rented rooms in the neighbourhood were also left to fend for themselves. One can visit Bawana and meet the people who were resettled, but the rest simply melted away. No one seems to know where they went. They left no trace. What was once Banuwal Nagar is now the site of a shopping mall, with construction in full swing. Middle-class residents from the neighbourhood glance around approvingly as they drive past, just as they watched from their rooftops as the modest homes of workers were dismantled. The slum was a nuisance, they say. It was dirty, congested and dangerous. Now we'll have clean roads and a nice place to shop.

Banuwal Nagar, Yamuna Pushta, Vikaspuri – every day another *jhuggi basti* (shanty settlement) in Delhi is demolished. Banuwal Nagar residents had it relatively easy; their union was able to cross-check the list of people to be resettled and verify that everyone with documents was allotted a plot.

In places like Yamuna Pushta, many names were left off the list and, despite having documents, people got nothing at all. The union also interceded with the local administration and police and ensured that evictions occurred without physical violence. In other places, the police set fire to homes, beat up residents and prevented them from taking away their belongings before the fire and the bulldozers got to work. Young children have died in stampedes; adults have committed suicide from the shock and shame of losing everything they had. In 2000, more than three million people, a quarter of Delhi's population, lived in 1160 *jhuggi bastees* scattered across town. In the last five years, about half of these have been demolished and the same fate awaits the rest. The majority of those evicted have not been resettled. Even among those entitled to resettlement, there are many who have got nothing. The government says it has no more land to give. Yet demolitions continue apace.

The question of land lies squarely at the centre of the demolition drive. For decades, much of Delhi's land was owned by the central government which parcelled out chunks for planned development. The plans were fundamentally flawed, with a total mismatch between spatial allocations and projections of population and economic growth. There was virtually no planned low-income housing, forcing poor workers and migrant labourers to squat on public lands. Ironic that it was Delhi's Master Plan that gave birth to its evil twin: the city of slums. The policy of resettling these squatter *bastees* into 'proper' colonies – proper only because they were legal and not because they had improved living conditions, was fitfully followed and, over the years, most *bastees* acquired the patina of de facto legitimacy. Only during the Emergency (1975-77) when civil rights were suppressed by Indira Gandhi's government, was there a concerted attempt to clear the *bastees*. The democratic backlash to the Emergency's repressive regime meant that evictions were not politically feasible for the next two decades. However, while squatters were not forcibly evicted, they were not given secure tenure either. Ubiquitous yet illegal, the ambiguity of squatters' status gave rise to a flourishing economy of votes, rents and bribes that exploited and maintained their vulnerability.

In 1990, economic liberalisation hit India. Centrally planned land management was replaced by the neoliberal mantra of public-private

partnership. In the case of Delhi, this has translated into the government selling land acquired for 'public purpose' to private developers. With huge profits to be made from commercial development, the real estate market is booming. The land that squatters occupy now commands a premium. These are the new enclosures: what were once unclaimed spaces, vacant plots of land along railway tracks and by the Yamuna river that were settled and made habitable by squatters, are now ripe for redevelopment. Liminal lands that the urban poor could live on have now been incorporated into the profit economy.

The Yamuna river front was the locale for some of the most vicious evictions in 2004 and again in 2006. Tens of thousands of families were forcibly removed, the bulldozers advancing at mid-day when most people were at work, leaving infants and young children at home. The cleared river embankment is now to be the object of London Thames-style makeover, with parks and promenades, shopping malls and sports stadiums, concert halls and corporate offices. The project finds favour with Delhi's upper classes who dream of living in a 'world-class' city modelled after Singapore and Shanghai. The river is filthy. As it flows through Delhi, all the freshwater is taken out for drinking and replaced with untreated sewage and industrial effluent. Efforts to clean up the Yamuna have mainly taken the form of removing the poor who live along its banks. The river remains filthy, a sluggish stream of sewage for most of the year. It is an unlikely site for world-class aspirations, yet this is where the facilities for the next Commonwealth Games in 2010 are being built.

For the visionaries of the world-class city, the Commonwealth Games are just the beginning. The Asian Games and even the Olympics may follow if Delhi is redeveloped as a tourist destination, a magnet for international conventions and sports events. However wildly optimistic these ambitions and shaky their foundations, they fit perfectly with the self-image of India's newly-confident consuming classes. The chief beneficiaries of economic liberalisation, bourgeois citizens want a city that matches their aspirations for gracious living. The good life is embodied in Singapore-style round-the-clock shopping and eating, in a climate-controlled and police-surveilled environment. This city-in-the-making has no place for the poor, regarded as the prime source of urban pollution

and crime. Behind this economy of appearances lie mega-transfers of land and capital *and* labour; workers who make the city possible are banished out of sight. New apartheid-style segregation is fast becoming the norm.

The apartheid analogy is no exaggeration. Spatial segregation is produced as much by policies that treat the poor as second-class citizens, as by the newly-instituted market in real estate which has driven housing out of their reach. The Supreme Court has taken the lead in the process of selective disenfranchisement. Judges have remarked that the poor have no right to housing: resettling a squatter is like rewarding a pickpocket. By ignoring the absence of low-income housing, the judiciary has criminalised the very presence of the poor in the city. Evictions are justified as being in the public interest, as if the public does not include the poor and as if issues of shelter and livelihood are not public concerns. The courts have not only brushed aside representations from *basti*-dwellers, they have also penalised government officials for failing to demolish fast enough. In early 2006, the courts widened the scope of judicial activism to target illegal commercial construction and violations of building codes in affluent residential neighbourhoods too. But such was the outcry from all political parties that the government quickly passed a law to neutralise these court orders. However, the homes of the poor continue to be demolished while the government shrugs helplessly.

Despite their numbers, Delhi's poor don't make a dent in the city's politics. The absence of a collective identity or voice is in part the outcome of state strategies of regulating the poor. Having a cut-off date that determines who is eligible for resettlement is a highly effective technique for dividing the poor. Those who stand to gain a plot of land are loath to jeopardise their chances by resisting eviction. Tiny and distant though it is, this plot offers a secure foothold in the city. Those eligible for resettlement part ways from their neighbours and fellow-residents, cleaving communities into two. Many squatters in Delhi are also disenfranchised by ethnic and religious discrimination. Migrants from the eastern states of Bihar and Bengal, Muslims in particular, are told to go back to where they came from. Racial profiling as part of the war on terror has also become popular in Delhi. In the last decade, the spectre of Muslim terrorist infiltrators from Bangladesh has become a potent weapon to

harass Bengali-speaking Muslim migrants in the city. Above all, sedentary metaphysics are at work, such that all poor migrants are seen as forever people out of place: Delhi is being overrun by 'these people'; why don't they go back to where they belong? Apocalyptic visions of urban anarchy and collapse are ranged alongside dreams of gleaming towers, clean streets and fast-moving cars. Utopia and dystopia merge to propose a future where the poor have no place in the city.

Delhi, Mumbai, Kolkata and many other Indian cities figure prominently in what Mike Davis describes as a 'planet of slums'. Slum clearances may give India's capital the appearance of a 'clean and green Delhi' but environmental activism has simply shifted the problem elsewhere. The poor live under worse conditions, denied work and shelter, struggling against greater insecurity and uncertainty. Is Davis right? Has 'the late-capitalist triage of humanity' already taken place? Even as demolitions go on around me, I believe that Davis might be wrong in this case. Bourgeois Delhi's dreams of urban cleansing are fragile; ultimately they will collapse under the weight of their hubris. The city still needs the poor; it needs their labour, enterprise and ingenuity. The vegetable vendor and the rickshaw puller, the cook and the carpenter cannot be banished forever. If the urban centre is deprived of their presence, the centre itself will have to shift. The outskirts of Delhi, and the National Capital Region of which it is part, continue to witness phenomenal growth in the service economy and in sectors like construction. Older resettlement colonies already house thriving home-based industry. The city has grown to encompass these outlying areas so that they are no longer on the spatial or social periphery. This longer-term prospect offers little comfort to those who sleep hungry tonight because they couldn't find work. Yet, in their minds, the promise of cities as places to find freedom and prosperity persists. In those dreams lies hope.

NOTES

1. This is a modified version of an article published in *Mute* 2(3): 88-95, 2006.
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The Footprints of a Global City: What It Means for the Poor

Sharing The Mumbai Experience

Amita Bhide¹

Mumbai – India’s commercial capital for over a hundred years. A city which bred a strong labour movement ever since the pre-Independence days. A city of interesting contrasts to the outsider but of coexistence, albeit uneasy, between the rich and the poor to insiders. Mumbai has meant dreams and opportunities to people from all classes and states in the country. Living and working conditions have been harsh, especially for the poor. However the city offered a definite niche and a gradual acceptance for people willing to struggle and hang on.

I came to Mumbai in the aftermath of the massive drought in Marathwada in 1972. There was nothing to eat at home and as the eldest son, I had the responsibility to do something. I left my younger brothers, my parents and my wife back home and came to Mumbai to try my luck. I stayed with a family friend in Ramabai Nagar – a slum. I found work in a small industry with the help of my friend. I then built a small hut of my own when I came to know that land was being developed in the plot adjacent to Ramabai Nagar. The place was a marsh. I spent 5000 rupees in paying the *dada* (slumlord), filling the marsh and constructing a hut. I then called my wife here. For the last 20-25 years we have had a pucca house with a loft. All my children were born here. I have also managed to release my land from the moneylender. My brothers and parents till the land and I regularly help them too. Our area has changed from a marsh to a place with all the amenities like electricity, a water tap at home, a toilet, road and a market.

– Sudam Khobragade, resident of Ambedkar colony.

Sudam's story aptly describes what Mumbai has meant and offered to the 60 percent or so of its population and to the 350 (to use the statistics given by the Chief Minister of Maharashtra) families who migrate to the city everyday. Conditions in Mumbai have definitely not been equitable but they certainly allowed the poor to gain a foothold in the city and the overall socio-political climate was that of grudging acceptance of the necessity to have the poor in the city as service providers, labourers and so on.

What has been described above is a situation that is fast changing now. In following its vision (Vision Mumbai – a document developed by an NGO representing corporate interests called Bombay First and then adopted by the Govt. of Maharashtra) and the path charted for its achievement, Mumbai is currently on a quest to become a world class city on the lines of Singapore and Shanghai. Slums and encroachments are viewed as major obstacles in this path. There are several ways of 'overcoming' these 'obstacles' that have been devised in the last 5-6 years and several more which are being contemplated. The nature of these threats to the existence of slums and the poor in the city ranges from the more direct, familiar forms to indirect and less familiar and more complex forms. This note attempts to trace some of these forms and their implications.

A. EVICTIONS

Evictions are not new to the city. With two wings of the city administration i.e. the Corporation and the Collectorate possessing Demolition Squads, evictions are a regular quota-based occurrence for several slum dwellers who live in non-notified slums. Since the last few years, however, evictions have acquired a new sanctity and scale. The seeds of this sanctity were sown in the last decade when several middle class 'citizens' groups began to emerge as protagonists of good governance. An anti 'encroachment' drive was a key dimension of this brand of good governance. The two major demolitions at the turn of the century – that of 5000 hutments in Daulatnagar in 1999 and of above 25000 hutments in the Sanjay Gandhi National Park in 1999-2001 were both at the behest of public interest litigations filed by citizens' groups – the first for their right to planned amenities and the second for conservation of the environment. The slum

dwellers who serviced these citizens were considered expendable by them as well as by the judiciary who took a keen interest in ensuring a total clearance of these areas and refused to entertain any proposals for balancing the interests of various sections. Several Public Interest Litigations (PILs) of this nature have since been filed in courts to seek evictions of slums and hawkers. The judicial trend has been to uphold the Master Plan and to compel the State Government to restructure the deadlines for slum dweller's eligibility to housing options. A new 'Slum Act' was introduced towards this end restricting the cut-off date for recognition and rehabilitation of slum dwellers to 1.1.1995. Thus a 'consensus' was gradually being fashioned between sections that mattered. Though there was a contradictory pressure of populist politics attempting to win over the votes of the 60 percent population by extending the dateline to 2001.

Between December 2004 and March 2005 this consensus took a definitive turn with the Chief Minister initiating a massive demolition drive affecting 29 slum settlements and between 84000-91000 hutments. There has been some respite in an otherwise incessant demolition drive since then. These respites have been during periods like the monsoons, periods for checking eligibility and periods when resistance from people has been stiff but mostly temporary in nature. There is a strong determination on the part of the government machinery to 'clear' spaces, especially those occupied by the poor, and restore them to their designated use.

Evictions today thus, represent unanimity of agenda of politicians, administrators, judiciary, media and 'citizens'. Paradoxically, the encroachments and illegalities of other classes have become a subject of sympathy meriting regularisation. In Ulhasnagar, a township in the Mumbai Metropolitan Region, over 90 percent of the buildings are unauthorised. A special ordinance was introduced to regularise these constructions and to avoid their demolitions). Slums on the other hand merit only eviction in the current milieu.

B. EXCLUSION FROM BASIC SERVICES

Basic services such as electricity, water, sanitation etc. is an arena through which inequities between slum and non-slum areas are most acutely

expressed. The earlier pattern of provision of these services was rooted in humanitarianism and charity with a paternal role played by municipal and other bodies and political representatives. For instance, toilet facilities were provided free of cost to slum areas through the Slum Improvement Programme and the MP/MLA Local Area Development Funds. These bodies only decided their location, design, maintenance etc. On ground this resulted in adhoc, patchy and poorly maintained services which were highly inadequate to meet the scale of needs.

In the current paradigm shift towards a 'demand-led approach' in provision of basic services, the emphasis is on 'pay and use'. Services are being managed in a corporate style or privatised on a large scale. The slum dwellers and the poor are considered to be yet another client group in this model. Their needs are recognised as a demand to be met consequent to their ability to pay for these services. In Mumbai, the pay and use mode is currently being applied to toilets and gardens. It is also being applied in a more subtle fashion in areas such as water supply and solid waste collection. Each one of these schemes offers a concessional rate to slum dwellers but their costs are being applied individually without assessing the cumulative costing of all the services. Also there are studies that show the high amounts of unrecognised costs in availing these services. Even now there are chunks of households who are unable to access these services because of the costs involved. The impact is bound to increase exponentially as the schemes and projects through which the pay and use mode is being propagated currently take on wider mandates

C. INVISIBILITY IN DATA AND DENIAL OF OPPORTUNITIES

One of the most indirect but most dangerous forms of exclusion is invisibility in official data. As per the poverty estimates of the city, only about 22.8 percent of its population is poor which means that a large number of groups which may be vulnerable are in fact excluded from data. Inclusion in the Below Poverty Line (BPL) list determines access to subsidised grains under the Targeted Public Distribution System as well as subsidies in health services and opportunities for economic improvement. The implications of this invisibility in data are thus considerable. The same is seen also in case of data vis-a-vis slum dwelling. It excludes several small settlements, non-notified settlements and tenancies in

recognised slums. Programmatic interventions designed on the basis of such data automatically exclude these categories; leave alone the manipulations found in the process of proving eligibility for schemes.

Invisibility of the poor thus emerges as a potent form of exclusion in an increasingly info-centric world. Interestingly, the application of information technologies to create more convergent data systems leaves poor households with fewer options than before and with greater probability of denial of the schemes and entitlements.

D. PRIVATISATION OF PUBLIC LAND

A significant number of slums in Mumbai were located on private lands (47 percent) as lands were locked under the Urban Land Ceiling Act (ULCRA). With the repeal of the ULCRA on the anvil, public lands remain the only option potentially available to the poor to house themselves. Various government agencies are currently on a spree currently to give away public stake in private lands of large proportions. The Municipal Corporation has declared its intent to award additional Floor Space Index (FSI – a measure of the permissible height of construction) to its worker colonies and hand them over to private developers for redevelopment. Similar strategies are being contemplated for redevelopment of old *chawls* and tenement buildings. The Mumbai Port Trust plans to sell off 1600 acres of land. The public share of 33 percent in the 800 acres of mill land has been allowed to dwindle considerably. With hardly any construction activity initiated for low-income groups by the government agencies, this crunching of public space has serious implications for the future prospects of the poor to house themselves in Mumbai. Mumbai threatens to convert itself into an exclusive haven of the upper classes with the poor being pushed to its peripheries.

E. DISPLACEMENT THROUGH REHABILITATION

Mumbai is in the process of being transformed through an unprecedented scale of infrastructure development. The key infrastructure development projects are in water supply, drainage and transport sectors. All of these projects demand a considerable amount of land and are potential threats to thousands of slum dwellers. Just the Mumbai Urban Transport Project (MUTP) and the Mumbai Urban Infrastructure Project (MUIP)

are likely to displace about one and a half lakh households. The consolation given to those displaced is of a rehabilitation package consisting of a 225 sq. ft. tenement in buildings constructed for this purpose. Even without going into a discussion of the adequacy of the rehabilitation package, the very scale of displacement is massive making rehabilitation an unwieldy task. The norms of eligibility for rehabilitation differ as per the 'sponsor' of the project. Thus for MUTP funded by the World Bank, the eligibility is decided on the basis of the date of the base line survey while for MUIP the cut-off date of 2001 is used. Further the invisibility in data and arbitration by a number of agencies involved in the process ensure that there are groups of people excluded from rehabilitation.

More importantly, the track record of such a form of rehabilitation in buildings (even in-situ) without an improvement in economic capacities has proved to be unsustainable for a significant chunk (about 30 percent as per a study conducted by TISS) of people who have uncertain livelihoods. Such rehabilitation also has a significant impact on households deriving their livelihood cashing in on the space (ground and the top) available in a slum settlement.

A new trend in this regard is to adopt a cluster approach to redevelopment of large slum areas. The ostensible aim of this approach is to create more planned amenities in the area and to encourage global players with better competencies to enter the field of slum redevelopment. The impact of this cluster approach on cost of living is bound to be exorbitant thereby pushing people out of the area in spite of being offered a free tenement with reduced taxes.

The efficacy of rehabilitation thus becomes suspect. The foreclosure of options of rehousing in more appropriate conditions is ensured by law and is yet another noose tied by current modes of rehabilitation. Rehabilitation is thus in many ways a silent form of displacement.

CONCLUSION

The quest of transforming to a world-class global city is one, which is posing several threats to the existence of the poor in the city of Mumbai. These threats are multifarious, several of them are unfamiliar, complex and therefore much more difficult to counter than the known, direct forms. Understanding the nature of these threats is a key dimension of

building a struggle of the urban poor. The stake is now one of a right to the city and not just a right to stay. This implies the understanding of city space not just as land and its use but as a space that is first constructed in the minds of planners and corporates and a living space in which people interact with their environs. Assertions of the right need to be at all these levels.

NOTES

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Forced Evictions in Chennai

Dr. K. Shanmugavelayutham¹

INTRODUCTION

In Chennai, the capital city of Tamil Nadu, the urban poor and working people have been evicted repeatedly and sent off to far away locations to favour the commercial interests of the affluent sections of the society. The unorganised workers livelihood and habitat conditions have been continuously dislocated making them more and more vulnerable and poor.

SLUM POPULATION

Chennai has a fairly large population of slum dwellers. About 28 percent of the current population of Chennai is living in slums. This 28 percent population occupies only 6 percent of the land in Delhi. This shows the gross inequity in distribution of land. Moreover, a large number of people are homeless. As per a civil society survey conducted in year 2000, the homeless population in Chennai is over 40,000.

Evictions due to Mass Rapid Transit System (MRTS)

One of the major eviction drives in Chennai was due to the construction of the Mass Rapid Transit System (MRTS) project carried out by the Ministry of Railways. In 1980, the urban transportation policy focused on discouraging personalised modes of transport and strengthening the public transport system. Consequently, the first phase of Chennai's Mass Rapid Transit System (MRTS) was executed covering a distance of 8.45 km and later, the second phase covering an additional distance of 10.3 km. was constructed. Due to the construction of the MRTS, a major eviction drive was carried out in the city which resulted in the demolition of 24 settlements and displacement of 2643 families.

Evictions during 1994

Again in 1994, the city witnessed large-scale evictions, though the State government's official cut of date was June 30, 1984 many slum settlements prior to that were also demolished. The demolition spree angered large numbers of unorganised workers and some slum dwellers along with Pennurimai Iyakkam sought Supreme Court's intervention. The Supreme Court in its judgment dated 6th of December, 1988, ordered resettlement within a reasonable distance from the related place of employment. Tamil Nadu government G.O. Ms. No. 1488 dated 3rd of November, 1988, mentions that the slums in the government land will be evicted only when the land is required for any public purpose and that eviction will be done with due notice to the dwellers and by providing alternate site with basic amenities and loan for construction of houses. In spite of the Supreme Court order and assurances by the state government, the Chennai Corporation continued to evict urban poor inhabitants without following any procedure.

Evictions from the riverbanks

Tamil Nadu Slum Clearance Board (TNSCB) and Public Works Department have identified 8164 slum families who reside on the banks of major city waterways like Adyar, Cooum and B' Canal and storm water drainage systems in the city. The Tamil Nadu government is intending to evict these families as they feel that the communities pose hindrance to the desilting operations by the Public Works Department. The TNSCB plans to evict all the 8164 families and dump them at Okkium Thoraipakkam, Semmencheri and Perumbakkam resettlement colonies, which are 20 kilometres away from the Chennai city.

Evictions and protests Dideer Nagar

1500 families from Dideer Nagar slum, near Marina Beach in Chennai, were evicted and relocated 20 kms away. Most of these families were living in pucca houses. The site chosen for their resettlement has no drinking water, transport, electricity, toilet and school facilities. Those who were living in rented houses before tsunami were not given alternate houses for settlement. They continued to live either in dilapidated houses or in the open in the same slum.

Kannagi Nagar and Kargil Nagar

Marina Beach fishing communities were shifted outside the city in Kannagi Nagar and Kargil Nagar. The non-fishing Dalit community from Srinivasapuram was also sent to Kannagi Nagar near Thuraipakkam which is on the outskirts of Chennai.

TSUNAMI AND THE CRZ VIOLATIONS

The rehabilitation discourse of the Tamil Nadu state government is centred on the 'Coastal Regulation Zone (CRZ) Notification'. According to the Central Government notification, there should be no buildings – both residential and non-residential – within a distance of 1000 meters from the seashore. But the trends emerging in the post-tsunami scenario have raised serious concerns, especially for the coastal communities. There have been gross irregularities during the rehabilitation process and the reconstruction was intentionally delayed in order to make sure that coastal communities themselves leave the coastal line areas. Government is allocating coastal lands to industries, resorts, hotels and other corporate projects. The state Government is blatantly trying to promote ecotourism and allowing the corporate and multinationals to construct buildings after forcibly evicting and relocating the people traditionally living along the sea shores, ostensibly in the name of protecting them from future Tsunami attacks. In fact the CRZ norms explicitly states that, “construction/reconstruction of dwelling units between 200 and 500 meters of the High Tide Line is permitted so long as it is within the ambit of traditional rights and customary uses such as existing in fishing villages”.

RESETTLEMENT COLONIES

Chennai in recent years has witnessed one of the largest rehabilitation projects in the country. At each colony 10,000 to 20,000 EWS houses are being built. But due to the locations of these colonies, which are far off from the city, these projects are on the brink of failure. Many low-income families who were economically well off within the city fear the impending poverty from loss of livelihood arising out of the vicious policy of relocation in the outskirts the city. These rehabilitation sites, construct-

ed by the Tamil Nadu Slum Clearance Board, are now in a dilapidated condition. The Government has denied basic facilities such as safe drinking water, electricity, toilets, garbage collections, sanitation, and proper maintenance of tenements to these settlements. The major relocation sites are: Kodungaiyur, Velachery, Pallikaranai and Okkiyum Thoraipakkam – all of which are located far away from the city. As part of the new policy package, the rolling back of the Urban Land Ceiling Act is a real set back to acquiring excess private lands for re-housing the urban poor near the city centre.

TOWARDS A SOLUTION...

UN-HABITAT, released its annual report on human settlements entitled 'The Challenge of Slums: Global Report on Human Settlements 2003'. The following are extracts from the main recommendations:

- In facing the challenge of slums, urban development policies should urgently address the issue of livelihoods of slum-dwellers and urban poverty in general, thus going beyond traditional approaches.
- Up-scaling and replication of slum-upgrading is among the most important of the strategies that have received greater emphasis in recent years, though it should be recognised that slum-upgrading is only one solution among several others.
- For slum policies to be successful, the kind of apathy and lack of political will that has characterised both national and local levels of government in many developing countries in recent decades needs to be reversed.
- There is great potential for enhancing the effectiveness of slum policies by fully involving the urban poor and those traditionally responsible for investment in housing development. This requires urban policies to be more inclusive and the public sector to be much more accountable to all citizens.
- It is now recognised that security of tenure is more important for many of the urban poor than home ownership, as slum policies based on home ownership and large scale granting of individual land titles have not always worked.

56 The Urban Poor in Globalising India

- To improve urban inclusiveness, urban policies should increasingly aim at creating safer cities. This could be achieved through better housing policies for the urban low-income population (including slum-dwellers), effective urban employment generation policies, more effective formal policing and public justice institutions, as well as strong community-based mechanisms for dealing with urban crime.

NOTES

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Slums

Whose Habitat and Whose Eyesore?

D. Leena¹

“Nobody forced you to come to Delhi. Is there a right to live in Delhi only? Stay where you can. If encroachments on public land are to be allowed, there will be anarchy.... If you are occupying public land, you have no legal right, what to talk of any fundamental right, to stay there for a minute longer.... Tomorrow you can come to the Supreme Court and settle here claiming a right. Your (the counsel’s) home could also be occupied by them. There has to be an end to this”. (CC 3732/2006 – Supreme Court)

A Supreme Court Bench observed this on 9th May 2006 and subsequently, within 2 months, there were dozens of orders passed by various Courts making the poor, underprivileged, workers, vulnerable women, men and children rummage around the city in search of shelter. Their houses were demolished without any prior notice and without any resettlement plans.

Situation in Delhi has taken a sharp turn after the courts adopted the idea of the beautiful city, which is indicative of the shift in the attitude of the Courts towards favouring the elite. This has led to dozens of orders for the removal of more than 15 slum clusters uprooting the lives and livelihood of over a lakh men, women and children. While many more clusters are under the threat of evictions; there are no plans or provisions for them nor are they being given their democratic right to demand shelter and livelihood.

HOW CLUSTERS HAVE TURNED INTO EYESORES

It is important to de-mystify the role of the ‘activist’ judiciary and their idea of changing the city in recent years. For this one need to analyse all

such cases wherein the courts have ordered demolitions; sometimes without any relocation whatsoever.

In *Navniti CGHS Vs Lt. Governor* (WP (C) 5697/2002), the order to demolish one slum cluster was given in August 2004 by the Delhi High Court, which gave enough time for the Delhi Development Authority (DDA) to do a planned relocation of the evictees. The DDA did not pursue the orders of the court to relocate the slum cluster according to the resettlement plan. In the absence of it the Court ordered contempt charges against the Vice Chairman, the DDA in February 2006. This hastened the demolition of the site so that the DDA could absolve itself from the contempt order. Houses were demolished without notice on 23rd Feb. 2006 and no resettlement has been provided till date.

In many places demolitions have been carried out at the behest of RWAs, corporate builders etc. without giving the poor the right to be heard. The orders have clearly favoured the rich and influential. All pleas to save shelters and livelihood of lakhs of people living in the city have been turned down by both the Supreme Court as well as the Delhi High Court. The counsel pleading to grant a stay on eviction on the basis that it is unreasonable to oust slum dwellers in scorching heat, have been told that *“In India we have three weather conditions – heat, rain and winter. If we accept your argument, there will never be an appropriate time to demolish illegal structures standing on public land”*.

In line with these judgments, there were many cases such as *Maloy Krishna Dhar Vs GNCTD* (WP 6160/2003) where the case was filed for the removal of two slum clusters in the area. A Direction was given to DDA on 21.4.2004 to relocate the jhuggi clusters within a period of 2 months and provide alternative sites to jhuggi dwellers in accordance with law and policy. The plea taken by the DDA was that in view of the policy of relocation it cannot remove on account of illegal occupation on the Government land an encroacher is given premium by giving him a plot in the name of relocation. The court issued a contempt notice to the VC of DDA asking him to answer the quantum of punishment. In the meanwhile, the court directed the removal of jhuggis within a period of 15 days. Relocation would amount to giving premium to illegal activities.

Hemraj Vs Comm of Police WP (C) No.3419/1999 – Nagla Machi which ordered a 30 years old slum cluster to be removed without any

alternative to the people. Hon'ble Delhi High Court observed "*On the one hand, tax-payers money is spent on widening the road and on other hand illegal encroachment is allowed for commercial benefits. The same has to stop forthwith.*" M/s Ishu Finance and Investment Vs Dinesh Rai VC, DDA (CCP 21/06) The case was filed by a star hotelier who has been allotted a piece of land in Bannuwal nagar area of Outer Ring Road against the DDA for not removing a small slum cluster which is 200 meters away from the plot.

On 12th May 2006, the Hon'ble Chief Justice of India dismissed writ by Sajha Manch Vs Union of India (CWP 241/2006), without hearing the arguments. The writ have enumerated a number of judgments given by the Hon'ble Supreme Court previously which have given meaningful interpretation of the Right to life under Article 21 of the Constitution of India. The new judgments seem to have rejected the earlier interpretation and have come against the precedents of the Apex Court.

Now since the basic tenet of the Constitution of India has been defied. Be it article 21, 14, nothing have come in close proximity of the judges while delivering orders, leave alone Article 19(1)(e) which was upheld in Ahmedabad Municipal Corporation, Appellant vs Nawab Khan Gulab Khan And Others.

WHOSE HABITAT?

In almost all the cases less than 20 percent evictees have got plots in the relocation site. The relocated sites are at the periphery of the city which is about 40-45 kms from the place of original habitat. This has disrupted the livelihood of thousands of workers depriving them of their right to live.

The relocated sites are uninhabitable and with pathetic conditions. People have been thrown to periphery without any basic amenities; no transport, children denied of education and women with no source of employment.

NEXUS OF THE JUDICIARY AND THE EXECUTIVE

Today the poor are being called 'illegal occupants' and not citizens of India, 'encroachers' but not people who have no purchasing power to rent an accommodation, 'trespassers' and not the ones who have a fundamental

right to live freely in any part of Indian territory; filth, dirt, thieves, breeding grounds of all ills, etc. etc. and not to mention pickpockets who are getting free of cost prime land all over Delhi.

The phenomenon has a long history when feudal lords use to give the poor spaces that were abandoned, unused, barren and outside the main village areas. One can see the origin of the bias of judges, administrators and the rich from those days.

The outcome of all this is that in the past 5 years more than 1 lakh families have been evicted from Delhi and less than 20 percent of them have been resettled on the outskirts of the city so that the dirt doesn't enter the bungalows of the so-called LEGAL citizens.

Due to pressure from middle class traders organisations, the government came up with a Bill on 12 May 2006 called Delhi Laws (Special Provisions) Bill 2006. This bill gives a moratorium on all sorts of sealing and demolitions for one year and in the meantime the government is supposed to workout a plan for lasting solution of these problems. The bill also provided for suspending the demolition of slum clusters. But this bill has had no impact on the courts, rendering the promises of the elected democratic institutions meaningless.

The independence, which the Judiciary is enjoying today, is not less than a dictatorial attitude and it is shrinking the spaces for the poor to live and earn in the city. On the other hand the executive has been asked to take a back seat and ignore its democratic functioning.

NOTES

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Situating Urban Displacement

The Mumbai Experience

Shweta Damle¹

“When we see police van we run as if we are thieves. Our life has become horrible”

Rajendra Prasad Maharashtra Naga, Mankhurd, Mumbai

“At night I wrap a shawl and beg. Whatever I earn helps us feed. My belongings are scattered on the ground. I have full proof of my stay for the last 40 years. I have Identity Card also. I have made ration card thrice for 5 years each. I have this card also. You can see it. What is its name? I have collector’s form also. Despite having all, no one listens.”

Abdul Khaliq, Bandra East Pipeline, Mumbai

The past few decades have witnessed rapid economic growth in the country. This growth is manifested in the setting up of large-scale projects in power generation, mining, industry, infrastructure development, irrigation and even in creating new urban settlements. One of the fall-outs of this process is massive displacement of people from their habitats. Tribals are being evicted from forests, farmers from their farming land, workers living in slums from urban areas. In fact, post independence nearly 50 million people have been displaced in India. The current paradigm of ‘growth’ has intensified this historic injustice against the vulnerable sections of the society.

The emerging face of the brand new ‘globalised’ India is the one where millions are forced to bear the cost of ensuring profits for a miniscule population of political and economic elite. And this is justified in the name of ‘national’ or ‘public’ interest. The irony though is that victims of this process are called beneficiaries. The policies of rehabilitation have given little or no respite to those evicted.

The discourse on displacement has always been surrounded by issues like whether displacement is acceptable if affected people are properly compensated; what are the kinds of situations in which displacement can be legitimised; should the victims be taken into confidence before eviction, should the displaced share direct benefits of the project because of which they are being displaced, and so on. Jawahar Lal Nehru, the first Prime Minister of India, while speaking to oustees of Hirakund Dam in 1948, had said: “*If you are to suffer, you should suffer in the interest of the country*”. This brings forth the debate as to how is one to interpret ‘public’ or ‘national’ interest.

UNDERSTANDING DISPLACEMENT: A HISTORICAL PERSPECTIVE

Identification of displacement as a phenomenon entailing serious human rights violations is a very recent one. And even more recent is the understanding of urban displacement. This fact is very much reflected in the evolution of definitions of displacement over the last three and a half decades.

The first Habitat conference was held in Vancouver in May and June of 1976. For the first time precarious condition of human settlements was given serious thought. It was recognised that human settlements are embedded in the social and economic development of countries and also, that they cannot be seen in isolation from existing unjust international and economic relations. There was also an effort to understand why such a precarious situation had arisen. The answer to this question was identified in:

- Uncontrolled urbanisation leading to conditions of overcrowding, pollution, deterioration and psychological tensions in metropolitan regions.
- Rural backwardness, which forces the people to live in subhuman conditions and rural dispersion, thus exemplifying the problems related to provision of basic services and infrastructure.
- Involuntary migration, politically and economically motivated relocation and expulsion of people from their national homestead.

This understanding led to adoption of meaningful and effective strategies for solving the problem of human settlements by creating possibilities of participation, innovative approaches in formulation and

implementation of settlement programs, and recognition of human settlements as instruments and objects of developing solutions.

The guiding general principals of the policies for Human settlements after Vancouver Declaration were –

- Improvement in quality of life with satisfaction of basic services, food, shelter, clean water, employment, health, education, social security with any discrimination.
- Establishment of settlements in territories occupied by forces to be considered illegal and to be condemned.
- Right to free movement and right of each individual to choose the place of settlement within the domain of his/her own country to be recognised and safeguarded.
- Highest priority to rehabilitation of expelled and homeless who have been displaced by natural or man made catastrophes especially in case of the act of foreign aggression.

Vancouver Declaration, 1979, was an important landmark in the recognition of displacement as an issue of international concern. But the definition of displacement that emerged was limited in scope and did not capture the totality of trauma inherent in displacement. Displacement was defined merely as *the relocating of individuals or groups away from their place of residence* (COHRE, Forced Eviction and Displacement, http://www.cohre.org/view_page.php?page_id=90).

The intermediate period between Vancouver Conference and Istanbul Conference saw very little debate on displacement and evictions at the international level though it was recognised all the while. Istanbul Declaration was organised in 1996 and it reaffirmed all the agendas on human settlements and displacement that were put forward by the Vancouver Declaration. But the flipside was the addition that the Istanbul Declaration made which said that active participation from private partners at all levels is needed to ensure legal security of tenure, protection from discrimination and equal access to affordable and adequate housing. The Istanbul Declaration paved the way for withdrawal of state agencies from their obligatory welfare duties and increased privatisation of land, infrastructure and basic amenities.

Post-Istanbul a number of issues have been raised from time to time in various declarations on Development and Environment, by the UN Special Rapporteur on Adequate Housing in his numerous reports, in the Seminar on the Practice of Forced Evictions, Geneva, June 1997 and several other fora. In the guidelines on displacement formulated in Geneva Seminar:

- Displacement and eviction were identified as barriers in realisation of the universal human rights of people.
- The understanding on causes of displacement was also broadened to include displacement due to modernisation, industrialisation, beautification, transport projects, infrastructure projects, dams and mining projects and most of all it recognised the process of displacement and evictions in both urban and rural setting as a result of economic liberalisation.
- The understanding of the impact of these phenomena was also broadened. The issues brought under the umbrella included adequate housing including land, access to property, water, health, sanitation, security of tenure, homelessness, landlessness, impoverishment, joblessness – right to live with dignity, right to livelihood, loss of access to natural resources, right to participation in decision-making process, food insecurity, disruption of formal education, increased morbidity, mortality and community disarticulation, and loss of access to common property.

Taking into consideration all the above debates defining displacement is a complex process. The closest and adequate definition I came across says something to the effect that *displacement is the systematic alienation of an individual or a community from their livelihood and their habitat rather than just physical dislocation.* (panchayat.nic.in/.%5Ccb%5CPowerpointpresentations%5Cgender&socialwelfare%5COverviewofTribalsandDispla.)

FORCED EVICTIONS

We have discussed in details the evolution and recognition of the phenomena of displacement and claimed that evictions or rather forced evictions is an integral and indivisible part of displacement.

Forced evictions is defined in General Comment no 7 on Adequate Housing (sixteenth session: 1997 contained in document E/C 12/1997/4) as the permanent or temporary removal against their will of individuals, families and /or communities from the homes and/ or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.

General Comment no 7 on Adequate Housing (sixteenth session: 1997 contained in document E/C 12/1997/4) also said that all persons should possess a degree of security of tenure which guarantees legal protection against forced evictions, harassment and other threats.

The General Comment no 7 on Adequate Housing also laid down elements of the procedure required to be followed by state parties in case displacement of people and communities is deemed necessary. The procedural protections, which should be applied in relation to eviction, include:

- An opportunity for genuine consultation with those affected
- Adequate and reasonable notice to all affected persons prior to the scheduled date of eviction.
- Information on the proposed eviction, and where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected.
- Government officials or their representatives need to be present during an eviction drive.
- All persons carrying out evictions to be properly identified
- Evictions must not take place in bad weather or at night unless the affected persons consent otherwise.
- Provision of legal remedies
- Provisions, where possible, of legal aid to persons who are in need of it to seek redressal from courts.

The characteristics and scope of forced evictions can be attributed to various factors; some of the major factors being:

- Political context
- Degree to which the rule of law prevails

- The forms of access to housing for vulnerable groups
- The predominant (political and economic) motivation for evictions – either actual evictions or threats of evictions

URBAN EVICTIONS: MUMBAI

The recognition of the implications of urban displacement and evictions is a very recent one. It is hard to find reliable figures on the magnitude of urban evictions in the pre-1970s era. Moreover, there is hardly any sociological literature on the impact of these evictions on the lives of people.

Urban displacement and eviction are regular phenomena carried out under the guise of multiple developmental projects in order to transform urban landscape. Most of the times these projects emerge as attempts at land grabbing by rich developers in cities either on grounds of slum dwellers polluting the area or on the pretext that they are *illegal occupants* and the land occupied by them is to be used for some 'public' purpose. In the urban areas *de-facto occupation of land for residential and occupational purposes have existed through a variety of informal networks, an offshoot of electoral democracy in India*. But this kind of de facto occupation has no legal tenurial rights and is therefore vulnerable to evictions. The vulnerability of urban poor is strengthened by attempts of the powerful elite to paint them as thieves, criminals, dirty, health hazards, environmental hazards and so on. This provides the state with an ideological excuse to evict slum dwellers and hand over their land to builders and government agencies to carry out 'planned development' in 'public interest'. The scale of evictions in Indian cities is so huge today that it is hard to find out accurate data on how many clusters are being demolished or how many people are being evicted at any one point of time.

Government is the main agency responsible for razing slums. But over the years one observes it is not the only agency; instead there are multiple players like builders, multinational companies etc., who are active in brutally evicting people. Another emerging phenomenon is *large-scale use of police and paramilitary forces during the eviction drive*. This has led to *the institutionalisation of the process of eviction*. They are not just present *but present in huge numbers so as ensure that any kind of protest action is crushed then and there*. .

Displacement in urban areas happens in various forms and at several different levels. Eviction from the land that poor occupy in slums, on pavements and on marginal and dangerous lands such as near pipelines, hill slopes and near nallahs and creeks is often seen. But displacement due to rehabilitation policy, especially in the case of Maharashtra, is a recent phenomenon. Many a times multiple displacement is also observed when subsequent to the demolition of a particular slum cluster the eligible slum dwellers are shifted to transit tenements where they have been seen to spend years before being relocated to a rehabilitation building. Even then these are the luckier ones who, at least, at the end of their second displacement are assured of some permanent accommodation. The ones who are not eligible for alternative housing are the worst hit since they are left with no shelter once the slum is demolished. This often results in the creation of new slums that again go through the traumatising cycle of eviction and resettlement.

In the post liberalisation era one does not see only *displacement by force but also displacement by persuasion*, very much reflected in the Slum Rehabilitation Scheme being implemented in Maharashtra.

The very fact that slums have proliferated to the current proportions show absolute failure of the state machinery in addressing the issue. The non-availability of low cost housing and rental housing stock have been major contributing factors towards the so-called crisis that we are facing today in almost all urban centres. Reservation of land for urban poor is being constantly reduced under one pretext or the other at the behest of land mafia, speculators and developers. Many such cases are registered under Urban Land (Ceiling and Regulation) Act (ULCRA), 1976. The ULCRA was enacted “*with a view to bringing about an equitable distribution of land in urban agglomerations to sub serve common good*”. As per the scheme enunciated under the Act in Mumbai for a person possessing vacant land in excess of 500 sq m there were two options:

- a) Surrender excess land to the government
- b) To seek exemption, mainly under section 20 or 21 of the Act for excess vacant land on the condition that the said land would be used to build tenements for the weaker section.

In Mumbai negligible amount of land was surrendered but there has been thousands of acres of land for which exemption has been granted under option (b) prescribed in the ULCRA. Under these exemptions thousands of acres of land was freed for construction of low cost housing for the poor but instead of this what we see is high-end housing towers for the rich.

Similarly, the Development Control Regulations have been blatantly violated to take away the land meant for the poor. Land use is specified under the provisions of the MRTP Act. Large tracts of lands were reserved for the dishoused people and for public housing. But much of these lands have been taken over by the builder lobby to construct sprawling air-conditioned malls meant for high-end elite rather than slum dwellers.

In recent years serious official and unofficial violations of Coastal Regulation Zone (CRZ) have been witnessed. The CRZ notification was issued under the Environmental Protection Act 1986. It prevails over the State DC regulation and all other state laws. Most of Mumbai is classified as CRZ II area – which are coastal areas upto 500 meters from the High Tide line.

Some examples of the violation of CRZ:

- Construction of Multiplex cum shopping Mall – Inox at Nariman Point
- Reconstruction of Heritage building near cooperage, Buckley court.
- Building opposite to Walkeshwar bus stop
- Construction of parking lot at Breach Candy
- Building constructed for MLAs at Sir Pochakhanawala Road, Worli.
- Allotment of rehabilitation space for commercial units at Mandala under MUTP.

Maharashtra in general and Mumbai in particular have witnessed systematic and blatant violation of various laws that promised land to the poor. In fact, there has been an inconsistency in different laws leading to a situation where the state and the powerful elite can use this

inconsistency to further their agenda of creating a 'world class' city. On the one hand are laws like the Slum areas (Improvement, Clearance and Redevelopment) Act of 1971 which gave some respite to slum dwellers on notified government land in the form of providing them with basic amenities and other services. While on the other hand, the Maharashtra Vacant Lands (Prohibition of Unauthorised Structures and Summary Eviction) Act, 1975, has ensured eviction of slum dwellers on a massive scale from private lands. Under the Vacant Lands Act all the land parcels 'encroached' upon by squatters would be considered vacant and therefore slums can be evicted any time. Squatting is considered a non-bailable offense under this Act. No wonder then that a large number of demolitions in Mumbai have been carried out using the provisions of this particular act.

NOTES

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70 The Urban Poor in Globalising India

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The right to adequate housing (art. 11.1 of the Covenant): forced evictions (Sixteenth session, 1997)

The Devil Called Urban Governance (read Urban Apartheid)

India – a soon emerging Apartheid Country

The Indian Urban Morass

Today's Preference:
*Capital over people,
World Bank over government,
profit over poverty elimination,
corruption over governance,
property/ games/golf courses over livelihood,
injustice over human rights ...*

India: A Homeless Nation for its People

People without a Nation

India: carving a beautiful world class death bed
(SEZ: sej in Urdu means bed) for its citizens

Indian Anarchy – Crafted by the LORDS of Judiciary

People of no Nation

“The city has turned into a battlefield where the strong wrestle down the weak and the rich exploit and tyrannise over the poor”. – Kahlil Gibran

"I am uneasy at heart when I have to leave my accustomed shelter."

– Rabindranath Tagore, *Gitanjali*, LXIII

*Indu Prakash Singh*¹

This is the first time that I can't decide on any one title for a write-up of mine. So be it! I am not going to give one title to it. You, my dear readers, may kindly pick any one that you feel is apt enough or create your very own.

Lest you start thinking that I am suffering from *Hamletian hamartia* of indecision. I want to clarify it. It's not a question of imprecision, fogginess, or indecision. It's a painful, poignant and hard fact of our socio-economic-political situation in which all of the above titles are strongly embedded. For, all the above, actually and factually, are true.

Earlier, it was the British rule, which had turned India into its colony. Today it is Indian Government which is bartering the freedom of India to corporates (both Indian and transnational), WTO, World Bank, ADB etc. Unfortunately, even CPI and CPI (M) are party to Singur. We, the people of India need to assert at this juncture. Every institution in India is dwarfed today by Judiciary running amok. We need to leash them, before they cross the rubicon of sanity. Our freedom fighters, many of whom were part of our families, didn't lay down their lives for Manmohan's and Montek's of this country. Our PM is out to sell this country. We need to thwart his designs.

In the India of today, being modelled for Commonwealth Games 2010, the poor have no place. The Constitution of India with its Articles 14,19,21 ... remains ineffectual. It has been consigned to the dustbin of Indian Demo(n)cracy being steered by Our Esteemed Lords of Judiciary. The Judiciary with its recent anti poor statements/evictions – demolition orders has actually committed a *Contempt of Constitution*. And the mockery of justice is that they can invoke the law of the contempt of court against any citizen of this country, who challenges them. Little realising that they swear by the same Constitution given to this Country called INDIA by "We, the people of India".

India, today is becoming (speaking socially and economically, not geographically) an island where only the rich and the privileged can stay.

The poor can surely have the wide, broad open seas and ocean to drown in. The poor cannot even dream of touching this island called India, notwithstanding the Constitution of India.

While FDI's, SEZs are welcome, malls are welcome, the world is welcome in soon-to-be-made world class cities: Delhi, Mumbai, Kolkata, Chennai, Bangalore, Hyderabad ... (63 cities under JNNURM and over 2500 small and medium towns similarly patterned); the poor can have a mere glimpse of the Island India, as they remain grounded (?) in the oceanic waters of poverty, destitution, unemployment...

All this is happening despite the Constitution of India and the United Nations² both of whom have been rendered merely mute spectators by the government and the market. The pointers below elucidates this:

The Pointers

GROUND REALITY

- Untrammelled/ brazen evictions
- Total support of Judiciary for violations of human rights: it's got elitist in its approach
- World Class City (LPG theme) virus catching our government: national/ state
- Constitution and various UN charters, covenants and conventions turned to mute spectators
- Distress migration to cities (mainly push factor and not pull factor) continues
- Laws continue to criminalise poverty and destitution

THE COMING OF AAA

The pointers got understood well by us as we started our work with the homeless from 2000. Aashray Adhikar Abhiyan (AAA), a programme of ActionAid India, took shape after repeated meetings in early 2000. The idea to start something like AAA, working with the homeless in Delhi, germinated in a Planning Commission meeting held on 19.9.1999. This

meeting was initiated by AAI, under the leadership of Harsh Mander and supported by friends like Mathew Cherian and Amita Joseph. The then Planning Commission Secretary Dr. N.C. Saxena gave full support to this initiative.

The meeting in the Planning Commission served as the right setting. It was brought to attention of all that little work has gone in towards addressing urban poverty issues in the country. And also there was no government scheme worth the name that was covering the homeless in the cities of this country (the people who slept on the pavements, hand carts, vending carts – rehris, rickshaws, flyovers, traffic medians, in parks, under bridges etc.). It was thought it would be apt to start this work in Delhi. And the learning and understanding gained by this work will be used to replicate this work in other cities of India. As we had no idea about the homeless, their needs, their problems, their existence etc., we began with a rapid assessment of the situation, the results of which were later published in the report titled ‘The Capital’s Homeless’.

UNDERSTANDING HOMELESSNESS IN DELHI

Delhi is no exception to what Kahlil Gibran says about cities. Or rather compared to other cities of India, Delhi fares the worst, in terms of the way the poor are treated. Amongst the poor, the homeless (which includes children, women, elderly, destitute, disabled, mentally challenged, men etc.) i.e., the people who sleep on the pavements, rickshaws, handcarts, rehris, railway platforms, flyovers, in parks, under bridges etc., are really in a vulnerable position.

This is not to say as though the slum dwellers fare better. But rather, that from the point of view of a homeless person, the slum dwellers have a place to sleep in – good or bad, small or dingy, doesn’t matter too much. And also, in contradistinction to the homeless, the slum dwellers do form a constituency for the political parties. Whereas the homeless have no ration card or voting rights in the city. Which is why they are in a condition of extreme deprivation and neglect. And this has given rise to several myths and misconceptions about the homeless. Little wonder, the gap between the society and the homeless has increased manifold. We all know that lack of social interaction is what generates fear, inhibitions, prejudices, hatred and contempt. The homeless are the worst victims

of this process of marginalisation (pushed out from rural economy to urban economy) leading to social apartheid. Today, the rampant evictions across the country, abetted by the judicial bias against the poor, have rendered hundreds of thousands homeless. The number of homeless people has grown exponentially.

FROM RURAL POOR TO URBAN HOMELESS

The politicians, bureaucrats, and economists, don't tire repeating day in and day out that the glamour and privileges of metropolitan cities like Delhi pull the people from the hinterlands. Their blinkered perception is far removed from the reality.

The homeless in Delhi are migrants, mainly from UP, Bihar, West Bengal, Rajasthan, MP etc., who have left their homes in the village due to extreme distress situations. They are pushed out of the rural economy, as there is no work for them/ they have become redundant as their skills of weaving, crafts etc. do not fetch a living/ they have no or little land holding/ recurrent droughts and floods have made agriculture impossible/ some are also socially persecuted, divested of property – by their relations or dominant castes – and a host of other personal, social and economic reasons. Despite over five decades since independence, our villages remain starved of any tangible development.

Thus most of the homeless are basically rural poor who are pushed out and then they reach the nearest city in order to escape their poverty. The homeless are not a monolithic category. They have their unique problems and in order to solve some of those, they are compelled to lead the following existences, be they children, women, men, elderly, disabled or destitute.

INFORMAL ECONOMY

Many men are engaged as labourers – handcart pullers/pushers, loaders, rickshaw pullers, casual workers etc. They are paid below the minimum wages. While they contribute to the growth of Delhi and subsidise our cost of living (by providing cheap labour), they get nothing in return, except insults and indignities heaped on them day in and day out. Quite a few are able to save and send money back home.

Children are engaged in rag picking, handcart pushing, street eating joints, party work etc. Women, disabled and elderly are destitute, with no

one to take care of them. They have been thrown out by their kindred, while others have grown old living on the pavement all through. Dhanetri of Bihar was thrown out by her sons after her husband's death. And at the age of 70, she is left with no option except to beg at the stations. Women and children are the most vulnerable amongst the homeless people. While men do sleep anywhere they are able to, women have to watch out. They either sleep on the busy pavements of Paharganj or railway platforms. Most children and women are victims of sexual exploitation, which is very common.

Today the informal sector workers face severe livelihood crisis, due to zoning (rickshaws being prohibited from entering most of the city areas) evictions/demolitions/closure of industries and so on.

THE RUBICON OF ADDICTION

Drug addiction, especially to smack, is at its peak on the streets of Delhi. Be it children, men or women, most of them, mainly men, are into it. It has to be seen to be believed. Hordes and hordes of people will be found huddled together chasing smack, at Shankar market, Meena bazaar, Asaf Ali Road, Yamuna Bazaar, Majnu ka Tila etc. Talk to addicts and they will tell you that police are involved in helping the drug peddlers/ pushers. And we ourselves countered PCR van with this information and they did agree that they had black sheep amongst them, as well.

Sharif is one such person addicted to smack. It was in 1982 that he got introduced to it by one of his friends. And once into it, he continued with his habit because of which his children and his wife have disowned him. And he agrees that they were right, for he did cause them whole lot of problems due to his addiction. He wants to quit now. There are many like him who want to give up, but there aren't many de-addiction centres. And they do require community support after they have undergone de-addiction.

THE COMMUNITY

Before we started the work, the community, amongst the vulnerable groups, except children, was missing from the pavements. The groups of drug addicts that we would see then, on certain streets, was just a chimera. For sharing the cost of drugs brought them together, and the

attendant problems dispersed them. Nonetheless, they did guide us to the ones who required hospitalisation. They were not without concern for each other. The Health Intervention Group for the Homeless (HIGH) that we started in September 2000, continues to operate in Jama Masjid every Monday and Thursday. This has been helpful in bringing the homeless together.

The Facilitating Collective Action (FCA) that we started from late 2000 has also been instrumental in the emergence of homeless as a group.

But the community does exist amongst the ones who are not into addiction and who have migrated from the same village; and carry home remittances of others as well, when they go back for short durations. Community also exists amongst the families who have migrated from same villages, blocks and districts (like the ones sleeping in Nehru Place, who hail from Sawai Madhopur, Rajasthan).

The homeless children also share and help each other in need. They also develop strong bonds between them.

SLEEPING UNDER THE SKY

There was not a single night shelter for women in Delhi till 2001. In July 2002, Aashray Adhikar Abhiyan (along with YWCA and YMCA) started one such shelter, which moved to Yamuna Pushta in December 2004. Even now there is no night shelter for a homeless family in Delhi. Out of a total of 22 Night Shelters planned, only 19 night shelters were being run by the MCD, of which 14 were functioning in 2000 and now only 12 are operational. Of that also, the one at the Old Delhi Railway Station (with a capacity to house 525 people) had been closed for the homeless men and children, and turned into a detention centre for 'Bangladeshi migrants' – 'housing' merely 17 people. It got opened in 2003 after spirited protests by the homeless. Put together the 14 night shelters in 2000 catered to a maximum of 2937 people. One has to pay Rs. 6 for a night. There are over a lakh homeless people in Delhi.

Today, five community centres in Delhi are being run as 24 hour shelters, besides the two MCD shelters (Fatehpuri & Fountain Chowk) that AAA got to run from 2003 after winning a PIL that we filed in 2001. The destitute, children under 14, and the elderly have free access to these

shelters. In the winters of 2005 over 50 shelters (in buildings, tents, porta cabins) were operational in Delhi.

THE MENTALLY ILL

This segment of the homeless, which includes women and men, are the most neglected. While many suffering from mild illnesses can be treated, serious ones (ones who are referred to as 'wandering lunatics' in psychiatry textbooks) require long stay in a psychiatric care hospital. The resources are limited for long stay. The challenge is to establish mid-way homes and institute community mental health care. Medical institutions create problems in admitting such people.

DIRECTORATE OF ANTI-SOCIAL WELFARE

Delhi government's Directorate of Social Welfare runs 42 homes for beggars, children, elderly, mentally disabled and women. But there is none for the homeless. People referred by the voluntary organisations (VOs) cannot be admitted in these homes. They have to be referred by the Board constituted by the government for this purpose. When spoken to, one very high official of the Directorate dispelled our understanding of the homes. He said these are actually not homes but *Jails*. The plight of the inmates of such homes is anybody's guess, whose top officials meant to take care of the vulnerable sections, feels just the converse.

And after seeing the pitiable and grossly inhuman conditions prevailing in the Women's Beggar Home in Nirmal Chaya (Tihar Jail) complex, one wonders if the Supreme Court is here or some where else. The situation prevailing in the Men's Beggar Home at Lampur is frightening. Most of the inmates, who were of robust built and healthy, were languishing when we went there. They were picked up wrongly. Many were picked up while sleeping on the pavements, under the Beggary Prevention Act. Treacherous are the ways of our enforcement authorities. The inmates can't represent, once committed anywhere from one to three years. And to top it all, they are not even told about the period they have been booked for in the 'home'. One of the inmates told us: "I have been booked wrongly for a crime which I didn't commit. Once I'm out, I will murder people and let's see how the police catches me. For I know how to escape the dragnet." What are we doing to our people? What right

do we have to put innocent people in *Jail like homes*, for a crime, which they have not committed? We haven't come across more inhuman personnel than the so-called 'social workers' employed in these jails.

POLICE BRUTALITY

Amongst the myriad problems encountered by the homeless, the most brutal is regular police beatings. This we have ourselves seen and challenged the police when they did so. Govind, a seven-year-old child, in one of the night shelters, is nursing the dream (or nightmare?) of growing up to be a Hitler (he said so when asked what did he want to be, when he grows up). When further asked why did he want to be a Hitler, he remarked angrily, "*I was beaten by belts and boots by a Delhi Police constable. I couldn't walk and speak for over a week. I want to be a Hitler and kill all the policemen. They beat us every now and then.*" One fails to understand what is our police trying to do? And who has given them the authority to mercilessly beat children and other homeless people? Are the police above law or is there a law that governs them as well?

THE MYTH OF CRIMINALITY

If Govind grows up to be what he wants to be now then that would justify the myth spread by the police that those who live on pavements are criminals. But nobody is born as a criminal. Who will punish the constable, who has ruptured the sensibility of a seven-year-old child? No one knows how many more children might become victims of this cop's brutality and nurse ambitions (?) similar to Govind.

Whatever the police might say, we have a different reality to highlight. During the Rapid Assessment Survey we along with 38 volunteers were on Delhi's streets from 7 p.m. to 6 a.m. We also had women volunteers and colleagues with us. And we went to all the so-called crime pockets of Delhi, be it, Dholak Walon ki Basti, Majnu ka Tila, Yamuna Bazaar, Anand Parbat, Inderpuri etc. We didn't face any untoward incident. While Delhi tops the country in crime statistics, the criminals definitely do not reside on the pavements of Delhi.

Working on the issue of homelessness over the last six years, AAI has travelled a long distance. Beginning with AAA in 2000, since late 2002, the work was extended to other cities including Lucknow, Allahabad,

80 The Urban Poor in Globalising India

Varanasi, Patna, Kolkata, Guwahati, Ahmedabad, Mumbai, Pune, Nasik, Bangalore, and Chennai.

We today have data on homeless population in eight cities.

NUMBER OF HOMELESS PEOPLE IN CITIES (Survey conducted by ActionAid International-India)			
Sl. No.	City (Year)	Number of Homeless	
			Men Women
1.	Delhi (2000)	52765* (1,00,000 ⁺)	- -
2.	Chennai (2003)	40533	22810 17723
3.	Lucknow (2003)	5397 (10,000 ⁺)	- -
4.	Hyderabad (2003)	20560	14625 4858
5.	Mumbai (2003/04)	32254	- -
6.	Kolkata (2003)	58,997	14,578 14,749 15,351 (boys) 14,319 (girls)
7.	Patna (2004)	13000	- -
8.	Pune (2004)	4899 (10,000 ⁺)	- -
TOTAL		2,28,405	- -

Notes: * There would be about 1 lakh homeless people in Delhi. Since when we were doing the head count people were still working at night 2-3 am, and as they were not sleeping on the footpaths we didn't count them. And also we could not go into all the alleys and by-lanes. So we maintain that for every one counted there is at least one who we missed.

⁺ Estimated.

**HOMELESSNESS ↑, POLITICAL WILL ↓, JUDICIAL ASSAULT ↑
= PEOPLE OF NO NATION!**

But the problem of homelessness refuses to reduce. Rather, it has increased manifold since 2000. What is most shocking is that in 2000 when we started our work with the homeless the government definitely got embarrassed on the mention of homeless people going unattended. Today, they brazenly show utter contempt for the urban poor. Who do we turn to now? Courts! Forget it. The poor will be given *TADI PAAR* (out of the precincts of an area) verdict.

Surely, what is lacking is the political will. Major contribution is also made by the callous and deeply prejudiced attitude of bureaucracy (barring

a few of course!). Persistent problems require innovative and honest solutions. Solutions not merely aimed at future but for here and now as well. We need to reintroduce the Urban Land Ceiling and Regulation, 1976 Act, which was repealed in 1998. The government approach has been of allowing housing shortages to grow exponentially, closing its eyes to the abject inhuman conditions in which hundreds and thousands of slum dwellers and homeless live, and then one fine morning waking with the thought dinned into their minds by the external agencies of having a beautiful city for how else will international capital pour in! How else? How else? How else? Once out of its slumber, the government switches its mode and begins demolishing people's homes. It doesn't augur well for the urban poor. *It appears as though privatisation is the panacea for all urban systemic ills. For there is now premium on openness. It's truly an open mind, open door, open land, open resources, open water, open – open policy for the rich to get richer and the poor to be removed from all open areas, thrown any where the private sector may plan. Far from the city, far from the village, far from the livelihood, into an abyss. And be there till, it is again found to have turned into a resource, for beauty to spawn. And have them again removed to another abyss.*

Data is really shocking: 75 percent of all the private land in the world has been appropriated by 3 percent of people (elite). 50 percent of the urban population living in slums possesses less than 5 percent of land. A Majority of the urban poor live in less than 1/10 of city space. And we all know that 90 percent of shortage in housing is experienced by the economically weaker sections of our society. Still we don't tire of saying that there's no land. For whom? The issue is that there is enough land for the rich to buy and stock it as farm houses. But for the urban poor, homeless and the inadequately housed (let's stop calling them slum dwellers) who run the cities of India through their hard labour, construct buildings at peril to their own health, work in our homes as domestic labour, languish in the dungeons of the city there is no land! Ironically, they are called the loads and seen as a drain on urban economy. We forget that our cities would collapse if they were not there. This is not a romantic view of their labour. It's rather a hard fact staring in our faces, which we are not willing to accept. We need to treat the urban poor as citizens of our country and not as "pick pockets and thieves", as noted by our Judiciary. The

Judiciary, today in India, is appearing as the biggest stumbling block for the poor; it matters little whether they are located in tribal, river valley, rural or urban settings. As noted by our legal luminary, Prof. Upendra Baxi, the Judiciary today is performing the role of the Executive. And that's dangerous. The poor today have no one to turn to, except themselves.

WE, THE PEOPLE OF INDIA

The only hope I see in is in “We, the People of India”³ who have to resolutely attempt to solve the systemic ills through protest actions and constructive endeavours. Urban spaces should also generate lots and lots of livelihood options. This needs to also embrace rural settings. The corporate sector has an important role to play in this. And the livelihood options need to be aligned with housing locations. A divorce between the two is what has created the mess/morass that we are in today. And, our Lords of Judiciary, need to allow the Constitution of this country have unbridled sway.

Unitedly, we need to fight the forces promoting LPG, war and ‘affluenza’ of few over the poverty of many. We can remove poverty from this country. It’s within our power to do so. Power of ‘We, the People of India’. We, the people, of this ONE world!

NOTES

1. Indu Prakash Singh is the Theme Leader – Shelters & Housing, (Urban Poor/ Informal Sector), ActionAid International – India.
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2. This was written while travelling on ship from Car Nicobar Island to Port Blair: 27th Feb., 2006. In CarNic also the Tuhet kind of traditional house set up that the Nicobarese want is not being provided. The design and material are both alien to the island and island conditions. Despite their (the Nicobarese Tribal Council) petition to our PM, early this year CPWD is going ahead with its iron pillar erected small structures. Defying the local preference, need and demand.
This statement has been published in AAA. 2006. People Without A Nation: The Destituted People. New Delhi, p. 25.
3. The first letters of the *Constitution of India*, 1950. In the *Preamble*.

A Place-Based Typology for Creating Child Friendly Cities from Children's Perspective

Sudeshna Chatterjee¹

"Child friendly city? It's not possible in India."

"Don't you see how people drive here in Delhi, or grab sidewalk space for parking?"

Do you think they will consider children's safety ahead of their selfish needs?"

This was a strong response by an erudite friend to my simple answer that my research involves creating child friendly cities. Almost every adult I have cared to share my interest with in Delhi, irrespective of gender, class or religious background had looked incredulous and sometimes like the friend above voiced "not possible" without batting an eyelid.

I don't feel dejected, nor get angry anymore at such responses. Instead I stifle an inward laughter at the thoughtless immediate responses of educated adults in our society. The reason I laugh is not because I think I know better than them. But after having spent a year doing field-work for my PhD dissertation with a group of feisty pre-adolescents in a low-income neighbourhood in Delhi, I know that children know better. I realised that it is we, the adults, with our preconceived notions about childhood and how it should be, unnecessarily struggle with conceptual categories as child friendly cities. The children I worked with in 2005, never once mentioned this term but were very much part of constructing friendly relationships with different places in their local environment as part of what they did in their everyday life. And yet the task of creating child friendly cities lies with "expert" adults who are supposed to

guide the development of cities mainly through policies in the best interests of children.

So what insights about child friendly cities can I provide as an “expert” adult? I can tell you all the adult stuff: the Child Friendly Cities (CFC) is a rights-based concept for making cities friendly for all children especially in UN member countries that have ratified the Convention on the Rights of the Child (i.e., all except the United States) through municipal action. Such action by and large involves improving basic services, education and health in poor countries such as in India. Ideologically Child friendly City is considered to be a way to make cities more sustainable. I can also tell you that no CFC project has developed the physical environment as a child friendly one by understanding what that means from the child’s perspective.

If I am writing this article, do I know how to do it? I can honestly and humbly say that I am working hard on being able to do that someday. But for now I can only share with you my experience of witnessing firsthand how children develop friendly relationships with numerous places in their everyday environments within this very city, New Delhi. I believe that in order to achieve child friendly cities, we need to first create numerous and interlocking child friendly places within cities. After all, the city is an aggregate of places, and children like everyone else, experience the city through places in their environment. I will now share some of the findings about children’s active place use and emotional bonding with places that allowed me to see how easy it is for children to encounter child friendly places within this same city while adults attend long conferences and meetings to debate this issue from an adult perspective.

The children I worked with, for a year, lived in Nizamuddin Basti, a historic settlement dating back to the time of Alauddin Khiljee, sultan of Delhi (1296 A.D to 1316 A.D.). Today Nizamuddin is a denotified urban village. Much confusion still exists about its exact legal status of the Basti. Populated by about 12,500 mostly poor Muslims, the Basti is a category G low-income housing or “unplanned slum” in the heart of expensive real estate in central New Delhi. Variously called a “ghetto for poor Muslims”, a “planner’s nightmare”, “dirty under-developed area”, Nizamuddin fit all these descriptive planning labels when looked

through the lens of a top-down modernist planning paradigm. But the experience of the place, from a non-planning perspective, is very different. The ghetto is actually blessed with several different open spaces mainly around its periphery that enhances the lives of its residents much more than in planned low-income settlements. Small plot sizes with wall-to-wall construction in a riot of colours and mix of fine-grained commercial and residential uses give the Basti a unique character of a complex jigsaw puzzle.

The Basti is also not a homogeneous parcel of residential unit within the city. Rather it comprises of nine distinct precincts where difference is qualified through duration of stay in the Basti (migrant vs. non-migrant), ethnic origin as manifested through language and customs, and occupation. The children I worked with were very aware of their identities in relation to their place of residence in different precincts. Typically all favourite or friendly places were within the precinct, or close to it, rather than in a precinct that was incompatible with their own, based on social class based identities. I worked with thirty-one children (11-12 years) from a diverse range of backgrounds representing the entire social spectrum. I limited the age-range for the sake of validity of the study findings. These children had access to a wide-range of places within and around the Basti. Though there were several constraints to place use especially for girls, the younger girls like those I worked with often successfully negotiated with parents to play outside within familiar territories.

Children recommended forty-three unique places to me as places they considered “friendly”. Children were asked to recommend “friendly” places based on how they felt about these places when they used these places. Most friendly places nominated by children fell under four generic categories:

1. Places that children care for
2. Places that children create through action
3. Places that children learn from
4. Places that children conceal secrets in

Though the perceptions of individual children were different, certain commonalties or patterns of “friendly” environmental characteristics of recommended places emerged across children.

Places that Children Care For

Places that invoked respect and care in children were typically formally designed open spaces such as parks and playgrounds in the local area such as the DDA Park in the periphery of the Basti and the Umbrella Park inside C-block of Nizamuddin West. Though children were not allowed to participate in active caring for these places such as through regular cleaning or looking after plants, children cared for these places by abiding by the rules, and by respecting the order of the existing. Because children did not misbehave in these parks, the appointed custodians let them in even if they were dirty underclass children. Children in my study were emotionally attached to these parks and would put other things on hold to be inside these spaces when allowed.

11 year old Rameez said, “I love to go to the Umbrella Park. It remains clean and it is a very special place! The park allows boys like us in only in the evening between 5 and 7 pm. Sometimes I miss my evening tuition classes to come to this park.”

Children reported the following factors that made these formal parks friendly places for them:

1. *Visual signs of care* through well-kept gardens and lawns, and general cleanliness strictly enforced through rules by the appointed custodians of the environment.
2. *Visual signs of safety* through protective design features such as gates, enclosing fences and boundary walls, and prescribed rules of entry.
3. *Attractive features* such as clear paths, lawns, diversity of plants, benches, low walls, platforms to aid social interaction and play.
4. *Easy access for children*, even if for a limited period each day.
5. *Inclusiveness of the environment* that did not bar the poor even if they were not from the neighbourhood.

My study results show that 34 percent of all friendly places recommended by children living in an unplanned Basti, were formally designed open spaces, in the local area of the Basti such as two parks fitting the above characteristics. The least friendly place for these Basti children had been the home (only 1 percent recommendations). City governments if

they are serious about promoting Child Friendly Cities should focus on developing a diverse range of accessible open spaces in urban neighbourhoods to improve quality of life of residents. As a direct consequence of such action children will benefit from having adequate friendly places that they could care for. Particularly in the case of low-income communities, this will enrich environmental resources for poor children outside the severe limitations of the home environment for fulfilling a range of functional and psychological needs.

Caring for the environment is the first step for developing an informed environmentally conscious citizenry. Children typically develop caring attitude for the environment through their feelings and emotions for places. This caring needs to be nurtured through both promotion of places that children care for and through sensitive environmental education to create more factual awareness about the environment to promote the goals of sustainable development.

Places that Children Create through Action

These were typically streets and open spaces near home for the children of the Basti. The qualifying places allowed children to freely engage in a diverse range of social and physical activities including 1) creation and control of childhood territories and hence investment of meaning in places, and 2) children's freedom to express themselves in ways that helped construct their own identities. Such places are typically characterised by:

1. *High potential affordances* or abundance of diverse settings with different physical attributes offering a large range of possible actions for children.
2. *History of high actualised affordances* or high degree of recorded action in diverse settings
3. *Proximity* to home, offering easy access any time
4. *Positive identity* based on a perception of safety as compared to perception of the "unsafe" in unfamiliar places far from home or less frequently visited places.
5. *Potential for creating exclusive play territories*
5. *Multi-nodal* spaces because such places are more conducive to territorial claiming by different groups and hence sharing of the

landscape

6. *More loose parts* allow children to create stronger territories through personalising the markers around their territories
7. *Potential for supporting free expression of children in places* through artistic expressions and play
8. *Informal character*

All the places which children recommended as friendly places which allowed them to be active outdoors, were open public places. Whereas streets near home, open spaces near home, and my precinct were typically created outside the formal planning process within the Basti, the DDA Park and the Umbrella Park, were formally produced open spaces by the city. Of all the five places, Umbrella Park was the only one that was outside of the Basti but close by. But Umbrella Park had a positive identity as a safe, well-kept and beautiful neighbourhood park, where children were allowed to be active as long as they followed the behaviour codes of the park set by the middle-class custodians of this Nizamuddin West park. Streets near home, and open spaces near home because of their familiarity, several different features, contested ownership and little rules afforded children considerable freedom in choosing activities.

Places that children create through their action are instrumental in promoting healthy childhoods through physical activities preferably outdoors. In the context of acute childhood obesity as a major public health threat, governments need to structurally improve the quality of cities through promoting active living environments including safe places for children to be active outdoors.

Places that Children Learn From

Nizamuddin Auliya's Dargah (important Sufi tomb complex) was recommended by children as a place where children learned new things and saw new things almost on every visit. This was followed by the city-level tourist attraction of India Gate and its environs. In addition the socio-physical environment of home and its surroundings were found to be an important learning context especially for the pre-adolescent girls who in performing several roles, often simultaneously in the everyday life of the

family, emerged as true apprentices. The characteristics of learning places as revealed through this study are:

1. *Historic and cultural significance* where people and purpose of the place are more important than antiquity
2. *Active social interactions* where children learn through participation in community life
2. *Opportunity to Play multiple roles* in everyday activities to prepare apprentices for family and community life

Places that children learn from are a great educational resource to communities. These places are not only designated institutions for formal and non-formal learning but also places for social learning within communities. Nurturing different forms of learning places have cognitive, and social benefits for children.

Places Children Conceal Secrets In

This was the only place type where most children recommended a place that was unique. “Street other than my own”, a park near the government school in a neighbourhood outside Nizamuddin in Pant Nagar, and the graveyard across the sewer were the only three places that had been recommended twice besides seventeen other unique places. Majority of children (42 percent of the responses) described a secret place as a place where they could hide from others and act as they pleased. The next category of responses (about 26 percent) described secret places as places where access was forbidden by parents but still sought out by children for reasons as varied as experiencing nature, carrying out forbidden acts, and play experiences. The last category of responses (21 percent) referred to secret places as places where children enjoyed being alone, or being in a beautiful place away from the crowded living quarters. Some responses (11 percent) combined two or all the above attributes as reasons for visiting the secret place. Secret places allow children to seek out special private places where children and their acts can be concealed from adult gazes. Such places are typically characterised by:

1. *Distance from the home base* to avoid known gazes
2. *Anonymity of children* in those places

3. *Lack of interest by other interest groups in the place* such as in dirty or smelly incidental spaces
4. *Abundance of fixed and temporary features* that act as props for hiding, constructing, and playing

Children's active seeking of places for concealing secrets refer to the much neglected developmental need for privacy in childhood that allow children in unfolding of the self and in forming new identities.

A POSSIBLE WAY FORWARD

The children of Nizamuddin Basti found meaning in ordinary everyday places in their local area that allowed them to form friendly relationships with places such as parks, open spaces, streets in front of houses, dirty vacant lots, social and cultural institutions. None of these places were designed specifically for children or for the Basti people. In fact the dominant cultural narratives that influenced the production and use of state-owned public places in and around the Basti were typically negative.

The Basti with all its squalor and poverty was perceived as a safe and secure living environment by the residing community. And as I found out through my study, the local environment of the Basti provided ample opportunities for exploration and scope for action by children and young people despite acute contestations over limited resources. At least in all the public open spaces, children, more specifically middle-school aged and older adolescent boys, were the dominant power. Children's easy claiming of space was possible because of the interaction of several planning variables and socio-cultural factors. Fine-grained mixed land-use, high density that allowed intense social interactions, and more informal and vernacular design that incrementally shaped the neighbourhood, created a human landscape that was able to cater to everyday needs of the community, locally, in the many and diverse settings within the neighbourhood. These are precisely the qualities that western scholars have recommended to make mono-functional, low-density, formally designed western neighbourhoods child-friendly. In addition Nizamuddin Basti also had the cultural advantage of having every space as an intergenerational space instead of being strictly segregated along age-lines as in many western places. Moreover the informal nature of

most public spaces in the Basti, facilitated the sharing of the landscape by not only children and adults, but also between different groups of children. There is learning for designers of public places in understanding the behaviour patterns in these shared landscapes in relation to the physical features of the places. At least it helped this urban designer in understanding the relevance of design in creating successful shared public places with many stakeholders including children and youth. However that discussion is beyond the scope of this paper.

The creation of child friendly cities is thus far dependent on the governmental machinery for structural decision-making in the best interests of children as outlined by the Convention of the Rights on the Child (1989). As the Nizamuddin study showed, the Basti was a child friendly place for children from children's perspective and at the level of the local community. The moment we shift the gaze to larger structural issues concerning the Basti and see it only through the lens of numbers of primary schools, healthcare, basic services, etc, the Basti will be considered a blighted area. The state has failed to deliver on the larger stuff and will perhaps continue to do so if it makes policy decisions based only on planning statistics. What I am suggesting here is that there is another way out to create child friendly cities by involving the state and satisfying both children and adults in the community. Involve the state in providing funds to make child friendly places within neighbourhoods but get the community, especially young people (as they are the most active users of public places in low-income communities) to participate in the planning and design process.

The four types of friendly places that were discussed above when viewed through adult lens are indeed in the best interests of children due to their developmental, psychological and health benefits. This new typology of child friendly places will allow us to investigate places that are in the best interests of children, both from a child, and protective-adult perspective, in a wide variety of contexts, by asking questions such as "are there places in children's everyday environment that allow children to care for them, learn from them, and be physically active in them? What are these places and how can we provide them?" As the underlying dimensions of the generic place type are environment, health, education and psychological and developmental needs (all of which are considered

non-negotiable child rights by the Convention), by promoting such child friendly places, the government will in fact be providing different forms of developmental advantages to its young citizens, and a child friendly city that works for children. This place-based model of child friendly cities is more hands-on and connects structural concerns with agency of children in shaping the socio-physical environment of cities. I think this may be a way forward to conceptualise child friendly cities in any living context in the world, and in doing so address non-negotiable child rights as well as existential needs of children from urban environments.

NOTES

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Life of Marginalised Communities in Slums: Some Pointers

Biju Laal¹

The life worlds of marginalised people living in slums are the worst zones of relationship between people and the State in India. According to the Census of India, a population of 42.6 million was reportedly living in slums in 2001. This constitutes 22.6 percent of the urban population of the states/union territories reporting slums. According to the Census 2001, Delhi has about 1.9 million people living in slums. Dalits and Muslims together account for 55 of the slum population. The following observations are based on research findings of a study conducted by Indian Social Institute on two of the most marginalised communities – the Dalits and the Muslims in Delhi's slums.

Question on legality of stay, denial of civil, political, economic, social and cultural rights and vulnerability to direct and indirect atrocities from the state as well as non state actors constitute some of the important dimensions of slum dwellers' life in the city. However experience of families belonging to marginalised communities living in the slums, Muslims and Dalits in the main, suggest that, similar to the Dalits and Muslims in non-slum communities, they are victims of social segregation and their multiple vulnerabilities increase the gravity of various forms of discrimination and violence. A broad indication of this is that members of these two communities can be segregated, harassed or assaulted anywhere in India; though the agencies propagating violence may change in different geographical contexts. This "Indian-ness" of oppression of Dalits and Muslims is increasing since the agents of violence continue to create situations for oppression out of any given political and social context. Dalits and Muslims happen to flee more into the cities mainly because their primary occupations are

threatened by ongoing assault of the neo liberal policies of the state, which deprive poorer sections of marginalised communities of their means of livelihood. Despite professedly having an inclusive Constitution and legal implementation mechanisms, marginalised communities all over India face highly organised massacres of genocidal proportions or continued attacks on life and livelihood and dignity. All this suggests that Constitution becomes a reference point only to those who can defend themselves freely and effectively based on its provisions and not to Dalits and Muslims who are targets of neglect and assault. Distance between the state and marginal communities is increasing. This distance is a compendium of denials of rights and various direct and indirect atrocities that the agencies of the state perpetuate on these communities, as well as lack of commitment from the part of the state to protect these communities from long term and short term attacks by other dominant communities.

Thus marginality as a lived experience becomes extremely different from the dominant academic debate, which situates the condition of marginality as an economic, social and political condition/construct, which is constantly resisted by the proactive and ever expanding means of legal, social and cultural counterpoints which the state offers through institutional mechanisms.

It is in this context that we see the plight of two communities – Muslims and Dalits – living in the slums of Delhi, whose efforts to overcome negative social forces, atrocities by police and other law enforcement agencies as well as indirect forms of violations of rights become significant. A majority of Dalits and Muslims living in the slums identify poverty as the basic reason for migrating to the city. Less than 30 percent of these people could be categorised as marginal farmers; rest simply had no land in the village. Mechanisation, fallowing, low wages, natural calamities, increasing costs of agriculture and increase in land alienation and indebtedness were cited by them as major reasons for their impoverishment and consequent migration. While the question of poverty in the academic and official discourse is indicating an inconclusive matrix, our study showed that 80 percent of Dalit and Muslim left their village because of poverty.

However, in the case of Muslims and Dalits its not economic marginalisation and impoverishment alone which explains their migration. It

has also to do with social and cultural oppression that these communities face. While it is communal violence in the case of Muslims, in the case of Dalits social oppression is manifested through caste based atrocities and exclusions. Absence of any significant indication to show that Muslims and Dalits in Indian villages are safe from atrocities can only suggest that their uninterrupted movement cannot be explained by a general term like migration, which broadly assumes an economic rationale.

Our study shows Muslims and Dalits do achieve some amount of social and economic mobility once they migrate to the city. However this achievement is a product of their self-initiative and is gained against all odds. In many of the slums Dalits were not found to be significantly challenged by the caste hierarchy as it happens in the villages, though some cases of caste based oppression were reported, as in the case of Anna Nagar slum near ITO. Dalits assertion of rights in this cluster was a lengthy and militant process, which challenged the police-upper caste oppressive combine for six years. Attacks on Dalit women, segregation of Dalits while using public water taps or availing services from the PDS were effectively challenged in this process. In the later phases of the agitation the community resorted to organised protests using political connections.

On the other hand the several fallouts of the official policies post independence held the Muslim community as captive for a long time. More recently, the life world of Muslim community has been dominated by the constant threat from the political agenda of Hindu nationalism. In its heydays between 1999 and 2004, innumerable instances of oppression of Muslims were reported from different slum clusters in Delhi. In some cases such as the desecration of Quran in Yamuna Pushta, the communal character of the police became clearly evident. Later a massive state campaign against the so-called Bangladeshi immigrants led to deportation of many Indian Muslims, originally belonging to West Bengal and Assam. In most of the cases the members of the land mafia that worked as the 'authentic agency' of information on illegal migrants, 'happened to be' supporters of the communal fascist forces, who used their influence in the government and police force to appropriate the possessions of the deported 'Bangladeshis'.

While these measures unsettled the Muslims in the social sense, the anti kabadi drive by the police was a direct attack on their livelihood. A

similar case where Dalits suffered more was the issue of licensing of rickshaws. Deconstructing these continuing episodes of human tragedy explains some important landmarks in the process. One section of 'environment fundamentalist' urban elite, through different interventions in the courts, implicated the people living in slums for all the ills of the city, and successfully persuaded the courts to order demolition of slums.

The attitude towards and information on schooling system is an indicator of the marginalised people's estrangement from one of the key institutions that relate people and the state. Very few parents in our study had a fair idea of the teaching-learning process and school facilities. Parents' interaction with teachers also revealed the poor status of relation between the people and the institution. In fact, several independent studies reveal that in the case of Dalits, the schooling processes in Delhi's slums/ or schools where the children of slum dwellers go are saturated with caste biases, heavily influencing the parent-school relations.

Both the system and the society alienate women from learning. But the impact on Muslim women is more as the share of illiterates among adolescent and young women shows higher rates than their higher age respondents. Dalits are more literate and have better access to education than Muslims.

Recent studies have found that retreat of state from its public commitments and policy statements or education of the poor is responsible for lack of participation of the people in the education system. Although the urban encounter of Dalits and Muslims broadly follow a general pattern, many social-cultural specificities account for significant variations among them. Dalits have been found to retain deeper social and economic linkages to their native places than the Muslims. Group solidarity was more among the Muslims; built around the religious identity and in many places around the importance of value education through Madrasas. Participation in politics (mainly in BSP) ensured a predominantly male trans-class unity among the Dalits, while the facilitating agency for a similar social organisation among the Muslims was mediated through the community based institutions.

It is important to note that Dalits and Muslims still strongly feel that the state can bring about changes, which could positively influence their life. Nevertheless, the distance of the state from the marginalised

communities is increasing. Muslim and Dalit families of Yamuna Pushta and those places where demolitions were held since 2004 are yet to get possession of their legal documents. This segregation and similar segregations of more criminal nature does not attract public attention. Such situations raise important questions on the nature of human rights protection provided to marginalised communities living in difficult situations.

Muslims and Dalits who undergo such difficulties in slums are excluded from all modern state practices as per the human rights paradigm of development, which suggests accountability of state both in protection and promotion of human rights, enabling measures in the state policy to prevent loss of livelihood, social organisation and cultural environment as well as meaningful participation of the marginalised communities in the decision making processes that affect their right to life and livelihood.

NOTES

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The JNNURM and Urban Reforms in Globalising India¹

Lalit Batra²

“After two years of marriage, my farmer husband and I were on the verge of starvation in Bengal and left for Delhi to find work. My husband used to make murmura, whereas I worked in 5 kothis. We had no money at the time to educate our children, only our older son studied a little in Delhi. However, over the 25 years in Pushta, we were able to save up and make a house with 3 rooms. When finally we were able to afford food and water and a decent life, we were evicted and thrown to the margins of society. Our house was demolished only after a day’s notice! The police notified us just the day before that the demolition would begin at 10 in the morning, which hardly gave us any time to empty our house of all the stuff. We lost our pucca house and belongings, all earned with our sweat and toil of 25 years.”

– Haleema, a 45-year old woman living in Bawana resettlement colony

“Nobody should squat upon the land... policy of relocation (is a) premium to unscrupulous elements in the society as on the one hand an honest citizen has to pay for a piece of land or flat and on the other hand on account of illegal occupation on the Government land an encroacher is given premium by giving him a plot in the name of relocation...we direct the removal of jhuggis...Any assistance required by the police shall be provided by the Commissioner of Police.”

– High Court of Delhi, Case Number – CW 6160/2003. October 2005

In the past one and a half decades or so, since the policies of liberalisation, privatisation and globalisation were initiated through the introduction of the Structural Adjustment Programme dictated by the World Bank and the International Monetary Fund, the landscape of Urban India has morphed out of recognition. From mixed neighbourhoods to exclusive elite conclaves, from hundreds of informal markets to a score

of glitzy shopping malls, from 'brick and mortar' industries to high tech information highways, the change has been rapid and palpable. While a few privileged ones welcome the changing face of the city, for the majority of the poor and working people, people like Haleema and her family, these changes are quite inhospitable, to say the least, and affecting their lives and livelihoods in ways as to make even bare survival a gruelling daily struggle for them.

The kind of concerted and orchestrated attack that has been unleashed on the livelihoods and habitats of the working class in the recent past has few parallels in the post independence history of Indian cities. The toiling majority of urban India is being made to bear the burden of giving a minority of 'citizens' a taste of what it is like to live in a 'global' city. Thus, while massive amount of investment is being poured in 'state of the art' projects like the Metro, malls, multiplexes, flyovers, expressways and elite residential complexes, the poor are denied even the basic minimum necessities of life. Be it slum dwellers or rickshaw pullers, hawkers or rag pickers, industrial workers or residents of unauthorised colonies – all are being pushed away from the centre to the periphery of the city, both physically as well as notionally, by the iron hand of the State and the market.

Post liberalisation all governments, be it at the centre or states, have pursued the so-called reform agenda with hitherto unknown zealotry and urgency. The much talked about lack of political will is nowhere to be seen when it comes to formulating and implementing anti-people and pro-corporate economic reforms. One by one all the sectors of the economy are being opened up for national and international corporate interests. The inclusive nature of Indian constitution and welfarist thrust of post Independence policy architecture is being subverted to make way for the unhindered movement of capital, goods and services. This process is bringing about far reaching changes in the occupational and spatial structure of cities. While the disastrous consequences of these policies in rural areas is a matter of much discussion, the plight of the urban poor has not been given due attention. To have a glimpse of the direction in which our cities are moving let us look at the experience of Delhi.

WHITHER DELHI?

It is now an accepted fact that India's urban population is increasing at a rapid pace. According to the 2001 census, about 28.5 percent of the population of India is living in urban areas. This figure is expected to go over 40 percent by the year 2021. The defining feature of India's urban growth is the prevalence of high levels of poverty and insecurities related to shelter, livelihood and access to basic amenities like water, electricity, education, health etc. for a large portion of urban population. Estimates of the percentage share of the urban poor in Indian cities range from one half to three fourths. Furthermore, as a result of the policies of LPG these insecurities are only increasing. One only has to look at the experience of the working poor of Delhi over the past one decade to figure this out.

HOUSING

The population of Delhi today is about 15 million. Out of these about 3 million are living in slum clusters, 4 million in unauthorised colonies, 2.5 million in resettlement colonies and 0.7 million in notified slum areas. Another one lakh people are pavement dwellers. Thus over two-thirds of the people of Delhi are living in what could be termed as sub-standard settlements. The total area on which the slum clusters are presently established is under 400 hectares. Compare this to the 20,000 hectares and 11,000 hectares set aside by the DDA in the urban area and urban extension area for residential purposes. Instead of coming up with any solution for integrating these 10 million people into the city the government has embarked upon a barbaric drive to rid the city of these 'unwanted' people. In the past six years alone over 5 lakh people have been uprooted from their habitat and 'relocated', if at all, to the periphery of the city. In 2004 the Yamuna Pushta, the biggest slum cluster of Delhi, was demolished, uprooting over 30,000 families. Only a quarter of those evicted got alternative plots in the resettlement colonies of Bawana, Holambi Kalan, Madan Pur Khadar, developed on the outskirts of the city. Apart from causing severe hardships in terms of loss of livelihood, these settlements are devoid of even basic amenities like serviced plots, water, electricity, toilets, schools, health facilities and so on.

EMPLOYMENT

Delhi had a workforce of 45.27 lakhs in 2001, which constitutes 32.84 percent of the total population. Out of this 5.7 lakhs were unemployed. It is significant that between 1992 and 2000 the percentage of unemployed workers shot up from 5.67 percent to 12.73 percent. The sectoral division of the workforce shows some interesting trends. In 1981 the share of primary, secondary and tertiary sectors in employment was 3.81 percent, 34.87 percent and 64.72 percent respectively, which by 2001 became 1.74 percent, 28.68 percent and 69.58 percent respectively. In the tertiary sector also the services which have shown most growth between 1992 and 1999 are trade, hotels and restaurants (21.01 percent to 29.05 percent) and financial and commercial activities (4.69 percent to 6.40 percent). On the other hand the percentage of workforce employed in manufacturing, civic administration, health and educational activities has shown a steep downward trend. The decline in employment in manufacturing has been mainly due to the closure of industries from 1996 onwards on the pretext of their being either polluting or functioning in 'non-conforming' areas. The share of organised sector in employment is also going down quite rapidly. There has been an absolute decline in the number of workers employed in the organised sector from 8.5 lakhs in 1994 to 8.41 lakhs in 2001. Thus, whereas, in 1994, 78 percent of the workers were working in the unorganised sector, the figure rose to 82 percent by 2001. This clearly shows the direction the city is moving in.

THE MANDATE THAT WAS BETRAYED

The UPA government began its innings in May 2004 in the backdrop of one of the biggest and darkest slum eviction drives in the history of India. Between January to May 2004 over 40 hectares of land along the Western bank of the Yamuna in Delhi was 'freed' from 'encroachment' rendering one and half lakh people shelterless. The demolition of the Yamuna Pushta, as this working class settlement was called, symbolised all that was wrong with the NDA's 'India Shining'. With Mr. Jagmohan directly overseeing the demolitions the evictees of Pushta gave a befitting reply both to him and his party by coming back on the day of the general

polls and voting in thousands to ensure that Jagmohan loses his seat by a good margin.

It was on the votes of people like the Pushta slum dwellers that the Congress led UPA rode to power. Forced to recognise the nature of its mandate, the Common Minimum Programme (CMP) of the UPA spelt out, in no uncertain terms, its intention to stop forced evictions and evolve a social housing policy for the urban poor. The evictions of course never completely stopped but the promises of the CMP were kept alive by periodic announcements by several government functionaries to the effect that the proposed housing policy was just round the corner.

Less than a year later the Congress government in Maharashtra launched by far the most vicious attack on the slum dwellers of Mumbai by evicting over 4 lakh people. All the talks of putting a moratorium on forced evictions and evolving a housing policy for the urban poor were conveniently forgotten and the true colours of the government claiming to provide succour and relief to the *Aam Aadmi* came to the fore. While most of the evictees of Delhi, Mumbai and other cities continue to live under the open sky the government has gone ahead and showed its 'political will' in pursuing the reform agenda, come whatever may, by announcing the most ambitious and sweeping programme so far for making Indian cities private investment friendly. The said programme, called the Jawahar Lal Nehru National Urban Renewal Mission (JNNURM), was launched by Prime Minister Manmohan Singh on December 3, 2005. The JNNURM seeks to transform the 'inefficient' public sector dominated urban governance structures into an 'efficient' private sector driven machine. Moreover the Mission has clearly been prepared at the behest of the WB, the ADB and the USAID who have for long lobbied in favour of investor-friendly reforms in governance structure of Indian cities.

JAWAHAR LAL NEHRU NATIONAL URBAN RENEWAL MISSION

The JNNURM is basically a reform linked incentive scheme for providing assistance to state governments and Urban Local Bodies (ULBs) in selected 63 cities, comprising all cities with over one million population, state capitals and a few other cities of religious and tourist importance for the purpose of reforming urban governance, facilitating urban infrastructure and providing basic services to the urban poor. With

Rs. 1,26,000 at stake for a period of seven years the mission is the single largest initiative of the central government in the urban sector.

The JNNURM is the culmination of a process of neoliberal urban reforms that has been going on for at least past 4 years. Its predecessors include Urban Reforms Incentive Fund (URIF) and Model Municipal Law (MML) both of which were formulated on the basis of a set of policy postulates developed by the World Bank (WB), the Asian Development Bank (ADB), the USAID and the UNDP. Moreover several projects in the states of Karnataka, Kerala, Uttaranchal, Gujarat and Delhi are already underway which have been funded by the WB and the ADB and formulated and implemented on the same principles, which the JNNURM upholds. While both URIF and MML are based on a 'carrot and stick' policy, they have a limited scope as compared to the JNNURM. As such the mission has far reaching implications for the direction Indian cities will take in the future.

The broad framework of the Mission is as follows:

- Preparation of City Development Plans (CDPs) by respective cities with a 20-25 years perspective.
- Sector-wise detailed project reports to be prepared by identified cities listing projects along with their financial plans.
- A Memorandum of Agreement (MoA) to be signed between the central government, state governments and ULBs containing the time bound commitment on the part of states/ ULBs to carry out reforms in order to access central funds under the Mission.
- Funding pattern in terms of percentages would be 35:15:50 (between Centre, States and Urban Local Bodies) for cities with over 4 million population, 50:20:30 for cities with populations between one and four million, and 80:10:10 for other cities.
- Assistance under the Mission to be given directly to nominated State Level Nodal Agencies, who in turn would give the same to state government/ ULB in the form of soft loan or grant-cum-loan or grant.
- The assistance thus provided would act as seed money to leverage additional funds from financial institutions/capital markets.

- Public Private Partnership (PPP) to be the preferred mode of implementing projects.

The Mission is comprised of two sub missions, namely, Sub-Mission for Urban Infrastructure and Governance and Sub-Mission on Basic Services to the Urban Poor. The admissible components under both these Sub-Missions together include urban renewal, water supply and sanitation, sewerage and solid waste management, urban transport, slum improvement and rehabilitation, housing for urban poor, civic amenities in slums and so on. But the Mission document clearly states that (a) funds accessed cannot be used to create wage employment (b) land costs will not be financed (c) housing to the poor cannot be given free of cost (d) privatisation or Public Private Partnership (PPP) will be the preferred mode of implementing projects (e) a 'reasonable' user fee will be charged from the urban poor for services so as to recover at least 25 per cent of the project cost and (f) the onus of minimising risks for the private investor would be on state governments/ULBs.

Thus we see that the Mission seeks to set in motion a completely market driven urban development process. The intentions of the government become even clearer when we look at the set of reforms that the state governments and ULBs are supposed to carry out if they wish to avail Central assistance. These reforms have been divided into two parts – mandatory reforms and optional reforms. But this division is at best misleading because the so-called optional reforms are also mandatory in the sense that the states/ULBs have no choice but to implement them within a seven years time span.

MANDATORY REFORMS: STATE LEVEL

The state governments seeking assistance under the JNNURM would be obliged to carry out the following mandatory reforms:

- i.* Effective implementation of decentralisation initiatives as envisaged in the Constitution (seventy-fourth) Amendment Act, 1992
- ii.* Repeal of Urban Land (Ceiling and Regulation) Act, 1976
- iii.* Reform of rent control laws
- iv.* Rationalisation of stamp duty to bring it down to no more than

5 percent within seven years

- v. Enactment of a public disclosure law
- vi. Enactment of a community participation law, so as to institutionalise citizens' participation in local decision making; and
- vi. Association of elected municipalities with the city planning function

MANDATORY REFORMS: MUNICIPAL LEVEL

- i. Adoption of a modern, accrual-based, double entry system of accounting
- ii. Introduction of a system of e-governance using IT applications, GIS and MIS for various urban services
- iii. Reform of property tax so as to raise collection efficiency to 85 percent
- iv. Levy of user charges to recover full cost of operation and maintenance within seven years
- v. Internal earmarking of budgets for basic services to the urban poor; and
- vi. Provision of basic services to the urban poor, including security of tenure at affordable prices

Apart from these there is a set of **optional reforms** common to both state governments and ULBs, any two of which they are supposed to implement each year. These include:

- i. Revision of bye-laws to streamline the approval process for construction of buildings, development sites etc.
- ii. Simplification of legal and procedural frameworks for conversion of agricultural land for non-agricultural purposes
- iii. Introduction of property title certification
- iv. Earmarking of at least 20-25 percent developed land in housing projects for economically weaker sections and low income groups with a system of cross-subsidisation
- v. Introduction of computerised registration of land and property

- vi.* Administrative reforms including reduction in establishment cost by introducing retirement schemes and surrender of posts falling vacant due to retirement
- vii.* Structural reforms
- viii.* Encouraging public private partnership

URBAN RENEWAL OR URBAN APARTHIED

Even a cursory glance at the reforms proposed under the Mission makes it clear that these are designed to exclusively benefit local and international investors and will surely make life worse for the majority of urban residents in the country. The repeal of Urban Land (Ceiling and Regulation) Act, 1976 (ULCRA) gives a free hand to the builder lobby to acquire vast tracts of land in the cities thus driving the poor out of the land market. Last year the government had given green signal to 100 per cent FDI in real estate. Now with ULCRA being repealed, the stage is set for the entry of giant multinational real estate firms to firmly put their feet in Indian cities. Similarly, property title certification and computerisation of land and property strike at the very root of the process through which the poor have so far staked their claim on the city i.e. de-facto occupation of land for residential and occupational purposes through a variety of informal networks and cleavages created through the workings of electoral democracy in India. With standardisation, classification and computerisation of land titles what is going to happen is that while a number of informal forms of title are going to be excluded from the classificatory schema of the state, the large players with 'interest' in land will have all the information about urban land at their disposal with the click of the mouse thus making property transactions easier and 'cost effective'. The intent to make land market efficient is also clear from other reforms such as reduction in stamp duty. It should be remembered that stamp duty is a major source of revenue for urban local bodies the cost of which is born by propertied sections of the society. With reduction in stamp duty while the propertied section will get major benefits, the municipalities will become financially vulnerable and would be forced to take high-risk loans from the capital market or bilateral/ multilateral

funding agencies thus compromising their autonomy. This dependency would greatly reduce their capacity to respond to needs of the urban poor. In fact things are already moving in a direction where while on the one hand, all the critical decisions regarding urban development are being centralised in the hands of certain non-elected bodies, the elected bodies such as the ULBs are being left to deal with the repayment of debts taken to create so-called 'world class' cities. The stated objective of the JNNURM is increasing the 'credit worthiness' of Indian cities. The pressure to improve credit ratings in the international investment market would further force the ULBs to take up only those kinds of projects which ensure high rates of return to private capital. This would restrict the autonomy of the ULBs to implement pro-poor projects, as they are hardly profitable to private players. The projects where gestation period is high, the governments are supposed to counter guarantee the returns to the private sector. The 'viability' of whatever projects are implemented for the urban poor will be ensured through user charges and full cost recovery in seven years. In a situation where a large mass of urban poor is already rapidly sliding down the path of economic destitution due to pro-corporate policies unleashed by the state, forcing them to pay user fee for whatever urban services they use would amount to squeezing out the last drops of blood from their body.

Though the Mission does make some politically correct noises about giving property rights and services to the urban poor they have to be seen in the context of dwindling livelihood opportunities in the cities about which the Mission says nothing and the grossly iniquitous distribution of land in urban areas which the Mission is going to sharpen. In fact, as discussed earlier, the JNNURM money cannot be used to purchase land or create wage employment – two fundamental needs of the urban poor. In this context, the pious intentions expressed in the Mission seem more like an attempt to ghettoise the poor and working people, along with all the hazardous occupations and substances of the cities, in the meagre patches of land in the fringes or back lanes of the formal city – and that too, by charging user fee! And in the name of involving private sector in solving the housing problem of slum dwellers, it sets the stage for selling lucrative public lands to corporate real estate interests, land mafia and contractors.

While these reforms have been offered on the benign platter of decentralisation and community participation, it is clear from the way the Mission has been framed that the so-called community participation is going to be restricted to the involvement of middle class 'citizens' bodies and corporate NGOs, which are already functioning as the 'demand side' of economic reforms in the decision making process. Further the reform linked assistance programme of the Mission undermines the principle of federalism in India. The 74th Constitutional Amendment did not envisage uniformity at the level of policy formulation and implementation as the Mission is asking for. What kind of a decentralisation is this when the states and ULBs have no choice but to carry out economic reforms? The Central government in this scheme of things is thus playing the same coercive role vis a vis state governments and ULBs that the Bretton Wood institutions play vis a vis the Central government. Moreover by introducing such far-reaching changes in the way our cities are going to be governed, without any debate in the parliament or state legislatures, the government has completely subverted the notions of the primacy of electoral democracy and accountability. All this is of course consistent with the efforts of the ruling class to de-link economic policies from democratic politics thus making the role of the only weapon the poor have in the given system i.e. their vote, redundant. It is no wonder then that the Mission has been widely greeted with applause by the corporate media, the real estate lobby, foreign investors, national and international finance capital, international bodies like the WB, the ADB etc. and middle class citizens' groups like the Bangalore Action Task Force (BATF), Janaagraha, Bombay First, Centre for Civil Society and so on.

THE POLITICS OF GLOBALISATION

Needless to reiterate, the 'reform' agenda of JNNURM is in line with the policies of liberalisation, privatisation and globalisation initiated in the early 1990s. The politics of globalisation depends, among other things, on refashioning and 're-forming' cities in order to make them investment-friendly. Major cities of the Third World are thus sought to be de-linked from real domestic priorities and positioned as nodes in the global circulation of finance and services. Bangalore thus is positioned as the 'Silicon Valley of India', Mumbai as 'Shanghai' and Delhi as 'Singapore'

This puts a heavy strain on urban land and other resources which are increasingly freed from 'less productive uses' such as small scale manufacturing or housing for the poor and deployed for high tech modes of accumulation and consumption, whether material or symbolic, of the affluent. The entire urban space, in this process, becomes a market place where distribution and consumption of global brands takes place in the form of a series of spectacles.

The change in governmental and administrative priorities has been brought about by pressures on the one hand from global finance capital and on the other an increasingly vocal and assertive middle class. Both these forces have attacked the affirmative activities of the welfare state as the root cause of corruption, lawlessness and pollution of city life. The argument goes like this: It is the politicians who have over the years actively encouraged the growth of illegal industries and encroachment on public lands by slum clusters in order to create a captive vote bank and a ready source of income. This has resulted in the law-abiding, tax paying citizens being denied their legitimate rights in the city. Thus the idea of the reclamation of the rights of the 'citizens' has been directly linked to the further dispossession of the already dispossessed. This has serious implications for the rights of the working people for a better life as the consolidation of the propertied classes around the vision of a 'World Class' city creates a social force necessary for further delegitimation of the existence of working class in the city.

It becomes important, in this context, to see the connections between changes in urban configurations, spatial or occupational, and changes in modes of accumulation reflected in newer forms of commodity production, circulation and consumption. A praxis of this nature will go a long way in identifying both the sites of resistance as well as the actors of resistance to the hegemonic neoliberal project of international finance.

NOTES

1. An earlier version of this article was published in *Janata*, Vol. 61, No.1, Annual No. 2006 (pp. 35-39)
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Community Participation Law (CPL)

What Participation? Whose Community?

Vinay Baindur and Lakshmi Aiyar¹

HOW LAWS ARE MADE IN THE ERA OF 'GOVERNANCE':

The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) is a Rs. 50,000 crore initiative designed with the stated objective of improving urban governance, service provision and alleviating urban poverty. JNNURM funding will provide 'seed' money to kick-start other forms of commercial funding and project development in 63 target cities.

States accepting JNNURM funds must abide by and implement some conditionalities including privatisation of water and sanitation services, repeal of the Urban Land Ceiling and Regulation Act (ULCRA) and implementation of public-private partnerships (PPP). Most importantly, states will have to enact or modify legislation and municipalities will have to undergo structural and institutional reforms. One such proposed legislation, which attempts to reform urban governance, is the 'Community Participation Law' (CPL).

The CPL, originally called Nagara Raj Bill 2004, was presented at a seminar in the Indian Institute of Management (IIM), Bangalore, in December 2004. It has been designed by Mr. Ramesh Ramanathan, the founding member of an organisation based in Bangalore called the Janaagraha Centre for Citizenship and Democracy (JCCD). CPL is purported to have emerged from Janaagraha's programme 'Ward Vision' where a few hundred citizens participated in ward planning and budgeting in about 10-15 wards out of 100 wards in Bangalore. *The Central Government has now made it conditional on States receiving JNNURM funding to implement the CPL. According to the constitutional and federal*

sharing of powers, the Central Government is now encroaching on the powers of State Governments to draft legislations pertaining to local government which is part of the State List.

Amendments to municipal laws are matters of serious concern since these directly impact citizens and various groups in cities. Such amendments have to be debated and discussed in the Council by the elected councillors before they are passed. In the case of CPL, *the Central Government is directly intervening thereby bypassing the mandate given by the people to the elected Municipal Council and the Councillors. It is also questionable as to how and why the mandate was given to a private individual, in this case Mr. Ramesh Ramanathan, instead of the elected representatives?*

By signing a memorandum of association with the Ministry of Urban Development (MoUD), Government of India (GOI), agreeing to implement CPL, even State Governments are party to the snatching of powers from the MLAs and the state legislature.

THE ILLOGIC OF CPL

According to the authors of CPL, decentralisation in India has succeeded in the rural areas but has not percolated to the urban areas. CPL outlines a model of three-tiered city governance with the Municipality at the top followed by the Ward Committee and then the Area Sabhas.

The Area Sabha is based on a polling station limit i.e. one or more polling booths are the footprint of the Area Sabhas. The concept of the Area Sabha is supposed to derive from the idea of the Gram Sabha in the village Panchayats. Organisations such as Loksatta in Hyderabad and JCCD argue that in the village Panchayats, there is one elected representative for every 500-1,000 people whereas in the urban areas, there is one elected representative for every 50,000 people. According to them, the Area Sabha concept will ensure that there is an elected representative for every 5,000 people in the cities. Thus, when Area Sabhas are created, a representative will be elected to head it. S/he will represent the interests of his/her Area Sabha in the respective Ward Sabha.

Earlier, the Nagara Raj Bill 2004 had proposed that Area Sabha representatives should be nominated but after severe criticism of this clause from various civil society groups, it was seemingly amended. Area Sabha representatives

will now be elected. But it is very possible that the State Election Commissions (SEC) may not hold elections of Area Sabha representatives due to any reasons. Therefore, this amendment from nomination to election is just an escape clause to quiet down the critics of this undemocratic and manipulative legislation.

What is important to note here is that the logic of lifting a three-tiered model of government from the rural areas and straightaway applying it to cities is completely illogical. Populations in cities are dense and several complexities which are characteristic of cities are not present in the rural areas. We cannot fast forward governance. While JNNURM is a one-size-fits-all model for all cities in India, CPL is attempting to become a one-size-fits-all for the urban and the rural in India? Now, how logical is this?

The case of Kerala Municipalities

The attempt at urban-rural uniformity which is the goal of CPL, can apply to some extent in a semi-urbanised set-up such as that of Kerala. In Kerala, a ward committee exists for each ward in each corporation/municipality. The elected councillor nominates upto 50 people for the ward committees, from various groups such as trade unions, schools, etc. (Whether individuals from business groups are nominated to the Ward Committees, which is being proposed by the CPL, is unknown.)

In Kerala therefore, the powers are vested in the elected council. This is unlike what CPL is proposing where powers will be vested in private individuals, private groups and International Finance Institutions (IFIs) under the guise of 'civil society'!

CPL hides behind the petticoats of International Finance Institutions (IFIs), pushing their agendas!

Step 1: Make Political Restructuring Wonky!

CPL specifies that the State Government will decide the territorial limits of each of the Area Sabhas. It has not been made clear as to who or which department in the State Government will execute this responsibility. It is likely that senior bureaucrats in the State Government, connected to pow-

erful lobbies, may decide on the territorial limits or decide on the criteria on the basis of which Area Sabha limits may be set. Hence, there is a strong chance for arbitrariness and corruption in such a demarcation process.

Participation of the Poor in the CPL Structure – controlled?

Microfinance is fast spreading in urban areas. Microfinance Institutions (MFIs) are either directly or through NGOs, organising Self-Help Groups (SHGs). In the case of SHGs, the NGOs are responsible for organising them and linking them to MFIs and nationalised and cooperative banks.

MFIs give loans to several SHGs in Bangalore. On the board of some of these MFIs are members of various civil society organisations pushing for reforms. For e.g. Mr. Ramesh Ramanathan is on the board of Janlaxmi, an MFI lending to the poor in Bangalore.

Some of the leaders of these SHGs can be fielded as Area Sabha representatives. In reality though, these candidates may be controlled by the top bosses in the MFIs and NGOs. Thus, what we may see as participation of the poor through Area Sabhas may actually be dictated and controlled by NGOs, MFIs and private banks!

Step 2: Privatised Decision-Making

Elected Area Sabha representatives will go on to be members of Ward Committees (representing their respective Area Sabhas). Such Area Sabha representatives will constitute 2/3rds of the Ward Committee. The elected councillor is the chairperson of the Ward Committee. In addition, 10 persons representing 'civil society'² from the ward will be nominated by the municipality on the ward committees. Such 'civil society' members constitute 1/3rd of each Ward Committee. A quorum of 10 percent is fixed for the Ward Committee. This means that 10 percent of the members present can vote on important resolutions.

If we understand the pieces in this picture, it implies that 1/3rd 'civil society' members can, at any time, given the 10 percent quorum, vote on crucial decisions which support their interests. In this way, powerful

groups, such as corporate bodies and the elite, which may be civil society members, can hijack decision-making at the Ward level. *The elected councillor who is the chairperson of the Ward Committee cannot reverse or even contest this decision according to the provisions of the CPL. His/her authority as chairperson is only nominal.*

Accountability and Transparency – *yeh kya hota hai?*

CPL also does not specify in what way the Area Sabhas will be accountable to the Ward Committees and to the Municipality and there is also no mention of Ward Committees being accountable to the Municipality.

Step 3: Deflate the Elected Council

CPL not only brings the elected councillor under elite control but it also attempts to liquidate the crucial process of council debate which IFIs see as messy and against their interests.

Council debate forms the basis of cross-party understanding and consensus. *CPL attempts to re-structure local political authority and power relationships.* With IFIs and the corporate elite coming into the picture, the top party bosses sitting in New Delhi dictate terms to the party members at the State Government level who in turn attempt to ‘discipline’ the councillors at the local level. This increases centralised political party control and is coupled with senior bureaucratic control which results when State Governments start to create new para-statal bodies. These para-statals are created under the guise of ‘managing various large infrastructure projects’ pushed through by the IFIs. In reality, the establishment of such bodies ensures that their control over the municipality is maintained. For e.g. formation of the Karnataka Urban Infrastructure and Development Finance Corporation (KUIDFC) in Bangalore and establishment of the Mumbai Metropolitan Regional Development Authority (MMRDA) which is now being given powers at the expense of the Municipal Corporation of Mumbai.

Step 4: Enter IFIs and Corporate Control

Once the ‘mess’ of the council debate is out of the way, IFIs like the World Bank (WB), United States Agency for International Development

(USAID), Asian Development Bank (ABD), etc. can easily push financial loans and loan conditionalities through, this process is easier now because earlier, the council debate which would have discussed and contested these loans, will now be missing. *This places the political risk on the council rather than on higher levels of government. Citizens at the local level end up paying for these higher costs.* Thus, taxes and charges on petrol, diesel and kerosene are imposed to pay for infrastructure costs which only some people/groups will enjoy. While everyone pays up, some people/groups are subsidised.

Now, isn't this clearly a give-and-take relationship?

DUMMIES GUIDE FOR CONVERTING GOVERNMENT INTO GOVERNANCE

Most civil society organisations today talk of governance rather than government. This concept of governance is based on the idea of 'consensus' which is not the consensus that includes voices of dissent; rather, this consensus is the agreement necessary to carry out a programme in an arena where many different interests are in play. CPL attempts to bring in such a form of governance.

This concept of governance addresses issues of distribution of power and definitions of roles that allow the masking of political conflicts and facilitate the presentation of ideas in a non-ideological fashion. Central to this concept of governance is the role of neoliberal civil society organisations and the way in which these organisations contribute to the shaping of agendas, projects and processes.

This concept of governance is an integral part of the lending programs of IFIs. *For the World Bank (WB), governance is essentially governance for development, a set of conditions that facilitates economic development consistent with the original mandates of the WB.* Thus, according to WB, governance is "the manner in which power is exercised in the management of the country's economic and social resources for development". Such a concept of governance is completely stripped of political significance. This narrow definition of governance opens a wide array of areas in which the WB has become entitled to involvement. To achieve better governance, action is required in the following dimensions of the country's political structures:

- *Political and Bureaucratic Accountability:* Citizens must have some way of letting their political leaders and policymakers know how to evaluate their performance. This component of governance questions the ability of unpopular governments to implement effective policies in the long run. Policies which contribute to this end and thus make countries eligible for lending are decentralising administration, creating ombudsman offices, upgrading public sector information systems, and improving (or creating) the tasks of the comptroller-general.
- *The rule of law:* Investment prospects can be improved through a rational legal order that is predictable and free of political interference. *The system should provide a framework to define property rights, contracts and liabilities based on written norms.* Here, the activities to be supported include revision of regulatory frameworks, legal training and technical assistance to members of the judiciary and improvement of the information systems of the judicial system.
- *Freedom of Association and Participation:* The effectiveness and sustainability of any public project are enhanced when those who will be affected by it can participate in the design and implementation of the process. *WB envisages grassroots community organisations as being closer to the affected social groups than governmental bodies.* A wider role for civil society organised by local organisations should help programmes overcome the lack of legitimacy and representation of many governments in developing countries. Actions to be taken by the WB include the incorporation of different voices from civil society during design stages and implementation of projects – mainly social – directly through NGOs. This can be seen in the case of the controversial Mumbai Urban Transport Project (MUTP) where through the WB efforts, the entry of SPARC (Society for Promotion of Area Resource Centres) was legitimised. SPARC was responsible for identifying persons whose commercial establishments and houses were to be affected by the road widening efforts of the MUTP. Several of the Project Affected

Persons (PAPs) complained of inadequate compensation and arbitrariness on the part of SPARC in the identification process.

This agenda is clearly reflected in the lending programmes that lean heavily toward reforming social policies (including education) and decentralising and devolving authority to provincial and local government.

<i>Before CPL</i>	<i>After CPL</i>
Elected council legitimate, representative and responsible for decision-making	“Civil Society” (<i>read business, corporate bodies and select NGOs</i>), legitimate, representative and responsible for decision-making (note: this civil society does not include the informal sector)
Elected council debates and discusses projects proposed by IFIs	Deflated elected council – enter corporate control through central political parties in Delhi
Municipal bureaucracy and elected councilors close to affected social groups	Para-statal bodies instituted by State Governments for large IFI-funded infrastructure projects become powerful at the expense of municipalities
Municipalities and elected councilors responsible for fulfilling basic needs of slum dwellers	Area and Ward Sabha members (<i>read private persons with no mandate</i>) to identify slum dwellers who are legible to receive basic amenities such as water supply and sanitation
Democracy and government – dissent and debate	Manipulative, undemocratic governance controlled by corporate interests – all this in the name of decentralisation

REGISTERED VERSUS NON-REGISTERED VOTERS – WHO GETS TO PARTICIPATE IN AREA SABHAS???

Area Sabha is defined as “the body of all the persons registered in the electoral rolls pertaining to every polling booth in the Area in a Municipality”. The idea of the Area Sabha, as mentioned above, is drawn from the concept of Gram Sabhas in Panchayati Raj Institutions (PRI). In rural areas, Gram Sabhas include all members of the village who are 18 and above and eligible for voting. Cities constantly witness influx of large populations of migrants which then results in the problem of registered and

The case of the VoteMumbai Campaign

Councilors given half-baked information!!!

In Mumbai, the campaign for amending the Municipal Act (1888) and establishing Area Sabhas has been launched by an organisation called Loksatta. Loksatta is based in Hyderabad. It has a chapter in Maharashtra which is spearheading the VoteMumbai campaign. The founder of Loksatta, Dr. Jayprakash Narayan, is one of the members of the governing board of Janaagraha Centre for Citizenship and Democracy (JCCD).

The VoteMumbai campaign advocates implementation of the CPL and some additional features such as direct election of the mayor for the city, etc.

Some municipal councillors in Mumbai were interviewed to know their opinion of the VoteMumbai campaign and the amendments it is proposing. One municipal councillor stated that the campaign is good because it will get more people to vote. When asked what he thinks about the creation of Area Sabhas, direct election of mayor, etc., he mentioned that he had not been told about these features of the campaign. Similarly, another councillor said that VoteMumbai is about direct election of mayor which he endorses. When asked about his opinion on the formation of Area Sabhas, he said he did not know what were Area Sabhas. Another councillor stated that he had no idea about the campaign.

In various forums, members of the Maharashtra Chapter of Loksatta have been stating how elected councillors are in complete support of these changes. But from what was found through the interviews, it appears that the councillors are not being told everything that the campaign is advocating.

Can such civil society, which does not even have the mandate that is given to elected representatives, be trusted to bring in people and pro-poor reforms?

non-registered voters. In rural areas, there is no question of 'legal' or 'registered' voters versus 'illegal' and 'unregistered voters' because villages do not have migrant populations. CPL makes it clear that only those persons who are registered in electoral rolls will be able to participate in the Area Sabhas. This excludes slum dwellers from non-notified slums, pavement dwellers, large floating populations of blue and white collar workers from 'participating' in the so-called 'institutionalised platforms for participation' simply because their names are not on the electoral rolls.

Moreover, slum dwellers' access to basic services such as water supply, sanitation, education and healthcare, depends on the sanction of the Ward Committees which have been vested with the responsibility for "ensuring the legal veracity of each slum for provision of basic services to the poor". What mechanisms are then available, particularly to floating migrant populations, to participate in the affairs of the city?

CONCLUSION

In summary then, *CPL is no messiah for decentralisation*. Rather it bypasses not just the councillors, but the very institution of council debate which forms the basis of representative and participatory democracy. The Municipal Corporation becomes a mute implementer of the Urban Reforms Agenda (URA) through the entry of international capital rather than continue to be a forum for debates on these issues. In exchange, *the activity mapping which outlines functions to be performed by municipalities, Ward Committees and Area Sabhas, assigns the municipality with such functions as establishment and maintenance of nurseries for plants, vegetables and trees and promotion of greenery, organisation of flower shows and promotion of flower growing as a civic culture, advancement of science and technology in urban life, publication of municipal journals, maintenance of museums, etc.* If the main concern driving implementation of CPL is decentralisation and furthering the 74th Constitutional Amendment, then we need to question why such redundant functions have been assigned to the Municipality.

But then, didn't we say that we were doing all this in the name of democracy? The question is democracy for who and by who?

NOTES

1. Vinay Baindur and Lakshmi Aiyar are both associated with CASUM-M, Bangalore. Email: yanivbin@gmail.com
2. CPL defines civil society as “any non-government organisation or association or persons established, constituted or registered under any law for the time being in force and working for social welfare, and includes any community-based organisation, professional institution and civic, health, educational, social or cultural body or any trade or industrial organisation and such other association or body as the Municipality may decide”. *The informal sector has been left out of this definition of Civil Society.*

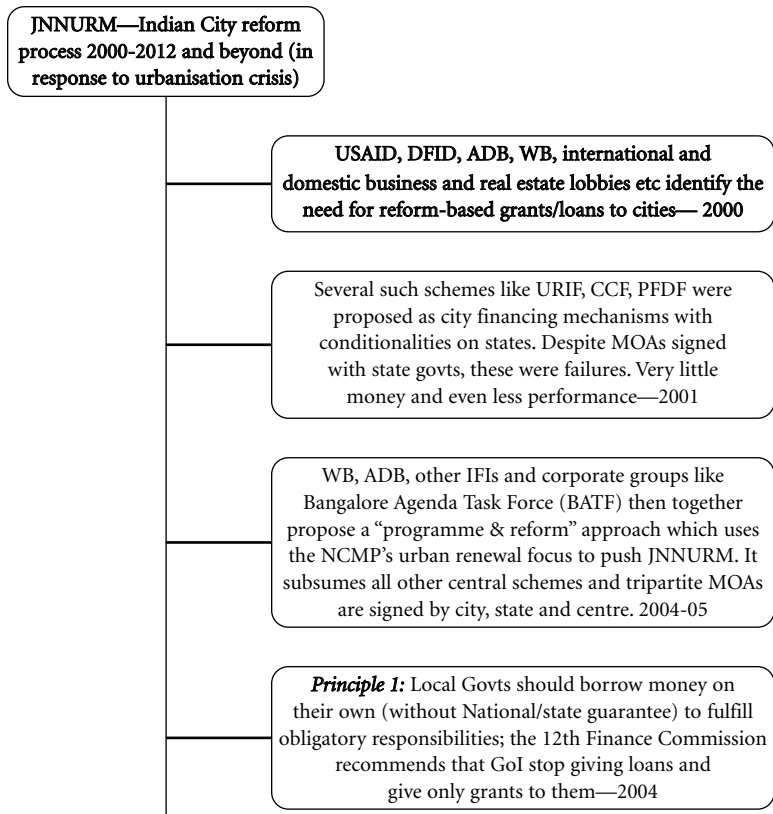
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Global Governance 6 (2000), 493-517 ‘Multilateral Development Banks, Governments, and Civil Society: Chiaroscuro in a Triangular Relationship’ – Gabriel Casaburi, Maria Pia Riggiozzi, Maria Fernanda Tuozzo and Diana Tussie.

For further references, refer to the first critique of the Nagara Raj Bill 2004 and the PLACE (Participatory Local Area Capital Expenditure) Memorandum of Understanding (MoU) was articulated by Nandana Reddy of CWC (Concern for Working Children). CPL is also available on www.jnnurm.nic.in

JNNURM and the Reform Process in Indian Cities

Lalitha Kamath and Vinay Baindur¹



contd. on p. 123

contd. from p. 122

Principle 2: Local Govts should reduce spending on health and education services, encourage private sector in infrastructure, basic services for urban poor & Governance. Making it lucrative through tariff hikes, levy of cesses and elimination of subsidies to poor groups. This impacts both middle classes and poor groups!

By introducing NUIF (Oct 2006) & viability gap funding, tariff hikes and focus on PPPs in 2005-06, it now becomes apparent that NURM employs a similar model as New York City

After IMF forced SAP on Mexico-1981, 25 years later an **urban sector adjustment programme for cities: JNNURM.**
CONDITION: That investors be paid back first.

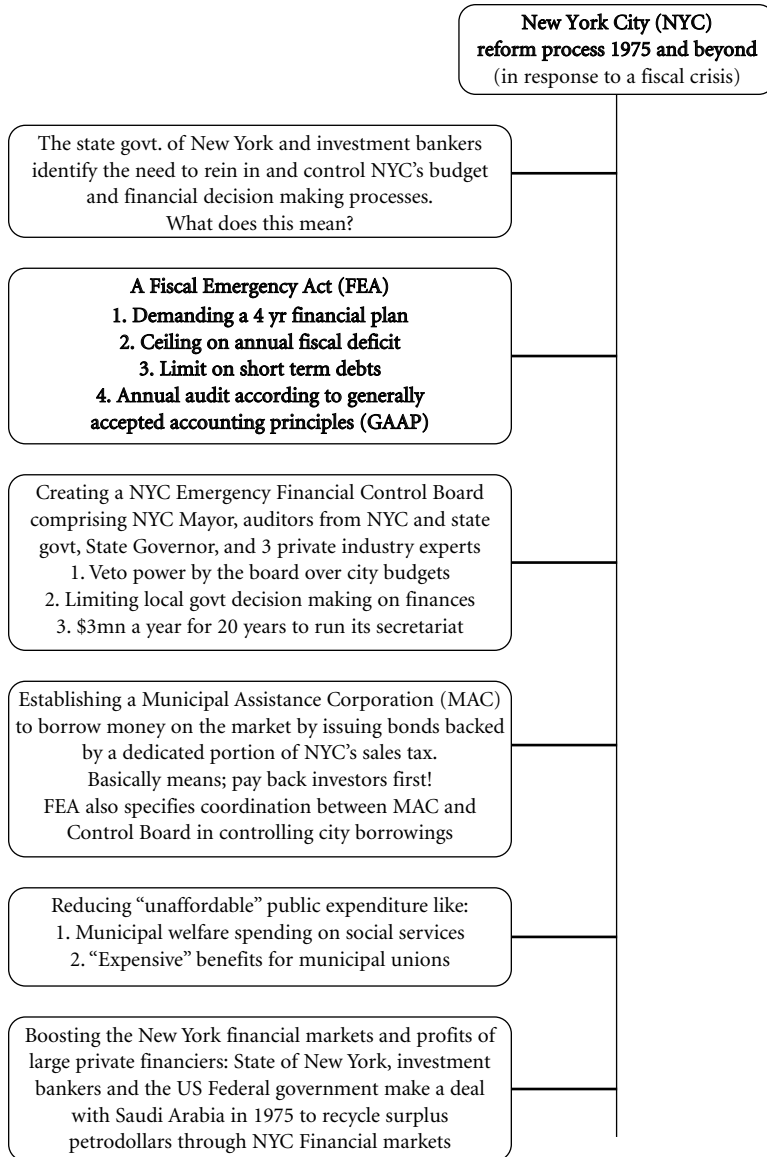
Making investor-friendly credit-worthy cities demands an EROSION & LOSS OF DEMOCRACY
Parliament, legislature, or Council do not decide.
Centralised bureaucratic power does in co-operation with donors and big business lobbies.

New concept **Competition vs. Rights** fulfillment has been introduced by NURM **Cities vs. cities poor groups in one city vs. poor groups in another for the same funds**

That City level Fiscal Responsibility Acts will now be enacted can be foreseen & strictest adherence and controls will be imposed, while state and national level violations of such acts will continue

Big corporate and business lobbies are now at work to dispossess farmers, workers, street vendors, and homeless families of their all resources. Lands, jobs and right to life and livelihood!!

How will governments respond to this neoliberal ideology? We all are affected. How will we make the need felt for the RESTORATION OF DEMOCRACY



contd. on p. 125

contd. from p. 124

Since this leads to increased capital availability the question for investors is how to invest this excess money? They decide to lend to countries in the underdeveloped South, Mexico being the first one in 1981, with the condition again that the investors be paid back first.

These investment bankers & the IMF, in close coordination, adopt this reform process as a model for Structural Adjustment Programme (SAP) to be imposed on countries. **More recently, SAP has been Imposed on cities through JNNURM as booming economies like India guarantee a higher rate of return to investors.**

Depoliticizing decision making: The IMPACTS
 1. The city lost control of its budget.
 2. Elimination of democratic accountability to all citizens by dispossessing them of their "right to the city."
 3. Gave rise to the new notion of "governance", where private sector actors use city economies to give themselves profits

The death of manufacturing: Economic and livelihood IMPACTS
 Channeling public expenditure to FIRE (Finance, Insurance and Real Estate) and high growth service industries at the expense of manufacturing;
 Benefiting large corporations at the cost of small and medium entrepreneurs

Neoliberal Ideology: Accumulation through dispossession
 Creating wealth for few not through generating growth and employment but by dispossessing millions of workers, farmers, labourers, homeless, dalits and other marginalised groups

Principle 1: If there's a conflict between the well-being of financial institutions and the well-being of people, choose the former
Principle 2: If there's a conflict between the welfare of people and creating a good business climate, choose the latter.

NOTES

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Squatting, Security of tenure and Social Exclusion

The Latin American Urban Experience

Diya Mehra¹

Based on a synthesis of available scholarly sources, this essay attempts at highlighting those experiences around squatting and security of tenure in Latin America which could be relevant to the contemporary Indian situation. The basic contrast that I would like to draw is that in the contemporary moment, slums in Indian cities face a great deal of tenure insecurity and the constant fear of eviction, as processes of aestheticisation, environmentalism and neoliberal urban development sweep our cities, marginalising the urban poor as unworthy and unprofitable citizens. By contrast, in Latin America since the 1970s and 1980s, many governments have made efforts to “regularise” their vast illegal slum/squatter settlements, though disputes and evictions continue, especially in high-value areas. Some regularisation programs such as in Peru, Ecuador, and pre-1985 Mexico convert informal *de facto* property ownership to formal *de jure* property ownership. Physical regularisation, and the extension of infrastructure into irregular settlements, is characteristic of Colombia, Venezuela, Brazil, and most other Latin American countries (Ward, 2003). Behind this, most authors agree is the fact that *barrios*, *piratas*, *favelas* (Brazil), *barridos* (Lima), *colonias populares* (Mexico) have come to be accepted as necessary do-it-yourself housing in Latin America, with the aim of post 1980 governmental programs being “generally to work collaboratively with self-help settlements to provide basic services and land title, and to leave much of the dwelling construction in the hands of the households themselves” (Ward, 2001: 1). In Robert

Neuwirth's book *Shadow Cities*, we get what would be to us an unimaginable image of the new problem faced by the Brazilian favela – gentrification – the coming of mainstream consumer capital, firms and services, with a view of cashing in on the wealth of the favela, now highly urbanised, and well serviced after twenty years of its existence.

How has this situation come to pass? The rest of this essay will trace how this situation has arisen in the Latin America, by presenting a chronological reading of the changing structure of such cities, and by looking at the analysis of slum-based political organisation within slum and squatter settlements themselves.

We need to begin our story in the 1940s, when rapid industrialisation policies in Latin America drew hundreds of migrants into cities, not because they were pushed out of rural areas for the lack of work but because of the vast demands on new urban industrial growth (Ward, 1988). At this time, acquiring housing came through a process that may be described as “urban laissez faire” with new migrants setting up homes wherever possible. Since this time period, Latin America has become one of the most highly urbanised areas of the world – over 70 percent of its population lives in cities, and of those 40-50 percent live in slum and squatter settlements. Most of this development is reflected in the cities' vast and illegal peripheries, where illegality of tenure takes two forms 1) illegal subdivisions – akin perhaps to Delhi's ‘unauthorised’ colonies, and 2) invaded land – taken over by groups of squatters. As in the case of India, such illegal housing has been crucial for poor urban residents to access the city. In contrast, to the Indian situation however, Latin American slum/squatter settlers have a very long, diverse, and profound history of political and social organisation. While it is impossible to go through the vast literature on this subject, this essay will present here a few images that indicate how different forms of organisation have worked.

Let us start with land invasions – wherein a group of slum settlers, organised or unorganised, would literally come together and take over a piece of land on a single day, or within a discrete period of time, sometimes battling the police, and/or heavy state repression. As Cathy Schneider writes, in the case of Chile and its capital Santiago – a famous illustration of massive land invasions – invasions could reflect various

scalar degrees of political and community mobilisation. In Kevin Neuhouser's study of a Brazilian squatter settlement we see that the land invasion is limited to local slum settlers, who after 'invading' the land in 1971 would run five successive campaigns for water, electricity, health services and their right to title. Neuhouser writes that in these campaigns local women working through informal networks went door to door collecting signatures, organised marches, arranged meetings, delivered petitions, and raised funds, while men ran Resident's Associations and negotiated with the bureaucracy. Such political activity, along with the general manner by which squatters developed urban services and institutions where there were none, add to the general self-help ethos that the Latin American example seems to be built on. Self help here refers not only to the actual construction of housing, but also the provision of infrastructural amenities, as well as courts and justice systems, schools, sports and social clubs, and neighbourhood level political organisations.

Some scholars have pointed out that the continuing strength of Latin America's localised mobilisation, as seen in the example above which is carried out over 20 years, reflects the importance of the explicitly political nature by which many squatters in the region have acquired land – exemplified best in this idea of land invasions. This and subsequent self-produced urbanisation, including the building of community institutions, appears to have provided a high degree of identification with local place and space, with belonging to these areas and ensured that large numbers of slum settlers are actively involved in community organisation. This process of identification and constructing citizenship in the cities has been further strengthened by the vast elaborate patronage and/or organisational networks that have emerged from, and into, slum settlements since the 1940s, linking them with national level political elites and later broad-based radical movements.

In the early years, that is the 1940-50s, given the slum settlers demographic strength (and this must be emphasised) and the resulting crises of urban housing, ruling regimes actively trying to organise slum settlers to provide legitimacy to their tenure – this phenomena is called populism in the Latin American context. For some slum settlements in Brazil, this process meant state encouragement of neighbourhood associations within slum areas, which could then be used as an organisational

structure that would integrate slum settlers into the political network and provide regimes a popular base. However, these organisations did not imply any fundamental reshaping of clientist power relations, which took on a number of different forms.

By contrast in the 1970s, we see that slum dwellers are actively organised by, and into, a variety of political players including, importantly for our analysis, strong left based movements. In Santiago, Chile for example, Manuel Castells writes that the Communist party actively organised committees of the homeless while the MIR – a radical, vanguardist, Marxist-Leninist movement with strong student participation, ran a “tight and highly organised grassroots organisation in various Santiago settlements” (Castells, 1988). Left movements organised a series of land invasions in the city between 1957 and 1973 with such seizures accounting for 40 percent of Santiago’s growth in these years. Castells makes the point that these movements linked slum settlers issues to others, leading to a cumulative amplification of discourses, and of grassroots mobilisation around issues of class, social equity, justice, access to political and economic power by slum settlers and other marginal groups. An important impetus for this, both ideologically and organisationally, also came from the Catholic Church, who had taken a strong stance on social justice issues, following the Catholic Bishops Conference in Medellin in 1968. Assies (1994) writes that CEBs or church based organisations would be fundamental to the organisation of numerous squatter movements that emerged in the region in the 1970s.

However, left based movements were not the only political actors soliciting the settlers. If we return to Santiago, Chile, as Castells (1988) puts it, neighbourhood councils in Santiago in the 1970s had become a political battlefield, with even the military regime providing legal title, ideological support for settlement associations, and economic programs. For Castells, like other scholars, “the picture of Santiago squatters’ movements appears as one of a manipulated mob, changing from one political ideology to another in exchange for the delivery (or promise) of land, housing, and services” (Castells, 1988: 342). Such pragmatism, he continues, is perhaps understandable given the strength of the repression that faced radical movements in the 1970s in Latin America, including slum movements, as it veered from radical left politics to the establishment

of a number of right-wing/military governments. What I think is important for our purposes is to point out, as Castells does, that despite the variance in political ideology, and intermittent, harsh, state repression, squatters in Santiago were able to mobilise effectively into *demand making organisations*, who in a short period of time were able to gain access to unprecedented title and services. Further Santiago was not the only city seriously affected by what would now be termed urban movements in the region. In Castells (1988) works we find examples of Lima, Peru, Mexico; a great deal of work has also been done on the Brazilian situation.

Summarily, then the events of the 1970s are important for four different reasons:

1. They show the sophistication with which slum settlers, building on community and political organisation, are able to make demands for urban integration and negotiate these demands with state actors, both electorally and within the bureaucracy. As many scholars have noted this involved an almost singular focus of improved service delivery and infrastructure, as well as landownership, which would ensure freedom from evictions, and provide residents their right to settlement. This was however, within a larger context wherein questions of marginality would come to the forefront (Assies, 1994; Olivera, 1996).
2. Squatter mobilisation also inaugurated the neighbourhood or site of residence as an important institutional site for political mobilisation and political solidification. Within the neighbourhood, it is neighbourhood associations/organisation, which emerge as the focal point of local activism, even as mobilisation occurred across settlements (Assies, 1994; Olivera, 1996).
3. Movements also solidified policy ideas on self-help. Indeed, the global shift in policies against eviction and the argument for in-situ upgradation, and sites and services development, which would be taken up not only by Latin American governments but also by the World Bank and the UN, would emerge from these Latin American experiences in the 1970s. This is most forcefully seen in the work of John Turner, British anthropologist

who would use his work in Lima, another site of intensive land invasion, as a basis for forcefully arguing for a paradigm shift in policy towards slum dwellers (Peattie, 1981).

4. Finally, within the region, as Assies (1994) writes, squatter mobilisation heralded a reworked idea of the state and of movement, with civil society groups seeking both autonomy and greater space for political participation, and re-imagining the state as not a monolithic entity but consisting of potentially multiple arenas of engagement.

Since then, if we take the example of Brazil, we see that the activism of the 1970s has yielded important shifts in the country's political terrain. Urban movements were reactivated in the 1980s, and their organisation reflects many of the changes that took place in the decade earlier. For one, entrenched community based mobilisation has provided a base for progressive local politics, and political parties, that would now come under the term of urban or new social movements. Favela dwellers have formed national networks (such as the National Movement for Urban Reform), enhancing their ability to wrest policy concessions on "the democratisation of the access to goods collectively produced in the city and the democratisation of the administration of the city itself (Silva, 1991). Another example of such networked activism is the Forum of Citizenship for São Paulo, which gathers together a number of social organisations – NGOs, social movements, intellectual sectors, neighbourhood associations etc. – to lend force to society's intervention in the discussion of the City Plan (Plano Diretor) alongside the municipal administration and the City Council (Silva et al 2000, Assies, 1994). What we are seeing then is the emergence of broad civil society movements that have been able to intervene successfully in decision making processes, and decentralise to local and popular levels. Consequently, a rethinking of forms of popular participation in government, and various attempts at the municipal and Constitutional level to operationalise this has been central to these new social movements. Perhaps the most famous example of this is participatory budgeting which introduces public participation in decisions on the distribution of public funds. It should also be noted that in Brazil, the urban reform movement was carried out in

conjunction with agrarian reforms movements, sharing an interest in rethinking the “social purpose” of property. In both cases, in the 1980s, NGOs and middle class activists participated in large numbers in such social movements, responding partially to the over-centralisation of state bureaucracies, and the failure of the state to adequately provide social securities.

THE CONTEMPORARY SITUATION

Despite all these successes, to rephrase Oliveria (1996), struggles in the areas of land tenure and service delivery have not been able to prevent social exclusion in Latin American cities. What does this mean? Largely it refers to recent events – the debt crises, and extensive structural adjustment packages that were put into place at the end of the 1980s, and in the 1990s and which were accompanied by rising unemployment rates across the region, as governments sought to withdraw from their roles in social and economic welfare, and privatise public investment in industry, economy and social welfare. As a part of this restructuring, Latin American regimes have tended to shift their interest from import substitution industry that fuelled their cities to agro-exports, an economic niche where low wages are valorised, as workers compete with other low income countries across the world.

Given the dramatic conditions of the debt crises and the rapidity of neoliberal reform in the area, the urban poor are not the only ones facing an economic crisis. The irony then is that even as squatter settlements have achieved new rights and forms of participation into decision making in the city largely through political decentralisation, such decentralisation does not exert an influence on the policies of central governments, insistent as they are on neoliberal reforms.

Perhaps even more ironically, decentralisation itself is heavily supported by the espousers of neoliberal policies – who promote lean government, and a delegation of social welfare functions to sub and supra national levels. As Bryan Roberts (in LARR, 2004) writes, in contrast to earlier decades where slum settlements self-help was central to their massive mobilisation, in contemporary times, “no one leaves the poor alone anymore”, as NGOs, national and international – continuously intervene into squatter areas.

In her ethnography *Teetering on the Rim: Global Restructuring, Daily Life, and the Armed Retreat of the Bolivian State*, Leslie Gill (2000) provides a striking portrayal of this paradoxical situation. She writes of El Alto – the parallel city of the urban poor, adjacent to the Bolivian capital of La Paz. In El Alto, NGOs, micro-credit schemes, foreign funded health and education schemes abound but all these institutions are unable to grapple with the area's main source of poverty – the decommissioning of nationalised mines, and the newly unemployed. Similarly, in Rio's slums, drugs and violence are the new social problems, outweighing those of service delivery and illegal tenure (Rolnik, 1999).

It is in this context, that Latin American scholars are increasingly talking of the concept of exclusion (LARR, 2004). What they are suggesting is rather than earlier forms of marginality where people, like the settlements they lived in, were outside of formal institutions, and formal urban areas; now inequality, vulnerability and second hand citizenship represent a far greater problem. Latin America as a region continues to have high disparities in income distribution, with structural inequities and social distances intensifying as swathes of people are increasingly perceived as irrelevant to the national and global economy. Those who are, such as the upper and middle classes, as Teresa Caldeira (2000) shows are increasingly building privatised bubbles – fortified enclaves of work, consumption and living, to which the poor have little access because of in-built differentials in their life situations. Discourses on crime and security pervade such settlements, and the urban poor are excluded on the grounds that they are perpetrators of such violence.

Perhaps a year after Gill wrote her ethnography, there was a massive uprising against the neoliberal state in Bolivia, which emerged at least in part, out of the vast disenfranchisement of El Alto. In this urban area, Postero (2003) writes, what we are seeing now is a reworking of urban movements of the 1970s and 1980s, wherein networked community organisations, formed this time on the basis of indigenous identity (in this case Aymara Indians) are challenging the prerogatives of the state to make neoliberal policies, with the support of domestic elite and international backers. Postero writes, that the indigenous groups, like are other, are doing this once again, through experience gained in political organising after passing of the Popular Participation Act which opened up

local avenues for poor and indigenous organisations to participate in decision-making. In the case of the uprising, their opposition is part of a larger coalition that includes students, trade unions, and coca growers among others. Thus, although ethnicity was the central part of the struggle, its call for new, additional, and older rights was on behalf of all Bolivians, not only the indigenous. Such a call not only reviews a 'populist notion of the nation', but also seeks to redefine the content of such rights to include cultural meaning, and control over resources, which is at the heart of indigenous rights struggle.

This struggle, like other leftist movements in Latin America, are an ongoing process, and it will be interesting to see how they challenge the long-standing status quo. What I would like to point out is that a renewal of the region's community based organising – one that is importantly able to link at national and regional levels and to other sectors of the country and economy facing social, economic, and political exclusion – is once again a source of potential hope and optimism.

NOTES

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