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The Courts and the Squatter Settlements in Delhi – Or the Intervention of the Judiciary in Urban "Governance"

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This chapter presents evidence on the increasing and decisive intervention of the judiciary in urban governance, focusing on the treatment of squatter settlements in Delhi. We shall analyze the evolving role of the judiciary through court judgments, and show the contradictions that emerge between the agenda of the different players on the scene of urban governance.

Although our analysis will focus on the period of the 1990s till 2006, some references to the 1980s are relevant to highlight the increasingly hostile attitude of the Courts towards slum dwellers. The 1990s correspond to the opening and liberalization of the Indian economy; this context of globalization, including the introduction of the concept of good governance, also had an impact on slum clearance. Aspiring to be a global city[1], the capital city of Delhi has to offer an attractive, modern and neat urban landscape, with its disturbing elements removed. For example, can one expect foreign firms to invest in India if the potential investors have a direct view of the slums from the windows of their deluxe hotel room?[2]

[1] The concept of global city has been developed by Saskia Sassen in her reference book *The Global City* (1991), in order to identify "cities that are strategic sites in the global economy because of their concentration of command functions and high-level producer-service firms oriented to world markets; more generally, cities with high level of internationalisation in their economy and in their broader social structure." (Sassen, 1994, p. 154). If Delhi does not fit yet into this definition – Mumbai would be more advanced on this path toward globalisation–, the ambitions of the capital city to reach the status of a global city are clearly expressed in the Draft Master Plan for Delhi 2021: "The Vision-2021 is to make Delhi a global metropolis and a world-class city" (DDA, 2005, Draft master Plan for Delhi 2021, p. i, Introduction).

[2] This argument was quoted in a newspaper with reference to the Oberoi Hotel and the Rajiv Gandhi camp, a squatter settlement located near the Nehru stadium and that was completely 'cleared' in May 2000.

The main conclusion that will emerge from this discussion is that recent court judgments have contributed to reinforcing the perception of slum dwellers as squatters, culprits of encroachment, without recognizing them as victims of failure in housing policy and urban development.

Some initial clarifications on what the housing category *"slum"* encompasses, appears to be necessary. Although the term slum is used in India rather extensively in official documents, the press, and also in academic writings, it is in fact necessary to distinguish between two types of slums.

- The first type corresponds to the old housing stock, the focus of the 1956 Slum Areas (Improvement and Clearance Act), which deems as slums those urban sectors where the buildings "are in any respect unfit for human habitation", or that "are by reason of dilapidation, overcrowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, detrimental to safety, health or morals"[3]. The old and dilapidated urban core of Delhi classified as slum is in general inhabited by tenants or proprietors with legal rights.

- The second category of slums includes precarious forms of housing, self-made structures fabricated from salvaged materials, i.e. flimsy, makeshift shelters, cramped shacks and huts called *jhuggi-jhompris* in Delhi, which when grouped together in certain areas constitute *bastis*[4]or *jhuggi-jhompri clusters*[5]. The illegal nature of the occupation of the land is a common element in this second category of housing: for the planners and the judiciary this signifies squatter settlements, i.e. lands occupied and built upon without the permission of the land owning agency (private or public). Thus, the physical precariousness of housing and the precariousness of the occupancy status are combined in most of the *jhuggi-jhompri clusters* where the residents have no legal tenure. It is these squatter settlements, inhabited by the poorer sections of the city population, that have been targeted by the eviction and resettlement schemes implemented in Delhi since the sixties, and that will constitute the focus of our analysis.

1. The background: town planning, squatter settlements and slum policy

The intervention of the judiciary in matters of squatter settlements over the last fifteen years has to be assessed in the broader context of town planning and slum policies since the sixties, which calls for a preliminary presentation.

[3] Slum Areas (Improvement and Clearance Act) 1956, Chapter II.

[4] "As in most cities of India, *bastis* abound in Delhi and are found in almost all parts of the city. A '*basti*' is identified as a cluster or conglomerate of *katcha* huts or shacks of tin or wood, built on any conceivable open piece of land and almost always in an unauthorized manner." (DDA 1957 : 223).

[5] The term J.J. colony – for *jhuggi-jhompri* colony – which is also in use in Delhi, designates in fact the resettlement colonies (see *infra*) of the residents of demolished *jhuggi-jhompri* clusters.

1.1. The good intentions of the DDA and of the Master Plan

The first Master Plan of Delhi (1962), prepared by the Delhi Development Authority (DDA) stated socialist objectives: the aim of the DDA's housing and land development policy was to resolve the housing problems of the poor. The need to integrate low income households into the urban fabric and thus prevent their segregation, in addition ensure that they remained close to employment centres, is also acknowledged in the first urban master plan; this also applies to squatters from the *bastis* who were to be relocated on other sites:

> "To meet the problem of settlement of low income group people, the authority has proposed to earmark suitable sites in several zones where these very low income group people may be able to put up cheap houses but the layouts would have to be according to standards. […] The squatters in bastis are to be relocated in various parts of the urban area so that they are integrated into the neighbourhood community. It is of the utmost importance that physical plans should avoid stratification on income or occupation basis." (DDA 1962: Important recommendations: p. ii).

Moreover: " The areas selected for new housing being not too far away from the core of the city, the relocation of people will not raise the problem of dislocating their economic base » (DDA 1957: 216). In accordance with the same principle, in order to avoid the formation of new *bastis*, the preparatory documents of the Master Plan clearly indicated that it would be advisable to reserve zones for settling low income rural migrants with this explicit recommendation: "These areas should not be located on the periphery of the city because then the problem of transportation to work place will arise, but should be well distributed so that they are not far away from the work places." (DDA 1957: 217).

In spite of the initial good intentions, we will show an imbalance to the detriment of the poor and the slum inhabitants in the implementation of the Delhi master plan, the housing schemes and the rehabilitation policies.

1.2. Resettlement schemes for the squatter settlements (from the 1960s to the 1980s)

The approach favoured by the Delhi administration in relation to the squatter settlements from the late fifties was eviction combined with demolition and relocation in resettlement colonies. This did not involve re-housing schemes but simply resettlement on developed plots, in colonies theoretically provided with basic infrastructure (access roads, water supply and sewage systems, electricity). The first scheme implemented in 1960 (the *Jhuggi-Jhompri Removal Scheme*) was relatively generous, allocating to each "eligible" squatter family an 80 sq. m. plot, complete with a 99-year lease. The eligibility criteria referred to a cut-off date of arrival in the squatter settlement/*jhuggi-jhompri* cluster on the basis of a special survey of all the *jhuggi-jhompri* clusters conducted to determine the date of arrival. The families that arrived in the settlement after the survey were no longer entitled to benefit from the resettlement scheme, and thus found themselves liable to be expelled from their house without any sort of compensation or alternative arrangement. This scheme was modified on several occasions, with the introduction of certain restrictions: abolition of the 99 years leasehold of the land (in lieu of which a licence system was instituted) and reduction of the

plot area[6]. This was reduced in the 1990s from 80 sq. m. to 40 sq. m., then to 25 sq. m. and finally to a plot size of 18 sq. m. and even 12.5 sq. m. (see below). On the other hand, the principle of eligibility on the basis of a cut-off date of arrival in the slum cluster remains a compelling criterion in resettlement policies.

Between the 1960s and 1970s, 44 resettlement colonies were developed for relocating the inhabitants of the old slums and demolished squatter settlements: in blatant contradiction of the recommendations of the first urban Master Plan, practically all were situated, at the time of the installation of the initial group of occupants, on the periphery of the urban agglomeration (see Map 1). Of these 44 resettlement colonies, 18 were established before 1975, and were expected to accommodate approximately 50,000 families; 26 others were established under the Emergency between 1975 and 1976 alone, to accommodate more than 1,50,000 displaced families (Jain 1990: 172-173).

The improvement in the living conditions in the existing squatter settlements, namely through the provision of basic services (water supply system, latrines, street lighting), was also conceived in the first Master Plan in order to ensure public hygiene and health, but it was envisaged merely as a temporary measure while waiting for the squatters to be relocated (Bannerjee 1994). Succeeding governments and planners were however forced to realise that the initial aims of public policies, i.e. housing for all at an affordable price, remained a far-off dream because of the economic and feasibility constraints, and also that slums and squatter settlements were not a simple transitory phenomenon; as a result, slum improvement *in situ* was accepted as a long term alternative option (Banerjee 2002: 39). In 1972, the Central Government thus launched a scheme for improving the environment of urban slums (*Environmental Improvement of Urban Slums*), aimed at providing basic infrastructure in zones officially designated as slums (according to the 1956 Act), and by the same token guaranteeing protection against eviction for ten years. Similarly, in keeping with the schemes for the provision of basic urban services, including preventive health and education, initiated by UNICEF worldwide, the Delhi administration, in the eighties, adopted the *Urban Basic Services Scheme* for the urban poor, instituted at the community level and also including the slum inhabitants. This second more pragmatic (although short term) approach – improving the living conditions of squatters where they were based rather than relocating them – does not however guarantee them the rights of occupancy or protect them from demolitions and evictions if the DDA comes up with other town planning projects of "better" utility on occupied lands (Priya 1993: 829).

1.3. The "new" Delhi slum policy

In 1990-91, the Government of Delhi adopted a "three pronged strategy" for dealing with squatter settlements, which was approved by the Delhi Development Authority in 1992, and included the following:

- in-situ up-gradation for the clusters whose "encroached land pockets are not required by the concerned land owning agencies for another 15 to 20 years for any project implementation" ;
- relocation of *jhuggi-jhompri* clusters that are located on land required to implement projects in the "larger public interest";

[6] For a complete list of squatter relocation schemes up to the late eighties, see Sabir Ali (1990).

- environmental improvement of urban slums, based on the provision of basic amenities for community use, in other clusters irrespective of the status of the encroached land.

This strategy restates in fact some elements that were already implemented in the previous schemes, but it integrates them in a comprehensive and detailed strategy. Presenting all the points of this "new" slum policy and discussing its various merits and demerits would be beyond the scope of this contribution. However, a few features deserve mention.

A first essential element of this policy stated clearly that residents would not be removed without alternatives –

> "On one hand, no fresh encroachment shall be permitted on public land, and on the other hand past encroachment which had been in existence prior to 31.01.1990[7] *would not be removed without providing alternatives*." [8] [emphasis added]

In the next section of this presentation, we shall see how the judgments of the Almitra Patel case (2000) and the Okhla Factory Owners' Association case (2002) deny this policy principle.

A second salient feature of the *jhuggi-jhompri* resettlement scheme reads:

> "Resettlement is to be organized by setting up multi-purpose co-operative societies. Accordingly, allotment of sites and services plots is to be made on lease-hold basis through the co-operative societies."[9]

The revised strategy by the Government of the National Capital Territory of Delhi (1999) even recommended that "allotment should be made on ownership basis" – however restricted "to the Indian national". As underlined in the document, this resettlement strategy "has been endorsed in the U.N. Habitat Agenda (June, 1996) and the Government of Delhi has adopted it as part of its action plan to provide sustainable housing to the slum dwellers in the capital city."[10] However, as shown below, another court case forced the Government of Delhi to discontinue allotment on a lease-hold basis.

1.4. Squatter settlements : genesis and extent of the "problem"

Before analyzing in detail significant court judgements, it behoves at this stage to give an overview of the issue and assess the weight of the population living in squatter settlements.

Public policies of urban planning and housing initiated by the Delhi Development Authority did not meet the demands of a very large part of the population. Whereas the magnitude of the unmet demand should be set against the considerable demographic pressure originating

[7] In 2000, the cut-off date and eligibility criterion for resettlement was extended from January 1990 to December 1998 (on the basis of the ration card), while introducing a differentiation in the size of the allocated plot: 18 sq. m. to pre-1990 squatter families, and 12.5 sq. m. to families possessing ration cards post January 1990 up to December 1998.

[8] Urban Development. Relocation of JJ Squatters. Annual Plan 2000-2001, Slum and Jhuggi-Jhompri Department, Municipal Corporation of Delhi, 13 p. mimeo.

[9] *Ibidem*.

[10] Government of National Capital Territory of Delhi, 1999, *Strategy paper on jhuggi jhompri clusters in Delhi* , mimeo, 24 p.

with the influx of refugees following Independence[11], eventually it was the lower middle class and the working-class that were most affected by the housing shortfall – like observed in other Indian cities too. The Tenth Five Year Plan (2002-2007) thus specifies in the section on urban development and housing that "around 90 per cent of housing shortage pertains to the weaker sections" (GOI 2002: 621) and " there is little evidence that [the urban development] authorities – who are often the sole organization for development of serviced land – are providing the due share of land to the urban poor" (GOI 2002 : 624). Yet the DDA's housing policy had publicly affirmed its objective of promoting social equity through the attribution of plots and apartments to the lower income groups[12]. These public schemes were all aimed at ownership of property[13], so ultimately they benefited much more the middle and higher income groups (Pugh 1990 ; Billand 1990 ; Gupta 1992 ; Milbert, 1986), "because the poorer sell their housing rights for profit and to meet their urgent need for food and other basics" (Pugh 1990: 178). Often the population targeted does not benefit because the initial cost is too high, access to credit difficult and because the value of the plots and apartments on the market is much higher than their purchase price, inciting people to sell for profit. Moreover, the tardiness of the DDA in putting its schemes for the acquisition and development of constructible lands into practice (Billand 1990; Gupta 1992), as well as its failure to respect the initial principles of reserving for low income groups integrated zones in socially mixed districts, and near employment centres (Dewan Verma 2002), have further limited cheap housing options in the formal sector. At the same time, application of strict building norms by the planners has favoured an elitist model of urbanization, to the detriment of mass housing for the poorer classes (Milbert 1998 ; Rishub 2002). On the whole, low income groups have been pushed towards informal forms of urbanization, considered as irregular or illegal by the authorities: unauthorized colonies[14] and squatter settlements for the poorer migrants.

The latter had no other choice but to occupy vacant lands, essentially public, and opt for self-constructed makeshift housing (*jhuggi-jhompris*), one-room huts consolidated with time, leading to the creation of slums. In addition to the conditions of makeshift housing, congestion, sub-standard basic urban services (especially sanitation facilities), migrants often resorted to building on insalubrious and/or dangerous sites (river beds predisposed to flooding, industrial zones, industrial and urban waste dumping zones, along railway tracks, drains and canals, below high tension lines) which were unlikely to attract the attention of investors and builders in the immediate future. Though squatter settlements were found throughout the capital, insinuating themselves into all the interstices of the urban fabric wherever there was vacant land and where surveillance by the legal authorities was limited, the (two) biggest clusters were located on the periphery, on what was still the urban-rural

[11] After independence in 1947 Delhi became the capital of the newly formed Indian Union and had to face a massive transfer of population following the partition into India and Pakistan. The 1941-51 period thus recorded the most rapid population growth in the history of the capital city, from almost 700,000 inhabitants in 1941 to 1.4 million in 1951, corresponding to an annual growth rate of 7.5 per cent.

[12] According to DDA statistics, nearly 60% of the total number of apartments built from 1967 to 2001 were meant for low income groups and the more underprivileged categories. For a detailed analysis of the DDA's public housing schemes, see Dupont 2003.

[13] Here we refer specifically to housing policies, in which we do not include resettlement policies (without re-housing) applicable to squatters after the demolition of their dwellings.

[14] In 1998, the population of unauthorized colonies was estimated to be nearly 3 million (according to estimates made by the NGO *Common Cause*), or more than a quarter of the population of the urban agglomeration. For a detailed analysis of the case of unauthorized colonies in Delhi, see Dupont 2005.

fringe at the initial time of their occupation. This was the situation in Delhi in the early nineties (Map 1), before the demolitions and massive evictions that took place from 2000-2001.

The population density in slum clusters can be very high owing to the cramming together of families in one-room huts and very narrow lanes. In many squatter settlements (in central as well as in the more peripheral districts), the structures have been reinforced and further extended by the frequent addition of a storey to respond to families' expansion, but also for rental purposes in order to enhance the family's income. A process of increasing residential density is at work in quarters already congested and lacking basic infrastructure and access to services.

Table 1, constituted from figures issued from the *Slum and Jhuggi-Jhompri Department* of the Municipal Corporation of Delhi, tries to retrace the evolution of the population of the *jhuggi-jhompri* clusters – or squatter settlements – identified by the administration. Despite the implementation of housing policies and slum clearance programmes – with the exception of the 1975-1977 Emergency period – the population of the squatter settlements in Delhi has continued to grow in the years from the fifties to the nineties. In 1998, approximately 600,000 households were living in 1100 *jhuggi-jhompri clusters*, whose size varied from a few housing units to 12,000. On the whole, these squatter settlements housed some 3 million people at this date, or more than a quarter of Delhi's total population.

With the exception of the 1961-71 decade, the growth of the slum population was on an average faster than that of the total population of the Delhi agglomeration: for example, 235% as against 64% respectively from 1951 to 1961; 130 % as against 55 % from 1971 to 1981; 214 % as against 47 % from 1981 to 1991 (Table 1). As a result, the proportion of Delhi's population living in this type of housing has also increased considerably: 4.4 % in 1951, 9 % in 1961, 1971 and 1981, and reached 18 % in 1991 and 27 % in 1998.

The magnitude of such numbers and the persistence of the phenomenon on the one hand, the unfulfilled commitments of the planners, on the other, lead us to question the relevance of the designation "squatter". In other words, when the authorities fail to bring about urban development initially considered indispensable for ensuring the integration of people with low incomes into the urban fabric, how can they then denounce the "sub- standard" housing of these settlers and stigmatize them as squatters by denying them the rights of occupation of urban space?

The official figures available for 2001 would indicate a sharp decline in the number of *jhuggi-jhompri clusters,* from 1100 in 1998 to 728 in 2001, and a subsequent decrease of the population in squatter settlements and of its proportion in the total urban population, from 27 % to 17 % (table 1). These figures, however, do not appear very reliable, and seem to overestimate the impact of the slum clearance policy (notwithstanding the extent of evictions), and underestimate the effect of natural growth and in-migration on the slum population.

The extent of the resettlement operations implemented under the last *jhuggi-jhompri* resettlement scheme is shown in Table 2: around sixty-five thousand squatter families were relocated from 1990-91 till 2007. The resettlement colonies developed in the last ten years are located even further away than the previous resettlement sites, in the rural-urban fringe of

Delhi, up to 30 to 40 kms from the city centre (see Map 2).[15] Behind these figures of relocated families, presented by the Slum and Jhuggi-Jhompri Department as its achievements, one should also read the considerably higher number of families which were evicted from their living place and whose houses, however precarious, were demolished. The principle of a cut-off date of arrival in the slum cluster as an eligibility criterion for resettlement necessarily excludes a very large number of "non-eligible" families[16] .

Table 1. Evolution in the number and the population of *jhuggi-jhompri* clusters –squatter settlements – in Delhi from 1951 to 2001

Year	*Jhuggi-jhompri* clusters (1)				Delhi Urban Agglomeration (2)		Population of JJ clusters /total urban population (%)
	No. of JJ clusters	No. of housing units (or households)	Estimated population (No. of households x 5) in '000	Ten-year growth rate of the population (%)	Population in '000	Ten-year growth rate of the population (%)	
1951	199	12,749	64		1,437	106.6	4
1961		42,815	214	235	2,359	64.2	9
1971		62,594	313	46	3,647	54.6	9
1973	1373	98,483	492				
1977		**20,000**	**100**				
1981		98,709	494	130	5,729	57.1	9
1990	929	259,929	1,300				
1991			1,552*	214	8,419	46.9	189
1994	1080	480,929	2,405				
1998	**1100**	600,000	3,000		11,282[$]		27
2001	*728*[#]	*429,662*[#]	*2,148*[#]	*38*[#]	12,791	51.9	*17*[#]

Data sources:
(1) Slum and Jhuggi-Jhompri Department & Food and Civil Supplies Department, Municipal Corporation of Delhi.
1990 (January) and 1994 (March): based on direct surveys.
*For 1991: estimations on the basis of the 1990 population and the growth rate from 1990 to 1994.
[#] For 2001: figures quoted as the latest data from the 'Slum Department, Municipal Corporation of Delhi', in the City Development Plan of Delhi, released in 2007 under the Jawaharlal Nehru National Urban Renewal Mission. These figures, however, do not seem reliable, and do not match with the figures on the number of relocated families (Table 2), even if one assumes an equal number of non-eligible families (see note 16).
In fact, until 2008, no figures on the last few years were available with the *Slum & Jhuggi-Jhompri Department*; in post-1998 official documents (including in the *Economic Survey of Delhi*, *2005-06*, or the *Socio Economic Profile of Delhi 2006-07*, the *Delhi Tenth Five Year Plan 2002-07* or the *Delhi Annual Plan 2007-08*, all published by the planning department of the Government of the National Capital Territory of Delhi: http://www.delhiplanning.nic.in), the same estimate of 600,000 households or 3 million population in 1100 *Jhuggi-Jhompri clusters* could be found … but each time referring to the "current" Delhi situation, which indicates that estimates were not updated.
[$] Own estimation
(2) Census of the Population 1951, 1961, 1971, 1981, 1991 & 2001.

[15] On the consequences of the eviction and resettlement operations in terms of disruption of the lives of the slum dwellers, especially to access work place and places of education, see: Dupont & Houssay-Holzschuch, 2005.

[16] According to the estimates of the NGO Hazards Centre (Delhi), the number of squatter families affected by demolitions in Delhi from the years 2000 to 2006 would amount to about 72,400. On this basis, the estimated proportion of affected families excluded from the resettlement scheme would range from one third to one half.

Table 2. Relocation of squatter families in the National Capital Territory of Delhi
(since the inception of the current resettlement scheme, i.e. 1-04-1990)

Year	*Number of squatter families relocated*
1990-91	1570
1991-92	356
1992-93	1078
1993-94	216
1994-95	839
1995-96	2353
1996-97	705
1997-98	2412
1998-99	2590
1999-00	4218
2000-01	11345
2001-02	13028
2002-03	6958
2003-04	3809
2004-05	1753
2005-06	1495
2006-07	9894
Total	**64619**

Source : Slum and Jhuggi-Jhompri Department, Municipal Corporation of Delhi.

2. Some key court judgments affecting the treatment of slums

Through the decade of the 1990s, the image of the capital city in a globalized world dominated judicial urban policy. In the restructuring of the city and its environment,[17] broad policy strokes were painted on the canvas by the judicial brush. For instance, vehicular pollution was stridently met with compulsory installation of catalytic converters, the upgrading of automobile technology to European standards, and, in a major move, all public transport was converted from petrol and diesel fuel to compressed natural gas.[18] The Delhi ridge, perceived as the lung of Delhi, was cleared of structures and encroachments by persistent judicial intervention. Hazardous and polluting industries operating in Delhi were relocated beyond the bounds of the city[19] – an oleum gas leak from a large scale manufacturing plant in the industrial belt located in Delhi, occurring a day and a year after the Union Carbide disaster in Bhopal on 2/3 December 1984, provided a context in which to define 'hazard' and 'risk' (Ramanathan, 2004). These interventions were carried out in the interest of the health of city 'residents'.

As far as squatter settlements were concerned, despite the fact that the Delhi slum policy evinces some concern in protecting squatters' interests, the intervention by the judiciary undermines the policy to a large extent. The evidence for the intervention of the judiciary in 'slum treatment'[20], is shown through three Public Interest Litigation (PIL)[21] cases:

- a PIL dealing with the resettlement of *jhuggi-jhompri* clusters: Lawyers' Co-operative group Housing Society V/s Union of India and others (Delhi High Court, 1993);

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[17] In the context of the opening of the Indian economy to globalization, urban restructuring observed in Delhi, like in Mumbai (Banerjee-Guha 2002a) illustrates what some authors call the "new spatial order" (Marcuse & van Kempen, 2000) or "socio-spatial disorder" (Banerjee-Guha 2002b) linked to the effect of globalization on the internal structure of global –or globalizing–cities.

[18] A Supreme Court order was passed in this connection, with effect from April 2001.

[19] A first Supreme Court order, passed in 1996, directed the closure of 168 hazardous industrial units operating in the city of Delhi; a second one, with effect from November 2000, applied to all polluting industries.

[20] For a more comprehensive approach of law in the lives of slum dwellers, see Ramanathan, 2000.

[21] Public Interest Litigation (PIL) was a creation of the Indian judiciary. In the fading years of the 1970s and the early 1980s, the Supreme Court of India carved out a jurisdiction which would encourage using the court to take fundamental rights and human rights to those who were indigent, or ignorant of their rights, or faced the obstacle of illiteracy. The traditional rule of "*locus standi*" allows only an affected person to approach the court for redress. Recognising that this would deny justice to many classes of citizenry and other persons, the court relaxed this rule and permitted any well-intentioned person to bring an issue before the court. Bonded labour, prisoners, women in custodial institutions and migrant workers were among those whose condition were brought before the court. The technical process of filing a petition in court was also simplified, to an extent where the court could decide to act on the basis of a "letter". This helped the concerns of the poor reach the court. In turn, it gave the court access to those who had so far been outside its reach. See Desai and Muralidhar 2000; and Ahuja 1997 for a casebook.
In the mid-1980s, environmentalism entered through PIL as an agenda of the court. In the 1990s, spurred on by the possibilities of PIL, the Supreme Court and the High Courts became engaged with a range of issues including urban governance. The court adopted various devices to facilitate its participation in matters of policy and governance, including issuing directions which it would then monitor – instead of giving judgments which were then left to the parties to follow up. The power of the court in PIL has grown over the years because of the morality and legitimacy that it has earned in matters concerning the poor, as also its efforts to contain corruption and the decay of public institutions. As the 1990s ended, however, evidence had begun to emerge that the poor and the vulnerable, in whose interest PIL had been founded, were not any more the constituency of the court.

- a PIL dealing initially with solid waste disposal in Delhi, that eventually resulted in Supreme Court orders directed at cleaning up the city not only in terms of its garbage but also its slums: Almitra Patel v. Union of India (Supreme Court, 2000);

- a PIL dealing with the removal and relocation of slum dwellers squatting on government land, where the court eventually examined "the legality, validity and propriety" of the resettlement policy that was implemented by the Delhi government: Okhla Factory Owners' Association v. Government of NCT of Delhi (Delhi High Court, 2002).

2.1. Lawyers' Co-operative group Housing Society V/s Union of India and others[22]

In its order dated 8.11.1993,[23] the High Court of Delhi forced the Slum and Jhuggi-Jhompri Department of the Municipal Corporation of Delhi (MCD) to revise its policy of granting tenure rights to the squatter families which were allotted plots under the Jhuggi-Jhompri resettlement scheme:

"We hereby direct that pending further orders if any alternative plots are allotted by way of rehabilitation, *the said allotment shall only be on licence basis* [emphasis added] with no right in the licensee to transfer or part with possession of the land in question".

This was intended to prevent the resettled from treating the resettlement plot as their property, and to restrict them to the terms of licence which, if breached, could result in resumption of the land.

The Commissioner of the MCD attempted to justify the policy implemented till then by assessing the merits and demerits of leasehold rights system and licence fee system:

- The leasehold rights system has the advantage of providing a general sense of security to the urban poor beneficiaries; in addition the beneficiaries can obtain shelter loan from financial institutions. Yet, it conveys a wrong signal to encroachers.
- On the other hand, the licence fee system is working against the National Housing Policy which lays stress on tenurial rights; it is an anti-poor policy that treats urban poor as second class citizens.

The conclusion is clear:
" After weighing the pros and cons of the two systems, one can safely say that the provision of relocation of plots on tenurial system has got more merits in relation to licence fee system", (…) keeping in view the National Housing Policy, the report of the National Commission on Urbanisation, past experience of *jhuggi-jhompri* resettlement colonies and recommendations in various seminars, workshops organised at the national/international levels. We are of the firm view that there is no other choice except to grant tenurial rights."[24]

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[22] Civil Writ 267 and CM 464/93, November 1993

[23] A reference to this order was found in the Slum and JJ. Annual Plan (2000-01). It has not been found to be reported in any publication which records the orders of the Delhi High Court. Although orders of courts, by definition, are public documents, access to the public may be limited by non-publication.

[24] Decision N° 5632/GW/Corp/ Dated 6.1.97 of the Special officer exercising the powers of Corporation. Date: 31.12.1996, From: The Commissioner, MCD; To: The Secretary, MCD.

In the constitutional order of the Indian state, the executive is bound by the orders of the courts. Acting contrary to an order of the court may invite proceedings in contempt. Where judicial and executive perceptions differ, it is the judicial view that prevails, which explains why, despite this demonstration, the court order had to be applied. Thus, after that plots to squatters in resettlement colonies were allocated only on licence fee basis instead of leasehold basis. As a consequence, the provision of plinth and WC, which was part of the resettlement scheme, was also dispensed with in the development of plots.[25]

2.2. Almitra Patel v. Union of India

In February 2000, the agenda of cleaning up the city acquired a further dimension. In 1996, the Supreme Court had expatiated on garbage disposal, and cleaning of the city. This was in *B.L. Wadhera v. Union of India*[26]. The Supreme Court in *Almitra Patel v. Union of India*[27] re-visited the directions for garbage disposal set out in *B.L. Wadhera*.[28] Finding that the directions had largely not been followed up, the issue was taken on board yet again, but with a significant difference this time. The 'cleaning up' of the city replaced the 'cleaning' of the city.

> "In Delhi which is the capital of the country and which should be its showpiece no effective initiative of any kind has been taken by the numerous governmental agencies operating here in cleaning up the city", the court said. After a collapsing together of "unauthorized colonies", "slums", usurping of land, encroachment, slum "clearance" and the generation of garbage and solid waste, it was said: " Instead of 'slum clearance' there is 'slum creation' in Delhi. This in turn gives rise to domestic waste being strewn on open land in and around the slums. This can best be controlled, at least in the first instance, by preventing the growth of slums." And: "Creation of slums resulting in increase in density (of population) has to be prevented…. It is the garbage and solid waste generated by these slums which require to be dealt with most expeditiously and on basis of priority."(SCC 2000a: 685)

Six months later, in August 2000, the push towards "slum clearance" was reiterated:

> " There are two aspects which came up for consideration at this stage. One is dealing with the solid waste and the second is clearance of slums. The two are inter-related inasmuch as, as has been pointed by the Additional Solicitor General at an earlier point of time, and that is also borne out from the report of the Central Pollution Control

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Subject: Proposal for allocation of relocation plots on licence fee basis instead of lease-hold basis in the wake of directions of Delhi High Court.

[25] Urban Development. Relocation of JJ Squatters. Annual Plan 2000-2001, Slum and Jhuggi-Jhompri Department, Municipal Corporation of Delhi, 13 p. mimeo.

[26] Supreme Court Cases, 1996, volume 2, pp. 594-610.

[27] Supreme Court Cases, 2000, volume 2, pp. 679-690.

[28] Almitra Patel, a retired engineer and environmentalist, and B.L. Wadhera, an advocate of the Supreme Court, were both PIL petitioners who went to court on the issue of solid waste disposal in the city. Neither of them was seeking the demolition of slums; that is an agenda that the court set for itself using the expansive power that had accrued to it in its PIL jurisdiction.

Board, the slums are generating a lot of untreated solid waste and adding to the pollution." (SCC 2000b: 20) [29]

These accusatory premises have no apparent empirical basis and go against the findings of studies on production of waste, which show that "low-income communities in Delhi, like in other Indian cities, produce less waste as compared to high-income communities" (Dhamija 2006).[30]

The prejudice against the slum dweller, explained away as a judgement on "land grabbers", is rendered explicit in words that have become infamous since they were pronounced in open court: "Rewarding an encroacher on public land with a free alternative site is like giving a reward to a pickpocket" (SCC 2000a: 685). This statement also forgets that the access to a resettlement plot is never "free" of cost for the relocated family.[31]

The court had clearly come a long way from the *Olga Tellis* case (1985)[32] where the basic right to shelter was recognized, even if the provision of alternative sites before demolition was not mandated. If *Olga Tellis* turned its back on the plight of persons whose dwellings were demolished, it still acknowledged a need to practice a manner of humanism while cleaning the city of the visible, urban poor. *Almitra* saw no such need. Instead, the establishing of dwellings on public land was equated with illegality, which was equated with criminality, and the right to shelter itself de-legitimized.

It is not only that slums and garbage are seen as synonymous that characterized the court's rendition. It is also the meticulous concern with which the court directed:

- matters relating to sanitation and public health, including "prohibiting accumulation of any rubbish, filth, garbage or other polluted obnoxious matters in any premises……."[p.687];

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[29] Almitra H. Patel vs Union of India (2000) *Supreme Court Cases*, Volume 8, pp. 19- 22.
The order merely refers to the report; there is nothing further about the contents of the report.

[30] Dhamija refers to a joint study carried out in Delhi by the Tata Environment Research Institute and the NGO, Srishti, in 1996 noting that "in slum and resettlement colony clusters where over 40 per cent of Delhi's population lives, the waste generation was 200 grams per day [per capita] in respect of household having monthly income of Rs 2,000 while it was 800 grams per day in more affluent localities containing households having a monthly income of Rs 8,000 and above" (Srishti 2002: 14-15).

[31] For example, in the annual Plan 2000-2001 of Relocation of JJ Squatters (ibid.), the revised terms and conditions of allotment on licence fee basis specify the share to be paid by the licensee /eligible family:
- cash security amount of Rs. 5,000 Rs (interest free),
- advance licence fee of Rs 2,000 (licence fee of Rs 200 per year, for 10 years),
- relocation charge of Rs. 1000.
The total amount of Rs 8000 is certainly not a negligible sum for a slum dweller.
This is apart from the costs generated by the rent seeking behaviour of those involved in the resettlement process.

[32] Olga Tellis versus Bombay Municipal Corporation (1985), vol. 3 *Supreme Court Cases*, pp. 545-590.
Olga Tellis is another famous PIL, that dealt with the matters of slum and pavement dwelling in the context of Bombay, and more specifically with the demolition, deportation and dispersal practised by the Bombay Municipal Corporation in 1981. The matter was taken to court, among others, by Olga Tellis and Praful Bidwai who were journalists, along with two pavement dwellers who were directly affected by the demolitions.

- that "the streets, public premises such as parks etc. shall be surface-cleaned on a daily basis, including on Sundays and public holidays";
- the imposition of a fine for littering;
- the "proper and scientific disposal of waste in a manner so as to undermine the common good"(p.688);
- that landfills be identified to provide for the coming 20 years;
- that sites for compost plants be made available to the concerned agencies of state; and
- the publishing of names and contact numbers of officers 'who are responsible for cleaning Delhi" to whom grievances "by the citizens of Delhi" may be addressed.

The prejudice against the slum dwellers, and the passionate priority accorded to cleaning and cleaning up the city stands revealed in two contiguous directions amongst the rest:

- That sites identified for landfills be handed over to the municipal corporation by the land-owning agency (in this case, the DDA) "within two weeks of the identification, free from all encumbrances and *without the MCD or NDMC*[33] *having to make any payment in respect thereof."* [p.688: emphasis added.] One of the reasons for the sites not being available was because the land-owning agencies like the DDA and the Government of the National Capital Territory of Delhi were demanding a market value of more than forty hundred thousand rupees[34] per acre before the land could be transferred to the MCD. Chastising the agencies for demanding payment for land to provide landfill sites, the court said: "it is the duty of all concerned to see that landfill sites are provided in the interest of public health…Not providing the same because MCD is unable to pay an exorbitant amount is un-understandable"[p.686]

- Yet, having evoked an image of the slum dweller as encroacher, as pickpocket, the court directed that the land-owning agencies and agencies of state "take appropriate steps for preventing any fresh encroachment or unauthorized occupation of public land for the purpose of dwelling resulting in creation of a slum. Further appropriate steps should be taken to improve the sanitation in the existing slums *till they are removed and the land reclaimed.*" [p.688]. The obligation to provide shelter, the exorbitant amount of money for land that the urban poor cannot afford, public health and hygiene, and the security of persons and property of the slum dweller vanished from view.

2.3. Okhla Factory Owners' Association v. Government of National Capital Territory of Delhi

The agenda of slum clearance set in strident terms by the *Almitra* court found its extreme expression in *Okhla Factory Owners' Association v. Government of NCT of Delhi*[35]. Where *Almitra* had equated giving land to a slum dweller for resettlement with rewarding a pickpocket, the *Okhla* court raged about:

- Encroachments being injury to public property (and in that description, constituting a criminal offence);

[33] MCD : Municipal Corporation of Delhi; NDMC : New Delhi Municipal Committee.

[34] Equivalent in 2000 to about 89,000 US Dollar.

[35] Civil writ No. 4441/94 and 2112/2002 decided by the High Court of Delhi on 29 November, 2002.

- Resettlement merely encouraging "dishonesty and violation of law";
- The creation of "a mafia of property developers and builders who have utilized this policy to encourage squatting on public land, get alternative sites and purchase them to make further illegal constructions";
- The use of taxpayers' money to effect land acquisition, which land is then encroached upon.

There is an anger against encroachers that is evident throughout the judgement. So, for instance, the planned development of Delhi, it was said, was being stymied by those "who had squatted and trespassed on public land and refused to move." (pp.2-3) Again, 'public purpose' of planned development had justified the dispossession of small farmers through land acquisition; the use of land so acquired for relocating "persons who have encroached on public land" would "amount to a premium on such dishonesty and public encroachment on the land." The 'encroacher' is pitted against

- The small farmer from whom the land was originally acquired;
- The tax payer, who had paid once for the land encroached, and, again, for the land acquired for resettlement;
- The "honest citizens" who travel long distances to reach the city to work, and who were placed in a "disadvantageous position" vis-à-vis persons who have encroached on public land; and
- The "residents of a town especially when dealing with the one commodity which can never increase - which is land." (p.2)

The pangs of anxiety exhibited by the court can be tracked to

- a fear of being overrun by the influx of people -estimated, according to the court, to be about four to five hundred thousand people every year;
- the consequence of "haphazard and unhygienic mushrooming of slums in the urban areas causing a lot of damage to the health environment of the city as a whole."

About 30 % of the population of Delhi live in slums, the court acknowledges. And the impossibility of allotting alternative sites to the 600,000 families estimated to be living in slums where the administration had managed to allot 22,000 plots between 1990 and 2000 appears to have boggled the court. Witness these statistics (from page 21 of the judgment):

- 6 hundred thousand *jhuggi* dwellers' families;
- 5 hectares of land required for every 1000 'families';
- 3000 hectares needed to allot to 6 hundred thousand families;
- 7000 acres of land required between 1990 and 2000 of which 275 acres utilized for slum dwellers "[A]t this rate, it would require 272 years to resettle the slum dwellers" considering the figure of those squatters who had been there from before 1998;
- Acquisition cost of 7500 acres of land – Rs. 17,250,000,000[36] at the rate of Rs. 23 hundred thousand per acre;
- Development cost for 6 hundred thousand plots Rs. 42,000,000,000[37] at the rate of Rs. 70,000 per plot.

The option of allotting alternative sites as a method of cleaning the city of slums held no

[36] Equivalent in 2000 to about 383 millions of US Dollar.

[37] Equivalent in 2000 to about 933 millions of US Dollar.

promise for the court; not after setting out of these statistics. The depiction of the slum dweller as an "encroacher", as "dishonest", as a drain on the "tax payer" (it is often forgotten that slum dwellers too pay a range of taxes), as a usurper of small farmers' acquired land, was a judicial device to de-legitimize the claim of the slum dweller to shelter in the city. And by invoking the image of the slum dweller as migrant (the 'influx' of migrants is an example), the obligation on the city administration to reckon with housing needs of the slum population was denied.

"This problem of relocation of *jhuggi* dwellers," as the court phrased it, "was arising in number of cases where public interest petitions were filed to clear public land and utilize it for the purpose meant under the Master Plan." [p.4] The 'problem' was resolved by moving full tilt from the obligations to provide housing to its citizens, to actually threatening with punishment those who were pursuing a policy of resettlement! The policy was itself struck down, and the administration forbidden from providing resettlement : "No alternative sites are to be provided in the future for removal of persons who are squatting on public land" [p. 36]. The way to cleaning the city of 'encroachments' and leaving it to its 'residents' and to 'planned development' was thus laid out.

The brutality of the judgment by the Delhi High Court led to an appeal in the Supreme Court, and eventually to a stay order permitting the resettlement of evicted squatters to be implemented as per the current policy, at least till the court finally decided on the legality of resettlement. Thus, in this appeal, the Supreme Court permitted allotments to be made under the resettlement policy, but they would be " subject to the result of the petition".[38]

3. The "Good Governance" in question

In terms of urban governance, these judgements and orders by the Delhi High Court and the Supreme Court are alarming from two viewpoints; they contradict policies drawn up at the national level, and they exclude the poor from the city.

We refer here to the conception of "good governance" according to UN-HABITAT which defines good urban governance as follows:

> "Urban governance is inextricably linked to the welfare of the citizenry. Good urban governance must enable women and men to access the benefits of urban citizenship. Good urban governance, based on the principle of urban citizenship, affirms that no man, woman or child can be denied access to the necessities of urban life, including adequate shelter, security of tenure, safe water, sanitation, a clean environment, health, education and nutrition, employment and public safety and mobility. Through good urban governance, citizens are provided with the platform which will allow them to use their talents to the full to improve their social and economic conditions"[39]

[38] Interim order dated March 3, 2003 in Special Leave Petition (Civil) 3166-67 of 2003 and Special Leave Petition (Civil) (C) 6313-14 of 2003 in the Union of India and National Capital Territory's appeal in the Supreme Court against the High Court order dated November 29, 2002.
That is, if the Supreme Court were to conclude that the Delhi High Court was right in striking down the resettlement policy, the resettled population may face the prospect of demolition and displacement yet again.

[39] Source: UN Habitat: www.unhabitat.org/content.asp?typeid=19&catid=25&cid=2097 (last accessed on 19.08.2008)

We have already shown how the three judgements analyzed reverse some basic principles of the Delhi slum policy. They also go against the recommendations stated in the successive National Housing Policies, as well as the Five Year Plans, and they further "unmake"[40] the Draft National Slum Policy of 1999. Some selected quotations will illustrate this point.

In its section on "Slums and squatter settlements in urban areas and housing for urban poor", the 1992 National Housing Policy invites the Central and the State Governments to take steps to

- " avoid forcible relocation or dis-housing of slum dwellers;
- encourage in-situ up-gradation, slum renovation, and progressive housing development with conferment of occupancy rights wherever feasible, and to undertake selective relocation with community involvement only for clearance of priority sites in public interest" (GOI 1992, Section 4.3.1).

The Draft National Slum Policy of 1999 further embodies the principle that:

" Slums are an integral part of urban areas and contribute significantly to their economy both through their labour market contributions and informal production activities. This Policy, therefore, endorses an upgrading and improvement approach in all slums. It does not advocate the concept of slum clearance except under strict guidelines set down for resettlement and rehabilitation in respect of certain slums located on untenable sites" (GOI 1999: 1).

As far as granting of tenure is concerned, the policy clearly states that:

" Tenure shall be granted to all residents on tenable sites owned or acquired by government. Full property rights shall be granted on resettlement and/or rehabilitation sites." (*Ibid*: 6)

It may be useful to pause at this point to record a legitimate criticism about an approach that attempts to make slums a permanent feature of the cityscape: that such an approach obliterates the distinction between the problem and the solution.[41] It is difficult to find a place for slums within the concept of a planned city. The existence of slums is, then, an index of failure in planning or, as is often the case, in execution of plans. The under-achieving in generating housing stock for the economically weaker sections suggests that non-execution of the project of housing is one identifiable reason for the proliferation of slums; and *in situ* upgradation would only make permanent the problems with failure of planning, or execution of plans, for the city. In this view, the problem is then presented as the solution. This would discharge the state from its responsibilities, and would relegate residents of slums to conditions of living that are lower than would be admitted into any rational plan. This said, it still leaves open the question of how slum dwellings are to be treated until legal and organized housing according to a plan is found. The problematic implications of slum demolitions, and the resettlement of residents of slums, demands answers in the short run, as also in the longer term. In situ upgradation and resettlement policies may be inconsistent with long term, enduring plans for a city; but they would seem to be two possibilities that are

[40] With reference to the evocative sub-title "Unmaking policies", in Geeta Dewan Verma's essay *Slumming India. A chronicle of slums and their saviours* (2002).

[41] This criticism has been already articulated by Gita Dewan Verma in her *Slumming India* (2000: 67): "The Right to Stay (…) is not great privilege. It may stop the occasional bulldozer but, for the rest, it does little beyond change the label from 'problem' to 'solution' with some creative jargon in small print". Mike Davis, in his *Planet of Slums* (2006: 78), also underlines this point by quoting this author.

predicated on the need to meet the immediate moment. This however warrants a caution that a response for the short run, as an exercise in fire fighting, is not allowed to be passed off as a solution to the problems that the phenomenon of slums poses to the city and to the residents of slums.

While the detailing of the policy statements have not been tuned to bring them in consonance with the logic of equitable planning for a city, policy statements do worry about the urban poor getting excluded in the process of planning, and their execution. So, the Ninth Five Year Plan (1997-2002) has among its priorities and strategies "build[ing] sustainability into the housing of the urban poor". More recently, the Tenth Five-Year Plan (2002-07), in its section on *Urban poverty alleviation and slum improvement*, includes as a main directive of a slum policy:
" To arrive at a policy of affirming the legal and tenurial rights of the slum dwellers." (GOI 2002: 628)

These political orientations stated in various official documents also reflect the influence of current international thinking. Thus, the *India National Report*, prepared in 1996 for the Second United Nations Conference on Human Settlements - Habitat II, recognised in the section on Eviction, Displacement and Housing Rights that

"The issue is not only to provide adequate shelter to all but to ensure that the shelter remains with the household. The urban poor largely find a housing solution for themselves on vacant public or private land and this is the only shelter they can afford. The issue is to ensure that they are not evicted from this shelter, without a viable alternative. (GOI 1996: 92)

The final section 'Commitments' includes the following statement:
"The key actors are committed to the eradication of urban and rural poverty, which is a basic requirement for the sustainability of human settlements. This would be done through specific protection of the rights of the poor to land, housing, shelter-related services and income generating opportunities, protecting them against all kinds of exclusions". (Ibid. 114)

Oblivious of this commitment, the recent judgments and court orders go also against the recommendations of the international forums, and are regressive in terms of the rights of the poor to have access to the city. The court cases presented above further distort the essential initial purpose of the Public Interest Litigation (PIL). At the time PIL was devised by the Indian Supreme Court in the late '70s and early '80s, the notion of public interest was identified with the realisation of rights of all persons, more especially those who were pushed to the margins by poverty and consequent powerlessness. This rendition of concern for the impoverished and the dispossessed was however to change, subtly to start with, and with a stridency by the time the *Almitra* and the *Okhla* decisions were handed down.

Eventually, what the *Almitra* judgement also reflects is the emerging conflict between the "green agenda" of those speaking in the name of environment and the "brown agenda" of those articulating the issues in terms of social justice and satisfying the immediate needs of the poor, in particular in relation to their rights to housing.[42]

[42] Thus, Bartone *et al* (1994) define the brown agenda as " the immediate and most critical environmental problems which incur the heaviest costs on current generations, particularly the urban poor in terms of poor health, low productivity and reduced income and quality of life: lack of safe drinking water, sanitation and drainage, inadequate solid and hazardous waste management, uncontrolled emissions from factories, cars and

4. Conclusion

There were three routes that judicial intervention could have traversed in relation to squatter settlements. It could have developed the right to housing and shelter in a framework of fundamental rights or human rights. State responsibilities, and obligations, would have been a necessary part of this discourse. In the alternative, the gap between the plan for Delhi, as represented in the Master Plan for Delhi, and delivery on the Plan could have engaged the court. The mandate to effect planned development of the city, which is in the Delhi Development Act 1957, carries with it the power to compulsorily acquire land, and this power has been exercised resulting in 34% of the land in the urban agglomeration of Delhi passing into the control of the DDA. The statutory duty to execute the plan, which includes integrated housing for the urban poor, could have been the focus of the court proceedings. A third way would have shifted the focus from the slum dweller to the city, and directed the cleaning up of the city. Slums, as 'encroachments' on public land, and as illegal settlements, would fall victim to the bulldozer. This is the perspective that has prevailed.

In 1985, in its initiation into dealing with the eviction of pavement and slum dwellers, the Supreme Court was reticent about recognising the right to housing of the urban poor[43]. Yet, even as it authorised forced evictions, only deferring the deed till after the monsoons, it did iterate the unfulfilled schemes and programmes of housing for the economically weaker sections in the city as state obligation, directing that they be urgently pursued. The past 15 years have seen a hardening of attitude against any right to housing being invested in those that the court has characterised as encroachers. It is ironic that Public Interest Litigation, which was devised by the Supreme Court with the express intent that the indigent and the powerless could have rights reaching them,[44] has been the vehicle for effecting large-scale demolition of the dwellings of the urban poor. The power to direct the executive, and to punish for contempt where its orders are not implemented, has led to an abdication of the position that the executive held in its policies.

Simultaneous with declaring the slum dwellers illegal and ordering the demolition of their dwellings, a drive against 'unauthorised constructions' and illegal use of residential premises was powered by directions of the Supreme Court and the Delhi High Court in 2006. Protests by traders, many of whom operate in residential premises and who are among those with politically clout in the city, led the Parliament to enact the Delhi (Special Provisions) Act in May 2006. This Act declared a moratorium on demolitions and sealing of unauthorized and illegal structures for a period of a year, during which policies, including a revised slum policy, would be readied. This Act provided only a sheen of protection to slums,[45] and a large part of the agenda of slum clearance had already been carried out, but it could have added inertia to further demolition. This law has been under challenge in the Supreme Court, with Parliament standing accused of using its law making power deliberately to thwart the

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low grade domestic fuels, accidents linked to congestion and crowding, and the occupation of environmentally hazard-prone lands, as well as the interrelationships between these problems".
See also: McGranahan and Satterthwaite (2000); UNCHS (1996).

[43] See above the Olga Tellis case in the context of Bombay.

[44] S.P.Gupta v. Union of India, 1981 Supplement SCC, 84.

[45] Section 5 of the 2006 Act.

directions of the court. Eventually, an ordinance by the Union Cabinet and then a bill were passed to extend till 30 December 2008 grant of temporary relief from forcible action to unauthorised constructions in the capital.[46] It is conceivable that, even as the decision about the 2006 Act is reached, there will be a re-negotiation of the balance of power between Parliament and the judiciary. Since the executive did not urge Parliament to act when the court was ordering the demolition of slums, but when protest by traders became strident, it is difficult to surmise that a changed equation may result in executive empathy being with the residents of slums. The revised slum policy for Delhi, which is on the anvil, and the way it is going to be implemented, will require close scrutiny. The extent to which it contests or conforms to the dictates of the court is likely to influence the state's assumption or denial of its obligations to the urban poor, and impact on their right to the city.

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