eviction watch india - ii

editors
sushil george | suresh nautiyal

HRLN
Human Rights Law Network
garibi hatao se garibon ko hatao...

eviction watch india-ii

editors
sushil george | suresh nautiyal

human rights law network
socio legal information centre
new delhi-110014, india
HRLN Vision

To protect fundamental human rights, increase access to basic resources for the marginalised communities, and eliminate discrimination.

To create a justice delivery system that is accessible, accountable, transparent, efficient and affordable, and works for the underprivileged. Raise the level of pro bono legal expertise for the poor to make the work uniformly competent as well as compassionate.

Professionally train a new generation of public interest lawyers and paralegals who are comfortable in the world of law as well as in social movements, and who learn from social movements to refine legal concepts and strategies.

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Cover photo: Section of the collage depicts a child dehoused. The municipal corporation of Delhi demolished more than 284 houses in Bhatti Mines’ Indira Colony slum followed by the Supreme Court orders. (Courtesy-The Indian Express photo by Vikram Sharma April 21, 2006).

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*Any section of this volume may be reproduced without prior permission of the Human Rights Law Network for public interest purposes with appropriate acknowledgement.
This volume is dedicated to the memory of our colleague, comrade and friend Rajeev John George, who inspired several people engaged in the movement for housing rights. Rajeev had played a critical role in the national campaign against forced evictions. His vision was that all urban inhabitants should have their share of space, sky and basic civic amenities.
Acknowledgments

This book is an outcome of the collective work of the various organisations and individuals working towards right to housing and campaign against forced evictions in major Indian cities.

We would, foremost, like to acknowledge Mr Colin Gonsalves for his intellectual support and encouragement for bringing out this publication. We would like to especially thank Mr PK Das, Ms Deepika D'souza, Dr Harsh Dobhal, Prof K Shanmugavelayutham, Mr Indu Prakash Singh, Mr Lalit Batra and advocate SH Iyer for providing constructive solutions, strategies and critical review of the present housing policies.

We sincerely thank Ms Binda Sinha for collecting all international case laws on the right to housing and Ms Bedoshruti Sadhukhan for her vital inputs in bringing out the volume. We would also like to thank Mr Shantanu Duttagupta for his ideation with regard to visual inputs.

Our many thanks to all housing rights activists and organisations who have helped us in the compilation of this volume, especially to: Mr Aswaq Mohammed and Mr Jeevan Kumar from CHATRI, Hyderabad; Kirity Roy from MASUM; Jan Sanhati Kendra and Ucchhed Birodhi Jukta Moncha, Kolkata; Ms D Leena from the Hazard Centre, New Delhi; Mr Sanjay Sangvai from the National Alliance of Peoples Movements; Mohd Pathan of the Sabarmati Nagrik Suraksha Samiti; Ms Beena Jadhav, ActionAid, Ahmedabad; and Mr M Venkateswarulu and Laxmi from Slum Dwellers Welfare Union, Visakhapatnam.
Preface

There has been an increasing consciousness among the global civil society groups on the seriousness of housing and displacement crisis, deepening especially in Asia, Latin America and Africa. It is, however, difficult to measure the seriousness of the problem if one does not look for an efficient means of solving it. At the start of the new millennium, India witnessed one of the largest urban displacements. In Mumbai 300,000 and in Delhi 150,000 persons have been brutally displaced. Similarly, in other cities and towns, forced evictions are driving millions of urban poor into homelessness, destitution and vulnerability.

The demolition squads raze structures often without notices; arrive at the residential sites during night or early in the morning, even when menfolks are away for their daily works and only children are at homes. In New Delhi and other major cities, such people are denied tenurial rights and are either forced to become homeless or are dumped 40-50 kilometres away at remote places.

Globally, about one billion people are living in slums and informal settlements. Slum dwellers make up over 40 percent of the total population in the cities of Asia, Africa and Latin America. According to the Census 2001, India's total urban population is 285.35 million, with approximately one-third characterised as the poorest and most vulnerable in terms of housing and basic amenities.

The Human Rights Law Networks (HRLN), in collaboration with different organisations, has been advocating and campaigning for the right to housing through workshops, campaigns and legal interventions. The first report of Eviction Watch India (EWI) was released in January 2003 at the Asian Social Forum in Hyderabad. This volume provides trends of forced evictions taking place in major cities like Mumbai, Delhi, Chennai, Kolkata, Hyderabad, Ahmedabad and Visakhapatnam. The second edition of the EWI also hopes to facilitate the establishment of a network and linkage with organisations of other cities by providing basic information for advocacy and campaigns to consolidate solidarity with urban struggle groups across India.

This volume presents to the global civil society the magnitude of the problem of forced evictions and associated economic and human costs rendered by such inhuman actions. The articles included in the volume are contributions of professors, lawyers, professionals, journalists, planners, architects and activists, who have recommended a comprehensive strategy to protect housing rights in accordance with the provisions of the Constitution of India and the various United Nations Resolutions for adequate housing to all sections of society, as this can bridge the gaps in policies and practices related to housing.

We express our sincere gratitude and acknowledgment to Late Rajeev John George who had played a significant role in releasing the first report of the Eviction Watch India. His memory, solidarity and valuable contribution to the housing rights struggle will always be imprinted in our minds and hearts.

Sushil George
Housing Rights Initiative
Human Rights Law Network, India
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<td>AMC</td>
<td>Ahmedabad Municipal Corporation</td>
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<td>BARC</td>
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<td>BPL</td>
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<td>CESCR</td>
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<td>CRZ</td>
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<td>CHATRI</td>
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<td>MCH</td>
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<td>MIG</td>
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<td>MML</td>
<td>Model Municipal Law</td>
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<td>MMRDP</td>
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<td>Mid-Term Appraisal</td>
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Introduction

One of the pioneering housing rights campaigners in the country, Mr Jai Sen, had once pointed out: “Dehousing” is as real and constant a social process as “housing” and the two are interlinked. What is happening is no accident: the dehousing of poorer people – the seizure of their homes and the disruption of their domestic security – is in itself a process of relentless impoverishment.”

Experience shows that the forced evictions have never achieved any purpose. The evicted settlements are replaced by newer ones, as the cities are dependent on the poor working classes to run the economy. Though a strategy to displace people has resulted in the short-term gains for the urban elite, this volume indicates the trend that the intensity of urban evictions has increased without any tangible habitat solution for India’s city inhabitants.

Under international laws, demolition of slums is a clear case of human rights’ violation. India, at several international fora, has openly condemned the forced evictions, but within its boundaries such value-based commitments are given scant regards. Forcible evictions of slum and pavement dwellers have become a routine strategy utilised by the government in the name of beautification and development of the cities and towns. The poor in the cities are commonly accused of being ‘squatters’ or ‘illegal encroachers’; but in reality, these sections toil hard and contribute immensely to the economic development of the cities they live in. Thus they have a fundamental right to housing within the respective cities. Unfortunately, the present policies are displacing the urban poor as part of a systematic conspiracy to drive them out of the cities.

Highlights
The overall national trends indicate that the urban poor are being driven out of the cities in a systematic manner.

- The massive demolitions, which occurred in Mumbai, from December 2004 to February 2005, displaced nearly 300,000 persons, creating a record of the largest eviction in the city.
- In order to turn one of Asia’s largest slum clusters into a “green belt with parks and fountains”, the Delhi administration displaced nearly 150,000 people from Yamuna Pushta area, where evictions started from January 22, 2004 till April 2004.
- Tsunami created a natural process of eviction. The coast of Tamil Nadu and Pondicherry bore unprecedented damages and destruction to lives. There were gross irregularities by the authorities. Reconstruction was intentionally delayed in order to grab the coastal lands of the fishing communities.
- Kolkata city continues to face an acute housing crisis, especially among the poor and the West Bengal state government has failed to come out with clear policies or plans to rehabilitate the displaced slum dwellers of the city.
- River front development projects in Hyderabad and Ahmedabad cities have started; the Musi and Sabarmati river inhabitants are facing serious threats of mass evictions in both cities.
- A critical appraisal of the National Urban Renewal Mission (NURM), Acts, laws, regulations on tenure, national, international laws case studies in favour of right to housing. Major demands and recommendations are stated in the Delhi Declaration and the World Charter on the Right to the City.

Why this volume
Housing rights organisations in India have formed an alliance networking in all major cities. The process of formation began with a national workshop held in Mumbai in January 2000, which gave rise to a series of consultations at Indore, Chennai, Kolkata and Hyderabad. Several groups, individuals and organisations also met at the National Consultation on Housing and the Urban Poor held in Mumbai in October 2005 to take forward the process. The civil
society organisations seriously felt that the trend of evictions against the urban poor was rapidly increasing.

Though there are groups working on the housing issues nevertheless, they are hampered by hindrances in the flow of information. The volume updates necessary information to facilitate pro-poor planning process to incorporate all the inhabitants within the legal framework, with the hope to facilitate a larger network and make linkages with housing rights organisations to strengthen and consolidate solidarity with the urban poor struggle groups across the country.

Coverage
The volume covers evidence of forced evictions from seven cities in India – Mumbai, Delhi, Chennai, Kolkata, Hyderabad, Ahemdabad and Visakhapatnam and critical appraisal of housing policies. The national and international housing law also find due place in the volume.

Process
The volume has been prepared in close collaboration with the struggle organisations of the above-mentioned cities. It consists of descriptions of major evictions and a list of localities where evictions have been most virulent. Information has also been collated from available documents including newspaper clippings and other sources. It also includes landmark judgments in favour of or against the forced evictions. The draft of this volume was circulated to the concerned people and several organisations and the key information gaps, pointed out by them, have been filled and their comments incorporated.

Summary analysis
In India, housing for the poor is perhaps the most neglected human development area. Housing shortage in 1997 was estimated to be 13.66 million units. This shortage was 40.8 million units in 2000. Around 90 percent of this shortage is for the lower income groups. These estimates are expected to sharply increase in the near future. Thus, these trends clearly indicate the magnitude of the housing problem in the country. Foreseeing the acute socio-economic imbalance in urban centres of India, the provision of equitable access to residential land, tenurial rights and basic civic amenities have become the most challenging tasks with which to cope in a country of more than a billion people.

---

## Slum Population

**Slum areas constituted**

(i) All specified areas in a town or city notified as ‘slum’ by state/local government and UT administration under any Act including a ‘Slum Act’.

(ii) All areas recognised as ‘slum’ by state/local government and UT administration, housing and slum boards, which may have not been formally notified as slum under any Act.

**Highlights**

- Twenty six states/union territories of India reported slum population in 640 cities/towns in 2001
- Andhra Pradesh has the largest number of towns (77) reporting slums followed by Uttar Pradesh (69), Tamil Nadu (63) and Maharashtra (61)
- 42.6 million population in slums, constituting 15 percent of the total urban population reported in 2001
- 11.2 million of the total slum population of the country in Maharashtra followed by Andhra Pradesh (5.2 million), Uttar Pradesh (4.4 million) and West Bengal (4.1 million)
- 17.7 million slum population reported in the 27 cities with million plus population in 2001. Greater Mumbai Municipal Corporation with 6.5 million slum dwellers has the highest slum population among all the cities followed by Delhi Municipal Corporation (1.9 million), Kolkata (1.5 million) and Chennai (0.8 million)
- 6 million children in the age group 0-6 enumerated in slums. Maharashtra alone accounts for 1.6 million children in slums
- 7.4 million (17.4 percent) of the total slum population belong to the SCs and one million (2.4 percent) to the STs
- Sex ratio (females per thousand males) of the total slum population is 876, which is lower than 905 for the corresponding non-slum urban population
- Child Sex Ratio in the age group 0-6 is 919 in the slum population which is higher than 904 for non-slum urban population
- Literacy rate in the slum areas stands at 73.1 with 80.7 percent male and 64.4 percent female literacy against overall non-slum urban literacy rates of 81.0 for total, 87.2 for males and 74.2 for females in the states reporting slums
- 32.9 percent slum population reported as workers. Male work participation rate is 51.3 and female work participation rate is 11.9 percent in 2001
- 91.1 percent workers in the slum population are ‘other workers’ and 5 percent as ‘household Industry workers’

*Source: Census 2001*
Executive summary

The EWI - II volume extensively describes and analyses the pattern of forced evictions against the local city inhabitants and undertakes a critical appraisal of changing trends in laws and policies on urban land. The first chapter provides an overview picture of the displacement trends and the court judgements. A brief summary of forced eviction in seven major cities of India, which have been covered in detail are as follows:

**Delhi**
The Delhi Development Authority (DDA) and the Municipal Corporation of Delhi (MCD) have evicted 27,000 families from the Yamuna Pushta strip to ‘beautify’ the place for tourist attraction. A study conducted by the HRLN team reveals that the residents of the resettlement sites are in extremely poor conditions. The living expenses are high and they are not able to meet these expenses from their meagre incomes. Most of the residents are of the opinion that they were better off in the slums in Delhi than in the resettlement sites on the city outskirts.

**Mumbai**
The report focuses on the city’s most ruthless and massive demolitions, which had occurred from December 2004 to February 2005. The Maharashtra unit of the Congress party, during earlier elections, had promised the extension of the cut-off-date to year 2000. The NAPM, in collaboration with the local organisations in Mumbai, had played a vital role in the campaign against the forced evictions. A chronology of the events that took place during the forced evictions has vivid descriptions. Ms Deepika D’souza exposes the myths of the policymakers and ground reality situation of the housing scenario. Mr PK Das, an architect and social activist, proposes concrete solutions to defuse the habitat crisis.

**Chennai**
Tsunami created a natural process of dehousing. On December 26, 2004, the entire coast of Tamil Nadu and Pondicherry bore unprecedented damage and destruction. The trends visible in the post-tsunami scenario are of serious concern, especially for the coastal communities. There were gross irregularities during the rehabilitation process and the reconstruction was delayed with the intention that the coastal communities themselves left the coastal areas. Within the city, the Tamil Nadu Slum Clearance Board (TNSCB) and public works department (PWD) have identified 8164 slum families who reside on the banks of major city waterways like Adiyar, Cooum and B’Canal. The government is intending to evict these families as they feel that the communities pose a hindrance to the desilting operations of the PWD.

**Kolkata**
Several thousand families in the South 24-Paraganas district in West Bengal are threatened of evictions. A 21-kilometre road expansion project has been planned along the Budge-Budge Trunk Road. An estimated 20,000-30,000 families currently reside along this stretch of road and will be rendered homeless by the expansion project. No prior legal notices have been served on these families. A ‘progressive’ Kolkata has witnessed one of the most atrocious forced evictions by the local and state authorities on the one hand and demonstrations of tough public resistance from the working class community on the other hand. Left-ruled West Bengal is the only state in the country, which has neither any provision nor an alternative land or accommodation facility for those who are being evicted.

**Hyderabad**
The twin-city of Hyderabad-Secunderabad used to have hundreds of lakes but now there are only 170 lakes left. The administration and private builders have encroached upon the waterbodies all across the city, resulting in floods. The next development disaster that is on the offing is the Mussi River Development Plan
project that will displace some 12,000 families. The local authorities in the city have already evicted numerous houses on the pretext of urban renewal and beautification programme. The hi-tech city has a sizeable homeless population, most of them belonging to the working class.

**Visakhapatnam**

In the fast developing port city and the second largest city in the state of Andhra Pradesh, Visakhapatnam, the administration is grossly violating the costal regulation zone (CRZ), thus displacing large number of the fishing community people as well as large-scale evictions within the city.

**Ahmedabad**

In recent times, the increasing spectre of communal violence has led to a sharp polarisation between the Hindus and Muslims in the city. A beautification programme, the Sabarmati Riverfront Development Project, threatens the slumdwellers in Ahmedabad. The aim of the project is to grab the urban space presently being used by the poor inhabitants for commercial use. Some forty thousand odd families are likely to be displaced, of whom 80 percent are Muslims and the rest are members of other backward classes (OBCs) and scheduled castes (dalits).

**Critique on the housing policies**

Mr Indu Prakash Singh focuses on the homeless people, describing that the domestic policy climate is against the interest of the poor. Dr K Shanmugavelayutham proposes strategies to combat the forced evictions.

**The National Urban Renewal Mission**

This section provides brief background of the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) policies and its programmes in 63 major cities. It describes the genesis of the JNNURM that took place during the pervious regimes. Mr Lalit Batra exposes the politics behind the mission guided by the ‘principles’ of globalisation and the policy of so-called liberalisation.

**Pro-poor city planning**

This chapter reflects Rajeev John George's views on ‘pro-poor city planning’, a compilation of his contributions in the workshops and seminars and his research papers. It provides pragmatic solutions for resolving the housing crisis in urban areas within the legal framework.

**The international instruments**

Advocate SH Iyer reviews the latest judgments on right to housing followed by national laws and policies. Ms Binda Sinha has compiled extensively on the international instruments, UN treaties and guidelines followed by the housing rights case laws. Mr Milloon Kothari, special UN rapporteur, recommends on ‘development-based evictions and displacement’. The concluding two chapters suggest the list of the demands for the urban poor housing drafted as the *Delhi Declaration* during the India Habitat Campaign in October 2004 and the *World Charter of Right to the City*, initiated at the World Social Forum in Porto Alegre.
section one

city overviews

 Delhi report: dehousing the poor from the national capital
 Mumbai report: demolition spree in mumbai city
 Chennai report: rehabilitation in disarray
 Kolkata report: no rehabilitation for the displaced
 Hyderabad report: struggle of mussi river inhabitants
 Visakhapatnam report: coastal regulation zone violations
 Ahmedabad report: grabbing the riverside land

people spend a lifetime building a house
it is pity you are just part of demolishing them

Лоғ ̀ूू ह जाते हैं एक घर बनाने में
तुम तस्स नहीं खाते बस्तियाँ जलाने में
The Right to housing: The Indian experience
Colin Gonsalves

Introduction
India had 1027 million people in 2001 with an urban population of 285 million or 28 percent of the population. The decadal growth rate (1991-2001) was 21.35 percent with the urban growth rate touching 31.13 percent. There are 400 million children. Sixty million of them are under the age of six, living below the poverty line. There are 11 million street children. The minimum estimates of child labour stand at 11 million. Fifty percent of the city populations are in slums though they possess less than five percent of land. In 2000, the housing shortage was 41 million units.

Delhi
The national capital city of Delhi, with a population close to 13 million, has seen wave after wave of brutal demolition of the slums. About 35 percent of the population resides in over one thousand slum colonies. This population grows by the day as the rural poor, mainly from the northern states affected by drought, pour into the city. From the time of the partition of the country into India and Pakistan and the first wave of immigrants to Delhi, the migration has gone on unabated. In 1957, the Delhi Development Act came into force. In 1961, the Delhi Development Authority (DDA) was formed to provide adequate housing for the residents of Delhi. In 1962, the first Delhi Master Plan was formulated. In this Master Plan land was set aside for housing what was called the economically weaker sections (EWS). The areas set aside were inadequate for the simple reason that 70 percent of the Delhi residents live in dwellings that are well below the minimum housing norms. Nevertheless, even these areas were encroached upon by government and by affluent sections.

In 1974, the central government enacted the Urban Land (Ceiling & Regulation Act) purporting to acquire in public interest all land holdings above a particular ceiling at virtually no cost to the exchequer. The lands thus acquired were to be used for site and service schemes where the poor were to pay minimal amounts in return for a small plot of land and basic services. Incremental housing was the norm where the poor could first build a tiny core structure and overtime expand. Thirty thousand acres of prime urban land in the cities of India thereafter became available virtually free for housing the urban poor. Builders and others began to covet this property. The Act was then subject to fierce criticism in media and was ultimately sabotaged by the builders, lobby. From the land vesting in the government only 7000 acres was taken possession of and out of this only about 1000 acres was actually developed for housing. Exploiting the loopholes in the Act, the land acquired was handed back to the owners. The government of India repealed the Act in 2000.

With the repeal of the Act, disappeared any possibility of housing the poor in the urban areas.

With the declaration of the internal Emergency by the central government in 1975 came a wave of evictions and three quarter of million people had their homes bulldozed. Some of them were relocated on the periphery of the city. But the evictions gave rise to grave discontent together with other factors. The demolition

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* Colin Gonsalves is a senior Supreme Court lawyer and a human rights activist. He is the founder-director of the Human Rights Law Network, India
3. Vagale LR – (2000), Housing and urban development authorities laws in Bangalore, Housing Legislation in India
of slums led very quickly to the downfall of the Congress in the general elections. But after a short break the demolitions continued irrespective of the party in power.

The second Master Plan for Delhi was finalised somewhere in 1986 and the third draft Master Plan was released in April 2006. This draft identifies slum clusters as the single biggest challenge to making the city slum free.

The Commonwealth Games, proposed to be held in Delhi in 2010, saw the largest ever displacement from Delhi starting from the year 2000. There are no records available of the number of homes demolished, but NGOs estimate that over 200,000 people have been evicted. From the Yamuna Pushta area 150,000 people were brutally evicted in phases in order to create parks and fountains. This population was overwhelmingly Muslim giving rise to allegations that the demolitions had a communal flavour to them. There were many complaints that the police had set fire to the huts while evicting families. The homes where the disabled stayed were broken with equal ferocity. Notices of the eviction were rarely given and families were caught unawares while the men were at work. They would return to see their homes in ruin with their children sitting on top of the debris. Schools were smashed leaving children without any chance of continuing with their education. There were reports of the aged and infirm persons dying inside the houses when the bulldozers crashed through.

The relocations were not done in most cases. Families lost their identity cards in the demolitions and fires and were unable to make applications for alternative sites. The Muslims were told that they would not be given alternative accommodation unless they had their police verification done ostensibly because the government considered all Muslims to be potentially from Pakistan or Bangladesh and in any case, anti-national. Thousands of families were unable to get the place at the relocated sites many miles away from the city.

The relocated sites were basically dumping grounds for human beings. Stagnant water became the breeding ground for mosquitoes. Toilets were not constructed and people were forced to defecate in the open. The tubewells sunk for drinking water threw up brackish water that was not potable. Water then had to be supplied through tankers, which came to the colonies infrequently leading to stampedes. The resettlement colonies were many miles away from the places of employment but bus services were not available. To make the matters worse, the bus fares to and from work were so exorbitant that it was just as good to stay at home. Unemployment was widespread. Children discontinued their education due to lack of schools. There were no hospitals in the area and the public health systems that existed were understaffed and without medicines. Open drains were filled with filth. Ration shops providing subsidised grain for those below the poverty line remained closed most of the time.

6. Hindustan Times, Slums to be relocated, September 16, 2005
Even these sub-human relocation sites were the subject of litigation. A petition was filed in the High Court at Delhi challenging the government's decision to provide plots of public land for the evictees. This petition was filed on the basis that slum dwellers being encroachers on public land had no right to be given any other public land by way of compensation. Reference was made to a short order of the Supreme Court in a slum demolition matter where the Supreme Court observed that the slum dweller was akin to a pick pocket and that to relocate a slum dweller was like rewarding a pick pocket for his crime.

In similar circumstances, demolitions were carried out at 53 working class colonies from 2000 onwards.

**Mumbai**

With a population close to 16.5 million people, Mumbai has half of its population living in slums. They occupy only eight percent of the city's land. Formally those who were listed in the 1976 census of slums were eligible to be covered by slum improvement schemes and also eligible for an alternative plot in case of evictions. This introduced the concept of a cut-off date. Later, the electoral rolls of 1980 were adopted as the cut-off. This was then shifted to 1985, to 1990 and later to 1995. In 2003, eighty six thousand families in and around the Sanjay Gandhi National Park were evicted despite being covered by the cut-off dates under the orders of the High Court, which took the extreme step of using helicopters and deploying retired military officers to evict the poor inhabitants. Along these lines, several massive demolitions took place in Mumbai. Between November 2004 and February 2005, over 300,000 people were rendered homeless when over 80,000 homes were smashed. More than 150,000 children were rendered homeless. Police personnel, 3989 in number, were used during the operations. Hundreds of activists protesting the demolitions were arrested. As in Delhi, many schools were demolished in the Mumbai drive as well.

Salma Banu, 10 years old, said: “My parents were dragged and beaten up by the police. My home was burnt including my books and all my belongings”. Imran, 12 years old, lost his bicycle in the demolition. His parents bought this for him after many years. His mother ekes out a living by stitching clothes. Fourteen years old Ibrahim said: “We cannot study because we don’t have a home. What will we eat if our parents lose their jobs?”

At about the same time, an organisation was floated by the builders, industrialists and former senior bureaucrats called Mumbai First, which drafted its own development plan for Mumbai with the help of the multinational consulting company, McKinsey. Together with the World Bank, they envisaged the city without the poor in their “Vision Mumbai” plan. This elite citizens action group worked closely with the Maharashtra government during the demolitions. In January 2005, the Prime Minister of India, at an NRI conference in Mumbai, assured the participants that Mumbai would be converted into a Shanghai within five years.

The World Bank’s murky role in the demolition was exposed by the demonstrators. The Bank financially supports the Mumbai Urban Transport Project, which requires a forced eviction of 17,000 homes, 2700 shops and hundreds of small industrial units. Hundreds of complaints poured in about inadequate income restoration and resettlement arrangements. The resettlement sites were the most polluted in Mumbai and located near the main municipal dump. Several huge open drains passed through this area carrying the city’s waste including blood, excreta, the carcasses of animals butchered at the nearby abattoir and radioactive wastewater from the nearby Bhaba Atomic Research Centre. Faced with the allegations of serious problems in resettlement, the World Bank temporarily suspended the project in 2005 and once the demonstrations died down, resumed funding.

A survey done of the evicted families by a reputed educational institution, the Tata Institute of Social Sciences, found that in one-third of the cases, there was loss of employment. The ration cards, which need to be produced to obtain subsidised grain, were not transferred to the new

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10. Child rights meeting in Mandala on May 25, 2006, Maju Varghese, YUVA, Eviction Watch
12. MUTP, Inspection Panel Excerpt report, December 21, 2005
locations. People were hungry and without food. Women were selling the remnants of their jewellery to meet household expenses. In the located sites there were no schools, employment, burial grounds or medical facilities.  

**Chennai**

Similarly, South India’s largest city, Chennai, the capital of the state of Tamil Nadu with a population of seven million, saw repeated demolition of slums notwithstanding a government policy requiring mandating that evictions could be done only for a public purpose and that too with due notice and after provision of alternative accommodation and basic amenities.

Major evictions took place due to the construction of a Mass Rapid Transits System in the 1980’s. In 1994 large scale evictions angered the unorganised workers took to the streets in large numbers. Then came the evictions of families from the riverbanks. There were proposed to be relocated 20 kilometres away. Then came the evictions of those close to the Marina Beach. They were relocated 20 kilometres away with no drinking water, transportation, electricity, toilets or school facilities. After that the Marina Beach fishing community was shifted despite massive protests. Wave after wave of demolitions followed. The people of Chennai opposed the setting up of five five-star hotels, foreign missions and new Secretariat at Marina Beach.

The tsunami, which hit Tamil Nadu in 2004, destroyed the houses of the poor along the coast. The government took advantage of this and prohibited families from reconstructing their houses on the shore as before asking them to move back by 100 metres. The coastal land thus vacated were to be allotted to industries, resorts, hotels and other corporate projects. The World Bank and the Asian Development Bank acted quickly to exploit the situation promoting fishing industry projects over local fisher people. Private companies, factories, shrimp farms and sand mining companies began to move in. The dalit communities, who live on the seashore but without any record of rights, were not permitted to return. Thus the tsunami paved the way for the privatisation of coastal areas and the commercialisation of the coastal zones.

In May 2005, a coastal *yatra* (campaign) was organised by people’s organisations calling for participatory livelihood restoration and the provision of housing. The Human Rights Law Network, a network of lawyers and social activists in the country, filed a public interest petition in the Madras High Court and obtained a stay on the forced evictions of the fishermen community. Nevertheless, strenuous attempts are still being made by the government to evict the seashore community.

The Chennai Munucipality simultaneously began construction of one of the largest projects in the country for housing the economically weaker sections, but these projects failed because the relocated sites were very far away from the city.

**Kolkata**

Formerly known as Calcutta, this is the largest city in the east with a population of more than 13 million. Evictions here have gone on relentlessly since the late 1970s. In 1996 the Kolkata Corporation started “Operation Sunshine” evicting thousands of hawkers from the pavements. In 2001, pursuant to an Asian Development Bank initiated, over 20,000 people were displaced. City NGOs set up a ‘People’s Commission on Eviction and Displacement’ consisting of retired High Court judges. In September 2002 the commission enquired into the displacement and concluded “the system is not only colonial; the judicial system is downright pathetic.” To say that it is designed for the rich is an under statement. The poor in this country have not the slightest chance of

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13. An impact assessment of R&R implementation for the MUTP - TISS report  
15. Shelter Rights in Chennai by Dr K Shanmugavelayutham, paper presentation on behalf of the Chennai Slum Dwellers Rights Movement, May 2005  
16. Memorandum to Chief Minister, Tamil Nadu, January 2005 (Annexure – IV)  
even approaching a court of justice, let alone pursue a case”. On December 10, 2002, while the world was observing International Human Rights Day, the West Bengal government evicted 4000 people from Beliaghat in what is now known as the December 10, carnage.\textsuperscript{18} In February 2003, 7000 persons from the scavengers community were evicted from Bellilious Park.\textsuperscript{19} A three year old died of starvation during that period. An Asian Human Rights Commission team appealed to the government to provide the families alternative accommodation, but nothing was done. In 2005, twenty five thousand families were asked to vacate their premises due to the construction of the Budge-Budge Trunk Road.\textsuperscript{20} The slum dwellers put up strong resistance and the eviction was temporarily postponed. The same year saw the proposed evictions of thousands of families due to the Asian Development Bank project aimed at constructing national and state highways with no plan for rehabilitating those displaced.

**Hyderabad**

Hyderabad, the capital city of the state of Andhra Pradesh in the south centre of the country, likewise saw a spate of demolitions. In the mid-Seventies progressive policies prevailed and the Hyderabad Urban Development Authority planned to integrate slum populations within the city itself. Land was distributed to the poor and housing loans were made available at affordable rates of interest. Slum upgradation was done. But in the Eighties all that changed. A local NGO, ‘Campaign for Housing and Tenurial Rights, accused the authority of selling prime urban land to the various business interest groups.\textsuperscript{21} Evictions replaced in-situ upgradation as the norm. Group of slum dwellers who approached the High Court in 1985 obtained one of the rare pro poor orders. The High Court said, “so long as the land is not required for any compelling public purposes the petitioners shall not be dispossessed.”\textsuperscript{22} Particularly from late 1990s, thousands of families from all over Hyderabad had their homes bulldozed. The Asian Development Bank was a prime mover behind these demolitions. In a few instances, where alternative plots were provided, they were 20 kilometres away from the city. As a result of these demolitions, the population of the city’s pavement dwellers went up. In 2000, when the then US President, Bill Clinton, visited the city, thousands of homeless people were loaded onto large trucks and dumped hundred kilometres away. It took them several days to walk back.

The river development project under the name Save Mussi Campaign is being used by the AP government to displace 12000 households from the banks of the 18 km long Mussi river, which divides the city. On the Mussi bank, there are farmers in 40 villages cultivating on 50,000 acres of land who would also be affected by the project.

**Ahmedabad**

Ahmedabad, the capital of Gujarat in western India, saw the demolition of slums go hand in hand with the ethnic cleansing of the Muslims, but it was not always like this. The evictions of the 1950s and 1960s were replaced in the 1970s by the upgradation of slums. But this period of relative peace was short lived. The slum upgradation programme initiated by the World Bank in 1984 collapsed due to the inertia of the Ahmedabad Municipal Corporation and the project was abandoned in 1992. By 2004, the World Bank perspective had changed and led by the Country Director Michael Carter, the World Bank evolved the policy to remove slum dwellers.

\textsuperscript{18} The 10th December Carnage - Strategies to Combat Forced Evictions, 2003, Combat Law, P - 23
\textsuperscript{19} Memorandum on Bellilious Park, Kolkata Report, by Kirity Roy
\textsuperscript{20} India: New Eviction case in the name of road expansion, West Bengal (http://foodjustice.net/ha/mainfile.pha/ha/marmfile.pha.)
\textsuperscript{21} Dr Anthoniraj Thumma, In Deep Waters…CHATRI publications, Dec 2000
\textsuperscript{22} WP 17777/85, Andhra Pradesh High Court
The most vulnerable were the Muslims. In the eviction connected with the Riverfront Development Project, 40,000 families were to be displaced, 80 percent of whom were Muslims. In the place of the slums, commercial complexes, markets, hotels, motels, cinema houses, farmhouses, water resorts, canals, fountains and showers were planned. Grabbing the riverside land from the poor was the key. From 2003 onwards, thousands of families had their homes bulldozed. Street vendors were systematically evicted. In a few instances alternative plots were provided, which were over 20 kilometres away.

The Gujarat High Court proved to be one of the most sympathetic to the urban poor. In case after case, the High Court directed the rehabilitation of the evictees. This was contrary to the national trend where most of the High Courts and even the Supreme Court dismissed petition after petition seeking due notice and rehabilitation.

**The National Urban Renewal Mission Programme**

The Prime Minister of India, prompted by the World Bank, Asian Development Bank and USAID, announced the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) programme in December 2005. No sooner had it been announced, it was unanimously condemned by the human rights organisations throughout India as this was a well planned conspiracy to privatise basic amenities including water and to allow the rich, builders, contractors, multinational companies and others free rein. A former Prime Minister of India called it anti-poor and the Community Party of India (Marxists) criticised the mission. The first adverse aspect of the mission was private-public partnership, which had utterly failed to provide services and housing for the urban poor. The *in-situ* experiment and cross subsidy or land sharing schemes benefited not the poor but the rich, and the former were squeezed into smaller urban spaces and experienced deterioration in their living standards. *In-situ* upgradation was sabotaged everywhere. In a central Indian city – Indore – where the DFID invested US$ 14 million on an *in-situ* upgradation, but after its completion, the next endeavour was to scrap the infrastructure and settlements through the riverfront development project. Despite their failure at the ground level, *in-situ* upgradation schemes received international acclaim and recognition as global best practices. Ironically, the Slum Networking Project bagged the International Habitat Award in 1994 and the Agha Khan Award for architecture in 1997.

In 2005, a renewal attempt was made to privatise urban water supply throughout the country. The Delhi Municipal Corporation proposed the Delhi Municipal Corporation (Amendment) Bill, 2005, sponsored by the USAID. Though oriented towards “full cost recovery”, which in reality means depriving the very poor of water, even in cases where slums were in a position to pay, the orientation of the government remained to deprive the poor of water and drive them out of cities. Tentative studies done by the NGOs indicated that the poor in slums paid more for their water than those living in the middle class and upper class colonies. All these despite a Common Minimum Programme of the present United Progressive Alliance, which is in power at the Centre. The programme says, “the UPA government commits itself to a comprehensive programme of urban renewal and to a massive expansion of social housing in towns and cities, paying particular attention to the needs of the slum dwellers.”

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23. Grabbing Urban Poor Habitat – Sabarmati Riverfront Project, CL vol. 3 issue 3
25. Poverty & Vulnerability in Indore, Oxfam urban Poverty Research Report, August 1999
26. George Deikun, Mission Director, USAID India – at the national media conclave “Globalising Indian cities: Partnership for change
27. Page 12, CMP, May 2004
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Supreme Court decisions

In Shantistar Builders vs Narayan Khimalal Totame (1990) 1 SCC 520: "The right to life would take within its sweep the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in. The difference between the need of an animal and a human being for shelter has to be kept in view. For the animal, it is the bare protection of the body, for a human being it has to be a suitable accommodation, which would allow him to grow in every aspect – physical, mental and intellectual. The Constitution aims at ensuring fuller development of every child. That would be possible only if the child is in a proper home."

In Chameli Singh vs State of UP (1996) 2 SCC 549: "In any organised society, right to live as a human being is not ensured by meeting only the animal need of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions, which inhibit his growth. All human rights are designed to achieve this object. Right to life guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilised society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and the Convention or under the Constitution of India cannot be exercised without these basic human rights.

"Shelter for a human being, therefore, is not a mere protection of his life and limb. It is where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structures, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads, so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one’s head but right to all the infrastructure necessary to enable them to live and develop as a human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right.

"As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society, as a member of the organised civic community, one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in a democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultural being. Want of decent residence, therefore, frustrates the very object of the constitutional animation of the right to equity, economic justice, fundamental right to residence, dignity of person and right to live itself."

In Ahmedabad Municipal Nagarpalika vs Nawab Khan Ghulab Khan (1977) 11 SCC 121: "The right to life enshrined under Article 21 includes meaningful right to life and not merely animal existence. Right to life would include right to live with human dignity. Right to life has been assured as a basic human right under Article 21."

Due to want of facilities and opportunities, the right to residence and settlement is an illusion to the rural and urban poor. Articles 38, 39 and 46 mandate the State, in its economic policy, to provide socio-economic justice to minimise inequalities in income and in opportunities and status. It positively charges the State to distribute its largesse to the weaker sections of the society envisaged in Article 46 to make socio-economic justice a reality, meaningful and fruitful so as to make life worth living with dignity of person and equality of status and to constantly improve excellence.

Though no person has a right to encroach and erect structures or otherwise on footpaths, pavements or public streets, the state has the constitutional duty to provide adequate resources for settlement of life to make the right to life meaningful...
only denude life of effective content and meaningfulness but it would make life miserable and impossible to live.

Article 19 (1) (e) accords right to residence and settlement in any part of India as a Fundamental Right. Right to life has been assured as a basic human right under Article 21 of the Constitution of India. Article 25 (1) of the Universal Declaration of Human Rights declares that everyone has the right to a standard of living adequate for the health and well-being of himself and his family, it includes food, clothing, housing, medical care and necessary social services. Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights lays down that State Parties to the Covenant recognise that everyone has the right to a standard of living for himself and his family including food, clothing, housing and to the continuous improvement of living conditions.

In Maharashtra Ekta Hawkers Union vs Municipal Corporation, Greater Mumbai (2004) 1 SCC 625: “The above authorities make it clear that the hawkers have a right under Article 19 (1) (g) of the Constitution of India”.

**International instruments incorporated**

The use of the Constitution to defend and further the rights of the poor has taken a unique turn in India. Unlike many courts in Europe or the United States, the Indian courts are empowered to directly incorporate international treaties as part of the municipal law and to enforce them as such. Thus international treaties are not only used to interpret ambiguous provisions of law but are also, by themselves, capable of being acted upon in the Indian courts. This very positive interpretation of the Constitution was utilised as far back as 1969 in Maganbhai’s case where the Supreme Court held that international conventions that add to the rights of citizens are automatically enforceable while international conventions that take away existing rights require such domestic legislation to become enforceable. In the Gramophone Company of India’s case, the Supreme Court held that "the comity of nations requires that the rules of international law may be accommodated in the municipal law even without express legislative sanction provided they do not run into conflict with Acts of Parliament". In the Apparel Export Promotion Council’s case, the Supreme Court held that "the courts must forever remain alive to the international instruments and conventions and apply the same to a given case where there is no inconsistency between international norms and the domestic law occupying the field".

Another important divergence of Indian law from the European and US law is in respect of lawmaking by judges. The notion or ‘fiction’ that judges only interpret the law has long since been discarded. It is now well settled that judges do, in fact, make law, often through progressive and creative interpretation. The progressive teleological interpretations of the European Court of Human Rights and European Court of Justice are a case in point. The Indian courts have, however, gone one step further. The Supreme Court has candidly admitted that judges do, in fact, make law, particularly in circumstances where there is a gap in the law or where legislative coverage in respect of a fundamental right has been lacking for a considerable time. It is interesting to note that some western courts that have moved in the same

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28. While most European states adopt a dualist system with respect to incorporation of international law, former countries from the Soviet bloc have been much more willing to directly incorporate human rights treaties, international customary laws and general principles of international law within their constitutions and thereby permit judicial application. See, for example, the constitutions of Latvia and Estonia. A similar trend is evident in Latin America

29. Maganbhai vs Union of India, AIR 1969 SC 783 (1969). The Supreme Court stated: ‘By Article 73, subject to the provisions of the Constitution, the executive power of the Union extends to the matters with respect to which Parliament has power to make laws. Our Constitution makes no provision making legislation a condition of the entry into an international treaty in times either of war or peace. The executive power of the Union is vested in the President and is exercisable in accordance with the Constitution. The Executive is qua the State competent to represent the State in all matters international and may by agreement, convention or treaties incur obligations which in international law are binding upon the State. But the obligations arising under the agreement or treaties are not by their own force binding upon Indian nationals. The power to legislate in respect of treaties lies with Parliament under Entries 10 and 14 of List I of the Seventh Schedule. But making of law under that authority is necessary when the treaty or agreement operates to restrict the rights of citizens or others or modifies the laws of the State. If the rights of the citizens or others which are justiciable are not affected, no legislative measure is needed to give effect to the agreement or treaty...If, in consequence of the exercise of executive power, rights of the citizens or others are restricted or infringed, or laws are modified, the exercise of power must be supported by legislation: where there is no such restriction, infringement of the right or modification of the laws, the Executive is competent to exercise the power


31. Apparel Export Promotion Council vs AK Chopra,1999 (1) SC 756
teleological direction have sometimes been compelled to issue detailed orders or even re-write legislation.

As the decisions of the Supreme Court stand on par with statutes, a combination of this lawmaking propensity together with the incorporation of international standards in Indian law makes for a very potent force. This was seen in Vishakha’s case where, due to the lack of a law relating to sexual harassment in the country, the Supreme Court incorporated the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women and laid down guidelines in respect of the prevention of sexual harassment and punishment for that crime.

**Locus-Stand in the enforcement of the ESC Rights**

The debate on the Optional Protocol manifests a restrictive approach on the issue of standing to sue, and may benefit from the approach of the Indian Courts. Western law traditionally requires a direct connection between litigant and the subject matter of the litigation. In India, however, innovative developments came over two decades ago when the Supreme Court held that it was permissible for any person acting *bona fide* in the interest of the poor, illiterate or the oppressed to file writ petitions either in the High Courts or the Supreme Court for the enforcement of a fundamental right. The poor in India rarely know the law and are too poor to litigate. As a result of the ruling however any doctor, lawyer, social worker, academic, indeed any person can file a case for the enforcement of the rights of millions of persons without needing to demonstrate any direct nexus with the reliefs sought in the litigation.

**Burden of proof**

The liberal standing requirements, however, raise the issue as to how a public interest litigant is to gather the evidence necessary for a national level case relating to large numbers of poor persons? The Supreme Court answered that question by laying down that once the public interest petitioner brought the issue to the court he is viewed as having done a service to the court and the people. Thereafter, it is the duty of the court through the appointment of commissioners to gather the evidence necessary to establish the facts for the prosecution of the case. In other words, the evidentiary burden shifts on to the court and it becomes the public duty of the court to continue with the matter. Moreover, where the breach of a fundamental right is alleged the burden is on the state to demonstrate that its actions are legal.

**Mandatory orders and their implementation**

How are the orders of the court to be enforced? Is it adequate for the court merely to make an order and then sit back and wait for the petitioner or some aggrieved party to file a case for contempt when the order is disobeyed? An interesting innovation took place on this point after the judiciary noticed that orders of even the superior courts were routinely disobeyed in India. The court developed the practice of issuing the ‘continuing mandamus’, whereby after the orders are issued, courts continued to retain jurisdiction over the matter and periodically reviewed progress of the implementation of the court order.

**Resources**

The Indian Supreme Court considered the question of how courts should respond to the routine objections of

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32. The Court stated: ‘In the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all work places, the contents of International Conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15, 19(1)(g) and 21 of the Constitution and the safeguards against sexual harassment implicit therein. Any International Convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee.’ Vishakha v. State of Rajasthan, 1997 (5) Scale 453 at para. 7. Available at www.supremecourtonline.com/cases/2447.html

33. See, for example, SP Gupta vs Union of India & Another [1981] (Supplementary) SCC 87; where the Court held that where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reasons of violation of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened, and any such person or determinate class of persons is by reason of poverty or disability or socially or economically disadvantaged position unable to approach the Court for relief, any member of the public or social action group can maintain an application for an appropriate direction, order or writ in the High Court under Art 226 and in case of breach of any fundamental right of such person or class of person, in this Court under Art 32 seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons. This Court also held that procedure being merely a hand-maiden of justice it should not stand in the way of access to justice to the weaker sections of Indian humanity and therefore where the poor and the disadvantaged are concerned who are barely eking out a miserable existence with their sweat and toil and who are victims of an exploited society without any access to justice, this Court will not insist on a regular writ petition and even a letter addressed by a public spirited individual or a social action group acting pro bono publico would suffice to ignite the jurisdiction of this Court.
States that they do not have adequate funds to enforce the ESC rights. In the Ratlam Municipality case, the Supreme Court held: "when it comes to the enforcement of a human right the court would not entertain an inquiry into the ‘perverse expenditure logic’ of the state departments."

**Divergence between law and reality**

Article A25(1) of the Universal Declaration of Human Rights guarantees everyone right to housing. Article KA(12) lays down that no one shall be subjected to interference with his home. India has ratified the International Covenant on Economic, Social and Cultural Rights without any reservation to Article 11, which requires India to recognise the right to everyone to an adequate standard of housing. General comment 4 on the right to adequate housing found, “despite the fact that the international community has frequently reaffirmed the importance of full respect for the right to adequate housing, there remains a disturbingly large gap between the standards set in Article 11(1) of the Covenant and the situation prevailing in many parts of the world.”

The committee believed that it is possible to identify certain aspects of the right to adequate housing that must be taken into account. It required state parties to “take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.” The State Parties were required “to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. State Parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance, which adequately reflect housing needs.” In developing housing for poor and evolving a housing policy, the State was required to have “extensive genuine consultation with, and participation by, all of those affected, including the homeless, the inadequately housed and their representatives.” Where the right to adequate housing was constitutionally entrenched the states were required to put in place legal procedures enabling appeals “aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; and legal procedures seeking compensation following an illegal eviction.” The committee considered that “instances of forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.” The committee concluded “the State Parties both recipients and providers, should ensure that a substantial proportion of financing is devoted to creating conditions leading to a higher number of persons being adequately housed. The international financial institutions promoting measures of structural adjustment should ensure that such measures do not compromise the enjoyment of the right to adequate housing.”

**General Comment 7**

In General Comment 7, the committee noted that the Commission on Human Rights has indicated that “forced evictions are a gross violation of human rights”. “Although these statements are important, they have opened one of the most critical issues, namely that of determining the circumstances under which forced evictions are permissible and of spelling out the types of protection required to ensure respect for the relevant provisions of the Covenant.

The term “forced evictions” as used throughout this general comment is defined as the permanent or temporary removal against the 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.

Other instances of forced eviction occur in the name of development. Evictions may be carried out in connection with conflict over land rights, development and infrastructure projects, such as the construction of dams.
or other large-scale energy projects, with land acquisition measures associated with urban renewal, housing renovation, city beautification programmes, the clearing of land for agricultural purposes, unbridled speculation in land, or the holding of major sporting events like the Olympic Games.

**Article 2.1** of the Covenant State Parties to use “all appropriate means”, including adoption of legislative measures, to promote all the rights protected under the Covenant.

It is clear that legislation against forced evictions is an essential basis upon which to build a system of effective protection.

**Such legislation should include measures which:**

(a) provide the greatest possible security of tenure to occupiers of houses and land
(b) conform to the Covenant, and
(c) are designed to control strictly the circumstances under which evictions may be carried out.

Moreover in view of the increasing trend in some states towards the government greatly reducing its responsibilities in the housing sector, the State Parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out without appropriate safeguards by private persons or bodies. The State Parties should, therefore, review relevant legislation and policies to ensure that they are compatible with the obligations arising from the right to adequate housing and repeal.

State Parties shall ensure, prior to carrying out any evictions and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding or at least minimising the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. State Parties also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected.

The committee considers that the procedural protections which should be applied in relation to forced evictions include:

(a) an opportunity for genuine consultation with those affected
(b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction
(c) information on the proposed evictions, 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

(d) especially where groups of people are involved, government officials or their representatives to be present during an eviction
(e) all persons carrying out the eviction to be properly identified
(f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise
(g) provision of legal remedies, and
(h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

The committee is aware that various development projects financed by international agencies within the territories of State Parties have resulted in forced evictions. In this regard, the committee recalls its General Comment 2 (1990) which states *inter alia*, international agencies should scrupulously avoid involvement in projects which, for example… promote or reinforce discrimination against individuals or groups contrary to the provisions of the Covenant, or involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation. Every effort should be made, at each phase of a development project, to ensure that the rights contained in the Covenant are duly taken into account.

In accordance with the guidelines for reporting adopted by the committee, State Parties are requested to provide various types of information pertaining directly to the practice of forced evictions. This includes information relating to:

(a) the “number of persons evicted within the last five years and the number of persons currently lacking legal protection against arbitrary eviction or any other kind of eviction
(b) legislation concerning the rights of tenants to security of tenure, to protection from eviction, and
(c) legislation prohibiting any form of eviction.

Information is also sought as to ‘measures taken during *inter alia* urban renewal programmes, redevelopment projects, site upgrading, preparation for international events (Olympics and other sporting competitions, exhibitions, conferences, etc.) ‘beautiful city’ campaigns,
etc., which guarantee protection from eviction or guarantee re-housing based on mutual consent, by any persons living on or near to affected sites. However, few State Parties have included the requisite information in their reports to the committee. The committee, therefore, wishes to emphasise the importance it attaches to the receipt of such information.

Some State Parties have indicated that information of this nature is not available. The committee recalls that effective monitoring of the right to adequate housing, either by the government concerned or by the committee, is not possible in the absence of the collection of appropriate data and would request all State Parties to ensure that necessary data is collected and is reflected in the reports submitted by them under the Covenant.”

Housing rights in India are an extraordinary example of practice departing sharply from the law. India ratified the International Covenant on Economic, Social and Cultural Rights without any reservation. The ICESCR has been referred to in scores of judgments of the Supreme Court. There is no doubt whatsoever that it is enforceable in the Indian courts. Nevertheless, wave after wave of the most brutal demolitions have taken place without notice, justifiable reason, in inclement weather, without compensation or rehabilitation. There are several decisions of the Supreme Court which specifically include the right to housing in Article 21 – the Right to Life. Yet this has never been enforced except when propertied sections seek to enforce the right. There is no explanation for the vehemence with which demolitions are carried out without any regard to the fact that the State is dealing with human beings. Evictions in India are akin to apartheid in South Africa. No democratic country has behaved thus with its urban population as India has. The drive to clear the cities of the poor will have terrible consequences not only for the poor but for the city itself giving rise to grave crimes, violence and in long run insurrection. We will have, then, only ourselves to blame.
Delhi report

Dehousing the poor from the national capital

Demography
Delhi is the national capital of India. The population of the city is more than 12.87 million, according to the union ministry of urban development’s note on the national urban renewal mission. The Census 2001 records the decadal growth rate at 16.6 percent. The area of the city is 1056.32 square kilometres with a density of 9,294 persons per square kilometre.

City profile
After Partition of India in 1947, the city’s population was 1.6 million. The first wave of immigration to Delhi was during Partition in which not less than 500,000 Sikh and Hindu refugees fled to Delhi. From 1950s onwards, an increased number of rural migrants followed, mostly from the poor states of north India. Now, Delhi has become one of the most populous cities in Asia, its urban agglomeration counting close to 13 million inhabitants.

In 1956, the Bharat Sewak Samaj conducted a survey of slums in old Delhi. They found that there were 1787 clusters with a population of 225 thousand out of a total of 951 thousand. The slum population was thus 23.66 percent. On the contrary, during the 1960s the government survey estimated the slum population as being only 4.4 percent of the whole. Based on their grossly manipulated figures of slums, the administration decided to allocate five percent of land to the Economic Weaker Sections, (EWSs). However, even this meagre allocation was never made available to the working poor, resulting in the proliferation of slums.

The Delhi Development Act was enacted in 1957. The responsibility to provide adequate housing was placed in 1961 on the Delhi Development Authority (DDA). In 1962, the Delhi Master Plan was formulated. A number of reforms were made in the housing sector through the Delhi Development Act, 1957. But these policies were never implemented. However, like all major cities in India, the DDA also failed in implementing and executing its own plans specifically to fulfil its mandate to provide adequate housing for all. When the DDA took charge, it was given 191,900 hectares of land for residential use to make available land to the inhabitants at an affordable price. The civil society organisations had demanded that these residential lands should be well utilised to accommodate the working poor population within the city. This has not been done and as a result presently 70 percent of the residents are living in dwellings that are well below minimum housing norms. Largely the poor working class is the worst affected.

During 1970s, the city’s population shot up to five million and the majority of the population was from the EWSs. At this juncture, the central government came out with a comprehensive Act in support of housing and land reforms. Thus, Urban (Land and Ceiling) Act, (ULCA) was enacted in 1974.

36. A non-political voluntary organisation, Prime Minister Jawaharlal Nehru as the President and Gulzarilal Nanda, Union Minister, as Chairman, commenced work to enlist public cooperation for India’s planned development.
37. Farce in the Capital —Relocation of slums, Page 26, Eviction Watch India, January 2003
Emergency period
In 1977, during the period of internal Emergency, the Delhi administration started evicting the poor working class communities from their residences. According to official figures, 0.75 million people were evicted from the city and relocated on the then city periphery near the industrial areas. No structural support or economic incentives were provided during these operations. Most of the evictees, who were compulsorily relocated near the industrial belt, had no technical skills. Consequently, they returned to the city for employment opportunities.

New economic policy of 1990s
Since 1990s, the second wave of forced evictions in the capital took place due to the new economic policy. Local authorities in Delhi decided that foreign investors would prefer a ‘clean and orderly’ environment, at least in the relevant parts of the centre of the city. The wish to clean up and beautify the central city was based on the perception that slums were an unhealthy eyesore and a nuisance.

A comparative study of the forced evictions during 1960s-1970s and in 1990s will reveal their changing effects on the poor. In 1960s, Delhi was a rather small city. Gradually, many landless labourers and marginal farmers from northern India migrated to the capital. In 1960s-1970s, Delhi administration allowed the poor working class to earn a living in the city centre and remain connected with the city. But since 1990s evictions of the poor totally disconnected them from the mainstream economy of the city. Those landless labourers and marginal farmers from northern India, who could no longer survive in their villages and fled to Delhi, have ultimately been trapped here. The Delhi authorities have dumped them into a no-man’s land between the city and the countryside. They are neither wanted in the city nor needed in the countryside. This vicious cycle of forced eviction, compulsory relocation and intrusion back into the city continues without any major breakthrough in resolving the housing shortage in the national capital.

City Master Plan pro-poor initiatives
The Town Planning Organisation (TPO) under the guidance of the Ford Foundation experts prepared the first Delhi Master Plan, which was notified in 1962 for the next 20 years and the DDA became its implementing agency. The plan had proposed to earmark “reasonable areas in several zones for the low income groups who migrate to Delhi throughout the year from rural areas”. The programme was meant for improving environmental conditions in already existing slums. The basic emphasis of the First Master Plan was to minimise the gap between different socio-economic groups living in different areas.

The Master Plan even issued directives to colonisers and government departments to reserve 25 percent of the

Housing shortage in the city
The National Urban Housing and Habitat Policy, 2005 emphasises on multi-purpose co-operative societies for the urban poor and slum dwellers, but the Janata Housing Registration Scheme (JHRS), launched in 1996, has a backlog of 6,773 houses against 20,000 registrants.

The Ambedkar Awas Yojana, launched in 1989, has a backlog of 2,883 registrants against the cumulative figure of 20,000.

Under both the above schemes there is a total backlog of about 14,440 units. According to the DDA, over 35 lakh people live in the slums and unauthorised colonies, devoid to civic amenities.

In Delhi, there is an estimated shortage of more than four lakh housing units against a lakh in 2001. By 2021, as much as 24 lakh units will be required to meet the demand. A sizeable backlog of 8,668 and 2,883 in respect of the New Pattern Registration Scheme (NPRS) still exists with the DDA. Even after two-and-a-half decades – the NPRS was launched in 1979 – the bonafide registrants under this scheme are still awaiting allotment, the parliamentary standing committee on urban development observed in its report presented in the Lok Sabha and Rajya Sabha on August 2, 2005.

The density of population has multiplied over the decades and risen from 274 persons per square kilometre in 1901 to 1,176 in 2001. The capital alone gets over five lakh migrants from across the country annually out of which 30 to 40 percent end up as squatters or settle in the slums.

39. Hindustan Times, Slums to be relocated, September 16, 2005
new housing for rehabilitation of squatters evicted during clearance. Developed land, wherever available near the city or near work places, was to be reserved for relocation of squatters. The resettlement scheme was to form part of large composite neighbourhoods, consisting of a mix of low-income, lower-middle and middle-income groups. The plan (1961-81) had clearly earmarked for low-income rural migrants and it was specifically instructed not to locate them at city periphery as it would create problems of transportation to the place of employment. The plan was sensitive as it would not be possible for these low-income group families to bear the cost of the transportation for long distance out of their meagre resources. Areas earmarked for the low-income settlements were to be developed to form an integral part of surrounding neighbourhoods, on the basis of sites and services programme with proper layout and basic services and community facilities.

The second Master Plan for Delhi was due in 1981, but it took five years for the DDA to finalise it, the preparation for the Asiad Games had delayed the planning process.

The third draft of the Master Plan Delhi, MPD-2021 was released on April 8, 2006. The vision of the plan is to make the city slum-free. The draft identifies new housing for the slum clusters as the single biggest challenge. The draft says – new housing for urban poor constitutes the bulk of the housing stock, which has to be provided at affordable prices to the economically weaker sections. The plan has made provisions that 10 percent of the saleable net residential land should be reserved for the EWS housing. For rehabilitation and relocation of slum clusters, the policy of allotting 12.5 to 18 sq metre plots will be done away with.

On April 8, 2005 when the draft Master Plan was formally released, citizens of Delhi were given 90 days time to file their suggestions and objections. Within these days the Hazard Centre had organised a series of consultations with civil society organisations, slum communities and experts on the Master Plan. Several groups on July 7, 2005 ranging from ragpickers to shelterless, slum dwellers and disabled, filed more than 20,000 objections to the DDA. But there were no responses from the DDA. Instead, they constituted a committee only of the DDA officials. The Hazard Centre and other organisations mobilised a public protest on October 6, 2005 against the DDA's response. In the gathering, former Prime Minister VP Singh and three MPs demanded larger public representation and independent experts for the city's planning process.

Commonwealth Games

The 2010 Commonwealth Games will incur the largest displacement in the city. Over one lakh housing units would be affected during this mega event. Inhabitants residing near the banks of Yamuna have been the most affected. As per the rehabilitation plan as on paper, the land-owning agency will pay Rs 50,000, the Delhi government's contribution is Rs 15,000 and the displaced family will have to pay Rs 10,000.

Eviction scenario

The first edition (January 2003) of the Eviction Watch India (EWI) reported on the relocation scam and Yamuna Pushtha (Samroospur camp) evictions. The second edition in continuation focuses on one of the largest ever evictions conducted in the capital in which 150,000 persons were brutally evicted from the Yamuna Pushtha area.

Just before the eviction drive was carried out in January 2004, former minister of tourism, Jagmohan, of the NDA government, announced a plan to “relocate” all 75,000 slum dwellers of Pushtha in order to turn one of Asia's largest slum clusters into a “green belt – with parks and fountains”. The evictions started from January 22, 2004 till April 2004 and nearly 150,000 people were displaced.

The Yamuna Pushtha jhuggies (slum clusters) are stretched from the old Yamuna bridge to the Indraprastha Estate Gas Turbine, on both sides of the river. The Pushtha population comprises people mostly from the states of Bihar, West Bengal and Uttar Pradesh and about 70 percent of them Muslim.

The most vulnerable families who had no moneys to settle outside Delhi struggled to relocate at nearby jhuggies clusters and unauthorised colonies near Pushtha. There were complaints from Nao Pul Basti that the police had set fire to their huts to evict the slum dwellers. There were complaints that in the Gautampuri-I&II colonies and the Kanchanpuri colony 5,280 residents were evicted, but only 2,574 residents of Gautampuri-II colony were resettled.

Residents of the Pushtha's Sanjay Amar colony went to the Delhi High Court arguing that the resettlement sites did not have basic amenities. But the court favoured the government and permitted the eviction to continue.

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40. The Pioneer, Housing policy ignores urban poor, September 19, 20
Rehabilitation and improvement scheme
In 2000, the Delhi government, with the Centre’s approval framed the Rehabilitation and Improvement Scheme for the slum dwellers in the city. The cut-off date was December 31, 1998 for entitlements to benefit on relocation of the slums from the present sites for the scheme that came into effect from April 1, 2000.

Though this scheme was set aside by the Delhi High Court vide its order dated November 29, 2002 passed in civil writ petition No 4441 of 1994. The court passed the SLP C No 3166-3167 ordered dated 19/02/03 and 03/03/03, but was stayed the said order by the court. Thus, the said policy is still operative. As per this policy, those who establish their housing structure before January 31, 1990 are entitled for a plot of 18 square metres while others who put these up between February 1, 1990 to December 31, 1998 would get plots of 12.5 square metres each. The policy also states that the land for the purpose of relocation will be acquired at the sites identified by the DDA/ NCR in small pockets existing near the residential areas so that cost of provision of peripheral services is minimised.

The Scheme envisages
1. That there will not be any large-scale relocations of Jhuggi/Jhuggies from their existing locations and that relocation would not be resorted to without any specific use of cleared site
2. Major emphasis in the scheme is on the in-situ upgradation and improvement of the Jhuggi/Jhuggies through realignment of plots, widening of roads and strengthening of all the relevant basic facilities
3. Independent of the above two alternatives, improvement within the existing Jhuggies clusters will be carried out under the Environmental Improvement in Urban Schemes (EIUS). Under the EIUS, certain basic amenities such as drainage, common water hydrants, toilets-cum-community bathrooms, street lighting, pavements, etc., are to be made available in all the existing clusters till they are upgraded/ relocated.

The Yamuna Pushta strip is slated for beautification for tourist attraction. The entire space had over 18,000 plots of makeshift dwellings stretching along a two km strip. The DDA and MCD executed the evictions.

The government was charging Rs 7,000 for a plot in Bawana, Holambi Kalan, Madanpur Khadar and other so-called resettlement colonies. Many of the families were not able to afford Rs 7,000 to pay for the plot. As the location was outside Delhi city, they lost livelihood opportunities. According to the Hazard Centre survey report, out of a total of 27,000 families approximately 20,000 have been allotted plots at the resettlement sites. Only those who had residence proof like ration cards or ID cards were eligible. Most of the inhabitants had lost their documents during the course of eviction or they were burnt in the fire, which was intentionally executed by the authority for an easy exit.

Eighteen square metre area plots were given to those residing prior to 1990 and 12.5 square metre plots to those inhabitants who had begun residing in Pushta between 1990 and 1998. The logic of the Delhi administration was to reward the families who had stayed longer in the basti (slums) and gave smaller plots to the newcomers in order to discourage the new migrants into the city of Delhi.

The resettled colonies like Bawana and Holambi Kalan are located 35-40 kilometres away from the main city. It takes a minimum of a two-hour bus ride from the Yamuna Pushta area where most residents worked or attended schools. Many people have lost their livelihoods because of these prohibitive distances and after shifting they found that these colonies lacked in basic services including proper shelter, adequate drinking water, sanitation, electricity or schools.

Police atrocities
The Hazard Centre reported of large-scale police atrocities during the eviction drive. The police had beaten-up women and children who were hiding in one of the mosques in Kanchanpur, Raighat. The bulldozers injured three of the children and police denied them medical treatment for hours.

The Pushta eviction was the brainchild of Mr Jagmohan, the then union minister for urban development, popularly known in Delhi circles as the bulldozer-man. The Hazard Centre in Delhi had filed a case with the National Human Rights Commission (NHRC) in February 2004, drawing their attention to the rampant violation of human rights and pleaded to put an immediate moratorium on further evictions. Although the NHRC had sent notices to the Delhi government and the Delhi Police, no action was taken.

Demolitions at Sant Ravi Das and Indira Camps
Two out of the seven camps situated at Vikaspuri – Sant Ravi Das Camp and Indira Camp No-1 were demolished on May 5, 2006. These demolitions were carried out by the DDA on the orders of the Delhi High Court.

41. Hazard Centre, The Yamuna Pushta Evictions: What happened to those who were not assigned plots? Dec 2004
residents of these camps were not even issued any notices by the court before the evictions were carried out. These slum dwellers have been shifted to Bawana resettlement colony, which is totally undeveloped. The Vikaspuri slum clusters were in existence since 1970. The residents of these camps are mainly migrants from Bihar, Uttar Pradesh, Rajasthan, Madhya Pradesh and West Bengal working as landless labourers.

Threat notice
On May 3, 2006, the MCD and SHO of the Jahangirpuri police station came to Sham Alam Bandh slum colony and warned that their settlements would be demolished. No written notices were given to the inhabitants. This colony is in existence since 1982 in Jahangirpuri, Delhi and divided into two parts N-30 Cluster, Block H-4 and N-34 Cluster, Block H-2. Around 3000 inhabitants are residing in this colony.

Justice denied to Nangla Machi inhabitants
Residents of Nangla Machi jhuggie colony had filed a case titled Ram Ratan & others vs Commissioner of Delhi Police at the Delhi High Court (WPC No 3419/1999). The Court directed the DDA and the police commissioner of the Delhi Police to remove all the residents of Nangla Machi. This order was in gross violation of the principle of natural justice as no opportunity of hearing was given to the Nangla inhabitants.

Nangla Machi is a slum cluster which is situated at ‘T’ junction from Bhairo Marg, Pragati Maidan going towards the NOIDA on the left side of the Ring Road since late 1970s.

In the month of February to April 2006, several slum clusters in Delhi were brutally demolished in a calculated and systematic manner. The Delhi government shouldered its responsibility on the Supreme Court's order in the case of MC Mehta vs Union of India, which justifies the removal of slums for the ostensible reason of protecting the environment, but the slum demolitions are part of a much larger scheme to grab the space of the poor inhabitants in the name of development and beautification of the city.

Demolitions at Mandawali
In Mandawali, 350 households were destroyed on February 23, 2006 and no alternative land or housing was provided to the residents. Finally, the second phase of demolition took place on April 25, 2006 and over 1,000 inhabitants were rendered homeless. The DDA announced to relocate the Mandawali inhabitants to Bawana but no plots available there.

Man dies of heart attack
On April 20, 2006, two of the three slum clusters of Bhatti Mines were demolished. A total of 597 houses were razed to the ground at Balbir Nagar. A notice of eviction was served on April 5, that the demolition would take place on April 10, later postponed to April 20. Many of the inhabitants voluntarily removed their belongings prior to the demolition. A 50-year old man, seeing the bulldozers razing his house, suffered a heart attack and died on the spot only. 348 of the 597 families were notified for the resettlement site at Bawana, which has no space. There is neither water nor electricity and sanitation services at the site. The remaining families are residing at Balbir Nagar for the last 35 years but the administration have not offered any resettlement options.

Bawana is 70 kilometres away from Bhatti Mines. At the second settlement at Bhatti Mines, Indira Nagar, 650 householders were demolished. In a lottery conducted by the MCD, 650 households were allotted alternative plots at Bawana.

Bawana is undeveloped and barren and completely jeopardised the livelihood of those who have been forced to relocate there since they work close to Bhatti Mines. The inhabitants have made self-constructed makeshift tents of cloth and plastic.

Yet in another brutal move, some 5,000 houses in Yamuna Pusha area were demolished on April 29, without any prior notification. People were not even given chance to gather their personal belongings from their homes before the bulldozers destroyed them. To intimade the residents, police fired a round to vacate the area. With high temperature touching 42 degrees, families found it impossible for a safe space, especially with little children and old parents.

Action against ‘illegal constructions’
On December 14, 2005 the Delhi High Court ordered to demolish all unauthorised structures, the MCD took action against 18,000 cases of illegal construction from December 17 and showed its intention to continue demolishing unauthorised structures in all the 12 zones of the capital.

These properties are commercial and residential properties that were illegally constructed violating all the regulation norms. These are encroachments by the middle and elite sections that bribed the MCD officials and local politicians to attain sanctions from the concerned departments.

Residential properties affected are in Roop Nagar, GT Kamal Road, Jain Colony, Veer Nagar, Mukherjee Nagar, Samay Puri Road in Civil Lines Zone, Najafgarh, West Patel Nagar and Lajpat Nagar. While two ongoing constructions were pulled down in Pitampura area, eight government-owned units of the DSIDC were pulled down in Bawana industrial area of Narela.
42-year man commits suicide
Labourer Satvir Singh, 42, hanged himself in Delhi's Nangloi home on September 10, 2006. The family was reported to be facing financial crisis, as Singh had no fixed source of income. The deceased is survived by his mother, wife and three children. A suicide note recovered from Satvir stated: “Government is ruining us... I had laboured hard to build this house. I cannot break it, nor can I see it razed to the ground by someone else. Therefore, there is no option but to commit suicide. Only God can save this village.”

The DDA officials had asked to vacate the 200 houses on the periphery of Bakkarpur village. The DDA has developed a housing project and the villagers complained that the surrounding area is being grabbed as a green buffer zone for which the DDA is demolishing these 200 houses.

The DDA officials had given notices to vacate the houses by September 11, 2006, or face action. These local inhabitants are residing there since last 60 to 70 years. “Where shall we go,” asked one Roop Narayan.
(Source: Times of India, New Delhi, First demolition casualty - Vaishali Saraswat, Sept 11, 2006 p-3)

Illegal structures identified

<table>
<thead>
<tr>
<th>Area</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Delhi</td>
<td>456</td>
</tr>
<tr>
<td>Karol Bagh</td>
<td>410</td>
</tr>
<tr>
<td>South Zone</td>
<td>211</td>
</tr>
<tr>
<td>Rohini</td>
<td>296</td>
</tr>
<tr>
<td>Shahdara (north)</td>
<td>234</td>
</tr>
<tr>
<td>Shahdara (south)</td>
<td>148</td>
</tr>
<tr>
<td>Narela</td>
<td>37</td>
</tr>
<tr>
<td>Najafgarh</td>
<td>169</td>
</tr>
<tr>
<td>Civil Lines</td>
<td>273</td>
</tr>
<tr>
<td>Sadar Paharganj</td>
<td>124</td>
</tr>
</tbody>
</table>

(Source: PTI news agency, India, December 2005)

Table-2

Plight of homeless persons

One of the most inhuman acts was an attack in one of the night shelters conducted by the authorities of Delhi on October 16, 2004. At Palika Hostel, the police and NDMC staff entered at 7.30 am and forcibly evicted women, their children. In 2002, the NDMC had signed an agreement with the NGOs to start the shelter in a four-storey unused building by providing shelter to 300 women, children, and disabled.

150 NDMC staff along with a few policemen in civil uniform stormed into the shelter home and assaulted the women and Ashrai Adhikar Abhiyan workers (AAA). All of them were beaten up and many were injured. A pregnant woman was hit in her stomach and Suraj, one of the AAA workers, was left with a fractured arm. Moreover, all the food items, utensils, blankets and other belongings were ransacked, looted and thrown outside along with the inmates.

In the year 2000, the AAA conducted a survey and counted 53,000 people. However, they recognised that even this intensive effort was likely to cover just half of the homeless people.

The existing night shelters are able to provide shelter to less than five percent of the homeless people in our cities. The overwhelming majority of the homeless people are exposed to remorseless winds and lashing rains. Although all homeless people are categorised as high vulnerable group, but women, children and destitutes are the most vulnerable. The Tenth Plan (2002-2007) document agrees that the programme of constructing night shelters requires radical rejuvenation. Establishment of special night shelters for shelterless women and children will be a focal area for the Tenth Plan, this document says, but there is little evidence so far.

42. Homeless in Delhi, Frontline; Annie Zaidi, January 01–14, 2005
43. Indian Express, Cast out in the cold: January 16, 2006
## Forcéd Evictions in Delhi

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Year</th>
<th>Name of the Jhuggi-jhopri (JJ) cluster</th>
<th>No. of families</th>
<th>Location of the relocated families</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>2000</td>
<td>Gautampuri JJ Cluster, Yamuna Pushta</td>
<td>500</td>
<td>Bhalswa Jahangirpuri</td>
</tr>
<tr>
<td>2.</td>
<td>2000</td>
<td>IIT – Delhi Campus, Hauz Khas</td>
<td>600</td>
<td>Bakkarwala, Najafgarh, Nangloi</td>
</tr>
<tr>
<td>3.</td>
<td>2000</td>
<td>Gautam Nagar, AIIMS</td>
<td>5000</td>
<td>Molarbund</td>
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<tr>
<td>4.</td>
<td>2000</td>
<td>Pashchim Vihar, Hari Nagar, Jhandewalan, Chander Nagar, Janakpuri, Katwaria Sarai and Patel Nagar</td>
<td>1000</td>
<td>Hastsal</td>
</tr>
<tr>
<td>5.</td>
<td>2000</td>
<td>Nehru Place</td>
<td>2500</td>
<td>Madanpur Khadar</td>
</tr>
<tr>
<td>6.</td>
<td>2001</td>
<td>Govind Nagar, Nehru Nagar – Mukherjee Nagar</td>
<td>350</td>
<td>Bhalswa</td>
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<tr>
<td>7.</td>
<td>2001</td>
<td>Arjun Nagar, Mukherjee Nagar</td>
<td>450</td>
<td>Madanpur Khadar</td>
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<tr>
<td>8.</td>
<td>2001</td>
<td>Nehru Vihar</td>
<td>200</td>
<td>Bhalswa</td>
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<tr>
<td>9.</td>
<td>2001</td>
<td>Jahangirpuri</td>
<td>500</td>
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<tr>
<td>10.</td>
<td>2001</td>
<td>Teenmurti and East of Kailash</td>
<td>400</td>
<td>Bhalswa</td>
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<td>11.</td>
<td>2001</td>
<td>Nangloi JJJC</td>
<td>80</td>
<td>Holambi Kalan</td>
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<td>12.</td>
<td>2001</td>
<td>Durga Basti, Mall Road</td>
<td>600</td>
<td>Holambi Kalan and Holambi Khurd</td>
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<tr>
<td>13.</td>
<td>2001</td>
<td>Raghuraj Nagar</td>
<td>2600</td>
<td>Bakkarwala</td>
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<td>14.</td>
<td>2001</td>
<td>Shalimar Bagh, Jhandewalan, Hari Nagar, Rohini, Pratap Nagar, Pashchim Vihar</td>
<td>3000</td>
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<tr>
<td>15.</td>
<td>2002</td>
<td>Coolie Camp, Vasant Vihar</td>
<td>60</td>
<td>Bakkarwala</td>
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<td>16.</td>
<td>2002</td>
<td>Slums at NOIDA Mor, Vikas Marg</td>
<td>1328</td>
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<td>17.</td>
<td>2002</td>
<td>Apana Bazar, Nehru Nagar</td>
<td>25</td>
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<td>18.</td>
<td>2002</td>
<td>A-4 Pashchim Vihar</td>
<td>291</td>
<td>Holambi Kalan</td>
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<td>19.</td>
<td>2002</td>
<td>Mazdoor Camp, Laxmi Bai Nagar</td>
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<td>Holambi Kalan</td>
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<td>20.</td>
<td>2002</td>
<td>AP and AE Block Shalimar Bagh</td>
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<td>21.</td>
<td>2002</td>
<td>Shaheed Arjun Das Camp, Kidwai Nagar</td>
<td>1258</td>
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<td>22.</td>
<td>2002</td>
<td>Motia Khan</td>
<td>400</td>
<td>Rohini</td>
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<tr>
<td>23.</td>
<td>2002</td>
<td>Sudarshan Park</td>
<td>15</td>
<td>Rohini</td>
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<tr>
<td>24.</td>
<td>2002</td>
<td>Bara Pul, East Nizamuddin</td>
<td>180</td>
<td>Molarbund</td>
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<td>25.</td>
<td>2002</td>
<td>Bapu Dham</td>
<td>1602</td>
<td>Holambi Kalan</td>
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<td>26.</td>
<td>2002</td>
<td>Mangal Bazar Pitampura</td>
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<td>27.</td>
<td>2003</td>
<td>Neela Gumbad</td>
<td>164</td>
<td>Madanpur Khadar</td>
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<td>29.</td>
<td>2003</td>
<td>Indira camp, Naraina</td>
<td>389</td>
<td>Holambi</td>
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<td>30.</td>
<td>2003</td>
<td>Bara Bagh, GTK Road</td>
<td>615</td>
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<tr>
<td>31.</td>
<td>2003</td>
<td>Raja Bazar, CP</td>
<td>660</td>
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<td>32.</td>
<td>2003</td>
<td>Indira Camp and Rajiv Camp, Kamal Cinema</td>
<td>4000</td>
<td>Narela</td>
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<td>33.</td>
<td>2003</td>
<td>Raj Nagar</td>
<td>1500</td>
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<td>2003</td>
<td>Arjun Nagar, Green Park</td>
<td>400</td>
<td>Madanpur Khadar</td>
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<td>35.</td>
<td>2004</td>
<td>Ramana Pushta</td>
<td>1600</td>
<td>Holambi, Bawana, Madanpur Khadar</td>
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<td>36.</td>
<td>2004</td>
<td>Indira Colony, Ramana Pushta</td>
<td>530</td>
<td>Bawana</td>
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<tr>
<td>37.</td>
<td>2004</td>
<td>Ramana Pushta</td>
<td>1600</td>
<td>Holambi, Bawana, Madanpur Khadar</td>
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<td>38.</td>
<td>2004</td>
<td>Indira Colony, Ramana Pushta</td>
<td>530</td>
<td>Bawana</td>
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<td>39.</td>
<td>2004</td>
<td>Ramana Pushta (30 Cluster)</td>
<td>27000</td>
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<tr>
<td>40.</td>
<td>2004</td>
<td>R.K. Puram Sector 2</td>
<td>500</td>
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<td>41.</td>
<td>2005</td>
<td>Laxmi College</td>
<td>3000</td>
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<td>42.</td>
<td>2005</td>
<td>Rajiv Camp, Ramanand Camp, Arjun camp, IP Ext</td>
<td>385</td>
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<td>43.</td>
<td>2006</td>
<td>Sant Ravi Das Camp, KGI, Vikaspuri</td>
<td>700</td>
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<td>44.</td>
<td>2006</td>
<td>Camp No. 1, KGI 1, Vikaspuri</td>
<td>400</td>
<td>Bawana</td>
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<tr>
<td>45.</td>
<td>2006</td>
<td>Block B and C, Wazirpur Industrial area</td>
<td>1000</td>
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<td>46.</td>
<td>2006</td>
<td>Banwal Nagar, Pitampura</td>
<td>1562</td>
<td>Bawana and Narela</td>
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<td>47.</td>
<td>2006</td>
<td>Indira JJ camp, Mandavali Fazalpur, IP Ext</td>
<td>350</td>
<td>No resettlement</td>
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<tr>
<td>48.</td>
<td>2006</td>
<td>Mayur Vihar on the east bank of Yamuna</td>
<td>510</td>
<td>No resettlement</td>
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<td>49.</td>
<td>2006</td>
<td>Marginal Bund Road, Ramana Pushta</td>
<td>3500</td>
<td>Savda Gevra</td>
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<td>50.</td>
<td>2006</td>
<td>Chungi, Ramana Pushta</td>
<td>1200</td>
<td>Savda Gevra</td>
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<tr>
<td>51.</td>
<td>2006</td>
<td>Nagla Machi</td>
<td>1000</td>
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<tr>
<td>52.</td>
<td>2006</td>
<td>Balbir Nagar, Bhatti Mines</td>
<td>700</td>
<td>Bawana</td>
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<tr>
<td>53.</td>
<td>2006</td>
<td>Indira Nagar, Bhatti Mines</td>
<td>600</td>
<td>Bawana</td>
</tr>
</tbody>
</table>

(Source: Hazard Centre, New Delhi)
Even if the government starts prioritising this work, it will be too long before night shelters for all are provided. Therefore, there is a clear need for identifying those buildings which have adequately unused space during night to accommodate the homeless. The MCD runs 12 night shelters and that too only for men.

(Source: ActionAid India, New Delhi)

SC intervention  
The Supreme Court had directed the states and the federal government to frame a comprehensive action plan to provide shelter to the slum dwellers, homeless persons especially in the urban cities and towns. On January 27, 2004, the Supreme Court allowed standing on two public interest cases of great importance to housing rights. The petitioners, ER Kumar, Rohit Mammen Alex, Deepan Bora and six others argued that Article 21 of the Constitution of India, which guarantees the right to life, includes the right to shelter, as housing is essential to a dignified life. Based on this, counsel for the petitioners, Prashant Bhushan, argued that the federal and 13 state governments have an obligation to take immediate steps to provide shelter, food and warm clothes to the homeless people in the country. These steps should include plans, on strict timelines, to construct adequate housing with basic, essential amenities the court was further urged to oblige the governments to establish a mechanism monitoring the implementation of any scheme and programme for the homeless, as well as a mechanism to address citizens’ grievances arising out of this process.

VP Singh’s initiative  
Former Prime Minister VP Singh also demanded legislation by Parliament to prevent forced eviction of the slum-dwellers, until they were provided alternative sites. He initiated over the issue of forcing the Delhi government to issue a government order and demanded that this facility should be extended to the rest of the country. Rightly so, a draft housing bill has been prepared by the civil society groups in consultation with experts and social movement organisations.

A major policy shift was taken in 1991 when Mr VP Singh was the Prime Minister. He visited Kalkaji and Govindpuri slum settlements and announced a ration card for every family of 700 Jhuggie clusters in Delhi. Following this, a fortnight later, when he visited another slum settlement, he announced that there would be ration for every family of 700 Jhuggie clusters in Delhi. Following this, a fortnight later with a visit to another slum settlement, he announced that there would be no demolition of any slum but till the new policy was finalised. In response to this, Delhi administration in February 1991 not only provided ration cards but also decided to upgrade all illegal slum settlements or shift them to alternative government-built dwellings. Later, the Delhi administration described this as a ‘one time policy’ and it was explained that the new Jhuggie households would not be given ration cards and would not be allowed to squat and set up homes.

Eviction notice to the Tibetan refugees
The Delhi High Court had issued the Tibetan refugees, who have been settled since 1962, eviction notice on June 9, 2006. The High Court had appointed Justice Usha Mehra Monitoring Committee. This refugee camp is near Majnu ka tila near the National Highway - 45. The two projects that are threatening to displace the Tibetan community are beautification of Yamuna riverbed and the Signature Bridge at Wazirabad and widening of the ring road. But immediately after the court notice, the Delhi government came for rescue of the Tibetans and announced that it would approach the committee as well as the Delhi High Court to suggest a change in the plans. In 1995, the Tibetan refugee settlers had also received a formal commitment from the Centre that till the international dispute over Tibet was settled, Tibetans would be allowed to live there.

Protest demonstration
The activists of different organisations, slum dwellers, daily wage workers and rickshaw pullers on July 3, 2006, protested outside the Supreme Court in protest against the slum evictions, and Supreme Court’s judgment in cases relating to the urban poor and other marginalised groups in the country.

Conclusion
It’s most unfortunate that the country’s capital is insensitive towards the habitat needs of the working poor. They are systematically thrown out as far as 40 kilometres away from the city. The displaced families faced severe economic impact like drop in their earnings, an increase in living costs and break-up of families. Many children stop going to the schools. The demolitions also destroyed considerable investments made by the families. If poor inhabitants’ voice isn’t heeded even in the national capital, one can imagine the plight of millions of the urban poor living in the country!

Hazard Centre, ActionAid, and HRLN New Delhi
contributed in finalising the Delhi report

44. The Times of India, New Delhi, India, January 27, 2004, “SC to Come Out With Law on Right to Shelter”
45. Asian Age, Slumdwellers must get law protection: VP, October 5, 2005
46. Dr Sabir Ali, Managing Slums in Delhi, Managing Urban Poverty (page 446) – Uppal Publishing House, 2005
47. Big trouble in Little Tibet, but govt to the rescue by Sharma Nidhi, The Times of India, New Delhi, July 4, 2006 p. 8
48. Protest against evictions The Hindu, New Delhi, July 4, 2006, p. 4
In the past few years, there has been a spate of slum demolitions in the city of Delhi, with the Supreme Court justifying the action citing reasons of ‘development’ of the city. In most cases of demolitions, none of the provisions of law with regard to demolitions was followed.

The demolitions are carried out in atrocious circumstances, sometimes without notice and the inhabitants are thrown out of their homes to a resettlement site. Often this site is a temporary place to stay, known as a transit camp, from where the people would again be relocated to some other place and at another time. The conditions of these transit camps are unfit for human habitation. Sometimes, the people are not even provided with a shelter to protect themselves from rain or sun. Most of the resettlement sites do not have supply of water or electricity or proper sanitary facilities.

To assess the living conditions of the rehabilitation sites in and around Delhi, visits were conducted to these sites on September 27, 2005 and January 8, 2006. The visits included ten sites located in Narela, Holambi Kalan and Bawana, where oustees of slum demolitions had been relocated. In all these sites, the residents were living in inhuman conditions, with extremely poor conditions of sanitation, water supply, education, electric supply, health care facilities, etc. The following sites were visited: (i) Pocket 8, Sector 5, Narela; (ii) Pocket 14, Sector 5, Narela; (iii) Pocket 4, Sector A/6, Narela; (iv) Pocket 11, Sector A/6, Narela; (v) Pocket 7, Sector 10, Narela; (vi) Gangaram Colony; (vii) Swarna Jayanti Vihar; (viii) Metro Vihar; (ix) Holambi Kalan; and (x) JJ colony, Bawana.

Seven of these ten slum rehabilitation sites were set up at various times, most of them five to eight years back, by the DDA alone and rest by the slum and JJ department of the Delhi government and MCD. Out of these sites, Holambi Kalan and Bawana have been set up within last three-four years. In fact, two of them, Gangaram Colony and Swarna Jayanti Vihar, were set up more than eight years back. The people shifted there are a mixture of the population of different slums. The new dwellers are still regarded as outsiders by the original population of the resettlement areas. The new ones regularly face discrimination in various aspects of their lives, including access to basic facilities like drinking water or medical treatment. Even children of the new dwellers are discriminated against in schools. Besides, the main problems of basic civic amenities remain unresolved. The sites face problem of access to drinking water, sanitation, drainage, and educational and medical facilities.

On top of it all, the municipality also does not clean the premises regularly, leading to health risks for the inhabitants. The sites are located very far away from the main city, which is their place of employment, and do not have proper facilities of transportation.

* Ms Bedoshruti Sadhukhan has been with the Human Rights Law Network’s Environmental Justice Initiative
The nearby industrial area provides jobs to these people as labourers. In spite of this, there is an acute shortage of jobs for these people. Earlier, they were mostly staying close to their places of work, in the city, but after being removed to faraway places, they often have to travel to and from the city for their work. This costs them time and money, both of which are precious to them.

A brief overview of the resettlement sites
In Narela, five pockets were visited, in different sectors. These included: (i) Pocket 8, Sector 5; (ii) Pocket 14, Sector 5; (iii) Pocket 4, Sector 6; (iv) Pocket 11, Sector 6; and (v) Pocket 7, Sector 10.

The Narela site had been set up by the slum development department and DDA. In the sites visited, the residents were living for six years, except in Pocket 4, Sector 6, where they have been living for two to five years. The people have been relocated in these pockets from various parts of the city, including Minto Road, Nehru Stadium, Bal Bhawan, Laxmi Nagar, Lodhi Road, Paschim Vihar, Janakpuri, Minto Road, Okhla, Medical, Safdarjung, Shahdara, ITO, CGO Complex, Lajpat Nagar, Mayapuri, Cantonment, Janakpuri, Minto Road, Paschimpur and others.

The Swarna Jayanti Vihar site was set up by the slum and JJ Department and MCD. There the residents have been living for seven years. The residents have been shifted from Chanakyapuri, Nehru Stadium, Greater Kailash, Babu Park, Kotla, Ashok Vihar and others.

The DDA set up the Gangaram Colony. The residents are living there for more than six years and have been shifted from Connaught Place, Janakpuri, Baraf Khana, ITO, Gangaram, Rajinder Nagar, and other areas.

The Metro Vihar, Phase I, A Block was set up by the DDA and the residents have been living there for more than five years. They have been shifted to this place from all over Delhi, Minto Road, Mal Road, Chawlapuri, Radhu Place, Ashok Vihar, Lal Bagh, Barabagh, Janakpuri, and other places.

The residents in Holambi Kalan A Block, set up by the DDA, have been living there for more than two years. They have been shifted to this place from places like Rohini.

The JJ Colony, Bawana was set up by the slum and JJ Department and the MCD. The residents have been living there for more than two years and had been shifted to this site from places like Red Fort, Vijay Ghat, Shanti Van, Sanjay Amar Colony, Indira Colony, Gautampuri, Pushita, etc. There are five blocks in this site.

Land allotment
In the pockets of Narela, there are three sizes of plots: 22 sqm, 18 sqm and 12 sqm. The people have had to pay varying amounts of money for these plots.

In Pocket 8 of Sector 5, there are around 888 land plots out of which 710 have been allotted to different families. The sizes of the land plots are 12 sqm. These plots are on leasehold for 15 years. These families had to pay Rs 7000 for 12 sqm plots. In pocket 14, there are around 501 land plots of 12 sqm and the plots are on leasehold for ten years. There also, the people had to pay Rs 7000 for 12 sqm plots.

In Pocket 4 of Sector 6, there are around 1326 plots out of which 800 plots have been already allotted to different families. The plots vary in size from 18 sqm to 12½ sqm and are on leasehold. These people had to pay Rs 5000 for 12½ sqm plots and Rs 7000 for 18 sqm plots. Moreover, almost a hundred families have not been allotted land plots yet and have been living in temporary shelters and shacks for more than a year. In Pocket 11, there are around 1600 plots allotted to different families. The plots vary in size from 22 sqm to 18 sqm to 12½ sqm and are on leasehold for lifetime lease. The people had to pay Rs 7,000 for their plots of 18 sqm and Rs 5,000 for plots of 12½ sqm. In this sector, there is very bad planning of the housing plots. The planning shows complete lack of sensitivity to the privacy of the people. The people are forced to stay in small rooms, with common courtyards, which is a constant reason for quarrels among the people.

In Pocket 7 of Sector 10, there are more than 1000 land plots, which have been allotted to different families. These land plots are of 22 sqm or 18 sqm and on leasehold for 10 years. These people had to pay Rs 7,000 each for these plots.

In Swarna Jayanti Vihar, there are more than 2500 plots allotted to different families. The plots vary in size from 22½ sqm to 12½ sqm. There are around 2300 plots of size 22½ sqm and 214 plots of size 18 sqm. In Gangaram Colony, there are 490 plots of 22½ sqm. In Metro Vihar, there are 1600 land plots of 18 sqm to 12½ sqm. In Holambi Kalan A Block, there are 700 land plots, of 12½ sqm. In Bawana, there are 15,000 land plots allotted to different families in the various blocks. The plots are of the size of 18 sqm and 12 sqm.

The water which is supplied though the common taps is unfit for drinking. The tankers come once a day, and if the tankers do not come, the people have to get water from other areas. There are four tankers for 1600 families.
The plots in Swarna Jayanti Vihar, Gangaram Colony, Metro Vihar, Holambi Kalan and Bawana are on lifetime lease. In most areas, people had to pay Rs 7000 for each of these plots. In Metro Vihar, people who had been shifted from Mall Road had to pay Rs 5,000 for their plots. In Bawana, people had to pay Rs 7,000 for the plots of 18 sqm with corner plots costing Rs 20,000 and Rs 5,000 for plots of 12 sqm with corner plots costing Rs 14,000.

**Employment**

There is widespread unemployment among the people who have been relocated in these resettlement sites. A few of them work in the nearby industrial area. In these jobs, they are paid Rs 1200 to 1600 for working in the factories for 12 hours. The average income of the people of Swarna Jayanti Vihar is around Rs 1,500 – 2,000. In Gangaram Colony, the people mostly earn around Rs 1,500. Due to lack of employment, people often sell off their plots and go back to the city and live in the slums again. They are thus rendered susceptible to evictions in the same manner repeatedly.

The people are mostly labourers, vendors, rickshaw pullers or mostly unemployed. Many people who cannot find jobs in the nearby areas, go to the main city of Delhi in search of work as labourers and vendors. As a result, they incur a huge financial burden. People spend 3-4 hours everyday traveling to and from their place of work. The people have to spend Rs 40-50 everyday to go to their workplaces from their place of residence. Some people also get bus passes for Rs 450. There are, however, no direct buses to Delhi city areas, and they have to change their bus at Azadpur.

The bus stand is very far from most of these colonies and the people have to travel distances of more than one km, often upto three km to take buses. As such they have to spend a lot of time and money in their travel. In Metro Vihar, a few buses had been started, but the routes for these buses were such that not many people could avail them. Because of loss, these buses have also been discontinued. The roads are in a very bad shape, and travelling is a big pain for the residents. Commutation is a major problem for these people. Only in Bawana, the bus stand is close to the colony. However, there are no direct buses to Delhi even from this bus stand.

**Water supply**

In Pocket 8 and 14 of Sector 5 in Narela, water is supplied through common taps. These taps give water for a short time, about one hour twice a day, morning and evening. There is a lot of rush during water collection, often causing fights. There is no individual supply of water to the houses. Some of the residents have got borewells dug for them, for whose maintenance they have to pay Rs 10-15 every month per family. The water, which is supplied, is yellow in colour and distasteful, thus not potable. Some people collect potable water from nearby police colony.

Sector 6 Pocket 4 has tap water supply. However, there is only one tap to supply municipal water, which gives water for a short time twice a day; morning and evening. This single collection point serves 800 families, naturally resulting in a lot of rush and often causing fights. Not only that, the site where the tap is located is next to a clogged drain. The water falls into this drain and to collect this water the people have to place their containers right in the dirty water of the drain. It is an extremely unhealthy state of affairs. In Pocket 11, taps, which are present, do not supply water, which is

**Although the residents have to pay money for using the toilets, the private contractors do not maintain them in a proper way. The people find it difficult to pay for toilets, as most of them are labourers or vendors earning meager sums**

A tap located on a clogged drain
potable, and people depend on tanker water supply. The water which is supplied through the common taps is unfit for drinking and utilised by the residents only for washing clothes. The tankers come once a day, and even that is not a surety. If the tankers do not come, the people have to get water from other areas. There are four tankers, which come to the area with 1600 families. These tankers stand only in front of the houses of influential families or ‘pradhans’ of the area. There is such a rush for the water that often there are fights over it. More than 30 FIRs have been lodged regarding such fights. The water supplied is often yellow and therefore not potable.

In Sector 10 Pocket 7, the water is supplied through common taps or tankers that come once a day. However, these tankers only supply water at the house of the pradhans or some such influential persons, while the rest of them are left out. A few of the residents, who can afford it, have got private borewells for individual use at their own expense. In certain areas of this pocket, which is newly built, there is no supply of drinking water yet.

In Swarna Jayanti Vihar, there are four common taps, which get water only for a few hours in the morning and evening, and cater to 2500 families. In Metro Vihar, there are five common taps, getting water twice a day to cater to 1600 families. In Gangaram Colony, the water is supplied from two borewells. In Holambi Kalan, water is supplied through hydrants. In Bawana, there is water supply through borewells and hydrants, getting water for three hours in the morning and evening.

The quality of water is poor and often causes health problems in Swarna Jayanti Vihar, Gangaram Colony and Metro Vihar. In many places, the people are forced to use unhealthy water due to non-availability of any other option. In Bawana, there is severe shortage of water in summers, and people have to use stream water at that time.

Electricity

In all the sites in Narela, Swarna Jayanti Vihar, Gangaram Colony, Metro Vihar, Holambi Kalan, there is regular electricity supply, but the supply is through private contractors. The residents had to pay Rs 1,870 for the meters. The residents claim that these meters run very fast and they have to cope with very high electricity bills. Because of such high bills, the people often draw electric lines from one house to another and there is rampant theft of electricity. In some areas of Pocket 7 of Sector 10 in Narela, there is no supply of electricity.

Sanitation

All the sites lack proper sanitation facilities. The toilets are unclean, broken down and often not in working order. Although the residents have to pay money for using them, the private contractors do not maintain them in a proper way. The people find it difficult to pay for toilets, as most of them are labourers or vendors earning meager sums.

The toilets are in a dilapidated condition and are not properly cleaned. The main problem is that most of the sites don’t have sewer lines, therefore, cleaning the toilets is a problem. The people have to use these filthy toilets because there is no other option. Moreover, the people can hardly afford to pay for sanitation. The children have to go outside in the fields to ease themselves, and there is filth, human excreta and dirt everywhere. Moreover, the toilets remain closed during the night and are open only in the day. It causes a lot of problems to the people when they fall ill or need to use the toilet at night.

There are open drains in the site, and most of them have choked with filth and dirt. There is no sewer facility in the area. The garbage is not cleaned by the municipal sweepers and is dumped anywhere in the streets, so that the whole place has a rotten stench. There are not enough sweepers to clean the colonies. Also, there is regular water logging in the colonies of Bawana and Holambi Kalan.

In Sector 5, Pocket 8 of Narela, there are two common toilets and each family is charged Rs 30 per month for the toilet facilities. In Pocket 14, there is only one common toilet and each family is charged Rs 100 per month. In none of the sites, the toilets were in a functional condition. In Sector 6 and 10, the people are charged Re 1 for each use of the toilet. In Swarna Jayanti Vihar also, the people are charged Re 1 for every use. In Bawana, the toilets charge Re 1 for each use of the toilet and Rs 5 to Rs 10 for washing and bathing each time.

In Gangaram Colony, the atrocious living conditions are reflected in the fact that even after six years of residing in the colony, the people have no functional toilets. They
have to go to the fields to ease themselves. Since there are no sewer lines, the residents cannot even build their own toilets. In Metro Vihar, there are only four toilets working, out of the seven constructed. In Holambi Kalan, there are three functional toilets.

In Sector 10 in Narela, the residents also complained of malaria and mosquitoes. There are no streetlights in the area. The residents feel unsafe to go around after dark and it also encourages anti-social activity. Absence of streetlights is a problem in Swarna Jayanti Vihar and Holambi Kalan, Block A too. The residents of Gangaram Colony complained of dust pollution caused by the trucks unloading and loading in the nearby godowns.

**Educational facilities**

There are a few primary schools in the different pockets in Narela, although all pockets do not have their individual primary schools. There is one primary school and one secondary school in Swarna Jayanti Vihar. Gangaram Colony does not even have a primary school, and the children go to schools in far away areas, and often drop out of schools. There are two primary schools in Metro Vihar, but there is lack of teachers. Holambi Kalan has one primary and one secondary school. Bawana has one primary school.

The residents complained that the teachers do not take proper care to teach their wards. After the primary level, the students have to go to ML School, which is the only secondary school in the area. If the students do not get admission there, they have to go to schools which are very far away, and therefore have to spend a lot of time and money. As a result, there are a large number of dropouts from the school. There is no college or higher educational centre. The students have to spend a lot of time and money traveling to and from the school. The teachers and students, who are originally from that area, also discriminate against the children from the slums.

**Medical facilities**

In Narela, except in Pocket 8 of Sector 6, there are health centres in the other pockets of the area. In Sector 10, the health centre has not been opened. In Swarna Jayanti Vihar, there is one health centre but the dispensary has been closed for the past four years. The Gangaram Colony, Metro Vihar Phase-I and Holambi Kalan Block A do not have any health centres. There is a dispensary run by an NGO Navjyoti in Holambi Kalan. Bawana has one primary health centre.

Often the health centres do not open regularly, or do not provide the medicines. The people, therefore, are forced to buy medicines from the local chemists at high prices. The doctors also do not come regularly to the health centres.

There is one hospital in the area – Raja Harish Chandra Hospital. This hospital provides basic medical facilities, but all medical examinations have to be done in private laboratories outside the hospital. This becomes very expensive for the people. Most of the time, the doctors refer the patients to other hospitals in the city, and because it takes a lot of time and money to go to the hospitals in the city, the people often do not go to these hospitals at all and are, therefore, left untreated.

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**The atrocious living conditions in Gangaram Colony reflects the fact that even after six years the people have no functional toilets. They go to the field to ease themselves**

The people from Metro Vihar and Holambi Kalan avail another hospital Maharshi Valmiki Hospital. However, both these hospitals are very far from the colony, almost 8-10 km from it. The road condition is very bad and the people find it very difficult to travel with patients.

**Ration shops**

In most of the pockets in Narela, there is only one ration shop. If there are no shops in the resettlement colonies, the people go to ration shops in neighbouring pockets of the sector. Most of these shops open only once a month, and there are no fixed dates for the opening of these shops. In Swarna Jayanti Vihar, they open twice a month. In Gangaram Colony, there are no ration shops. In Metro Vihar, there are four fair price shops for food grains and two shops, which provide kerosene oil. In Holambi Kalan and Bawana, there are ration shops, but these shops do not open regularly.

There is no regular routine for these shops and often they do not have all the items and there is also blackmarketing of the goods. People often do not get what they ask for in these shops.

One major problem that has cropped up with the resettlement of the people is that they have been provided with the APL cards after their relocation. As a result, they are forced to buy foodgrains and oil at rates higher than what they used to pay when they were living in the city. They are not being given sugar on these cards, and also get less oil than what they used to get. The shopkeepers charge more than the fixed rate for the goods, for rice, they charge Rs 7 instead of Rs 6.15 and for wheat, they charge Rs 5 instead of Rs 4.65 which has been allotted. The people are
also given less quantity than what they are supposed to get, such as five kg rice instead of 10 and 20 kg wheat instead of 25 kg. In a nutshell, the living costs are too high for the residents to have a decent meal.

**Conclusion**

The site visits and interviews with the people at these places showed that the residents of the resettlements were living in extremely poor conditions without basic amenities. The living expenses are high, and they are not able to meet these expenses from their meagre incomes. They are now placed in areas where they do not have employment, and have to travel to far away places for their livelihood, and spend more than their income on living. Most of the residents were of the opinion that they were better off in the slums in Delhi than in the resettlement sites.
Demolition spree in Mumbai city

Demography
Mumbai is the largest city in India with a population of 16.43 million, according to the urban development ministry’s note on the NURM. It has a density of 21,190 persons per square kilometre. According to the Census 2001, spatially the city had grown to 562.23 square kilometres till 2001. During the 1950s, it had a population of three million only.

City profile
Mumbai was known to be a major centre for industrial production and manufacturing industry in India. A major shift in this industrial character started in the late 1980s. The Mumbai Metropolitan Regional Development Plan (MMRDP) was prepared in 1993-94, envisaging a shift from manufacturing and industrial production to the service sector.

Future trends indicate that by 2015, Mumbai will be one of the top most populous cities in the world with a staggering 28.5 million people. And, it seems that by 2025, Mumbai will be the slum capital of the world. The city’s slums and high rises have already stretched its civic services to a breaking point. Local suburban trains are packed four times their capacity. A significant number of the population resides in slums and on pavements and a minimum desired level of housing quality remains out of reach for a huge majority. Though there are a number of programmes to improve housing conditions of the poor, but the housing rights are being rampantly violated causing people to become homeless, vulnerable and destitute in the city. The Maharashtra state has the largest slum population of (10.64 million, Census 2001) which constitutes one percent of India’s population and about six percent of the state’s population.

World Bank survey
According to the World Bank statistics, 54 percent population lives in the slums in Mumbai. Another 25 to 30 percent live in chawls and on footpaths, which means just 10 to 15 percent people live in proper houses i.e buildings, bungalows or high-rises. By 2025, it could touch 65 percent, which will make Mumbai the slum capital of the world. Unhindered migration, antiquated housing laws and skyrocketing real estate prices will see slums overtake the Mumbai skyline, in another 20 years.

50. Mid Day, Every second person in Mumbai lives in a slum, January 9, 2006
Eviction scenario

The Indian People’s Tribunal (IPT) report, Bulldozing Rights\(^{51}\) reveals that Mumbai’s first-ever forced evictions occurred in the 1950s, during the Congress regime. The evicted were rehabilitated in Mankhurd. The place was named Janata Colony. In 1976, this Janata Colony was again displaced as the administration wanted to construct staff quarters for the Bhabha Atomic Research Centre (BARC), as it was located next to the Janata Colony. These displaced slum dwellers were pushed out a further five kilometres to Cheetah Camp. In order to create space inside the city, on both occasions the government adopted the policy of pushing slum dwellers outside the city limits.\(^{52}\)

In the earlier elections, the Congress party in Maharashtra had promised the extension of the cut-off date to 2000. This election promise played a big role for the Congress to come to power in the state. The extension of the cut-off date has always been used as a ploy to get votes just before the elections.

The first census of slums was conducted in 1976. The government decided that those who have been included in the 1976 census would be held eligible for slum improvement, redevelopment or relocation schemes. The concept of cut-off date thus came in. Once again in 1980, the government adopted the cut-off date. This time no fresh census was taken, as it was difficult to conduct census at such a large-scale. The electoral rolls of the 1980s were, therefore, adopted as the base for determining eligibility. The same story was repeated in 1985 and again in 1990. In 1995, when the Shiv Sena-BJP coalition government came into power it declared January 1, 1995 as the cut-off date for providing free housing to slum dwellers.\(^{53}\)

In the first edition of the EWI (First report, January 2003) an extensive report on the Sanjay Gandhi National Park evictions was one of the focal issues. This report highlighted how around 86,000 houses, stretching from Pimpripada to Borivalli were targeted by the forest officials. The Mumbai High Court and the state administration took the extreme step of using helicopters and deploying even retired military officials and “Special Reserved Forces” to evict the poor unarmed inhabitants. Sadly, the city has again witnessed one of the most ruthless and massive demolitions, which occurred from December 2004 to April 2006. Ms Medha Patkar, national coordinator of the NAPM, had played an active role in collaboration with many other organisations and slum leaders against Mumbai’s forced eviction drive.

When the Congress party in Maharashtra refused the electoral promise of cut-off date, Mumbai’s slum dwellers got united and the administration had to witness stiff resistance. The state chief minister declared that all slums post - January 1, 1995, would be demolished and the people who were evicted would never be rehabilitated.

The demolition drive conducted from November 2004 to February 2005 had rendered more than three hundred thousand people homeless, just in the span of a few months. Within the first 18 days, over 39,000 homes were demolished, among the first was a large settlement with over 6,200 homes in Ambujawadi in Malad, a North-Western suburb of Mumbai.\(^{54}\)

McKinsey report\(^{55}\)

During the chief ministership of Sushil Kumar Shinde in 2003-04, Mumbai First (an organisation of the builders, industrialists, and former senior bureaucrats) brought out a development plan for Mumbai with the help of the multinational consulting company, McKinsey, and insisted that the city be developed accordingly. The state government adopted the plan, without any wider consultation or even consulting the state legislative assembly.

The state government appointed a special officer, who was directly answerable to the chief minister. The McKinsey report had no plan for housing the poor. It rather advised that there be a reduction in the slums down to 10 percent, though the Maharashtra Housing Development Authority (MHADA) stopped constructing low-cost houses in 1990 itself. The Mumbai First and related groups propounded the idea of ‘developing Mumbai’ on the pretext that there are no lands available for real estate development.

The McKinsey plan – “Vision Mumbai” was promoted by Mumbai First, who took the lead, hands in glove with the builders and politicians for the massive evictions in the city. The World Bank had also entered the scene to ‘invest’ and share profit with the private business interest groups (PBiGs), at the cost of the poor as well as the

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\(^{51}\) Politics of Demolition, a report on Forced Evictions and Housing Policies for the Poor in Mumbai, Bulldozing Rights, Indian People’s Tribunal on Environment and Human Rights, June 2005

\(^{52}\) Information regarding the history of the cut-off date was gathered from an unpublished PhD Thesis of Dr Jalinder Adsule, Professor of Niketan College of Social Work as well as from a meeting with Mr Tinaikar, retired municipal commissioner of Mumbai

\(^{53}\) History of the cut-off date, Page 47, Politics of Demolitions, Bulldozing Rights

\(^{54}\) Indian Express, Mumbai Newsline front page, December, 25, 2005

\(^{55}\) The Mumbai makeover plan, Page 47, Politics of Demolitions, Bulldozing Rights
middle class in Mumbai. The struggle in other major cities and towns in the country indicate similar direction.

**NAPM press release highlights**

Dec 8, 2004: During the assembly session at Nagpur, the Maharashtra chief minister announced that the new Mumbai development plan will be completed within five years at the cost of Rs 31,823 crore ignoring the promises declared in their manifesto, large-scale evictions were carried out in Mumbai. The Mumbai Commissioner Johny Joseph said: “Every hut will individually be cleared if it was built after January 1, 1995”. The opposition party leader of Shiv Sena, Bal Thackeray, applauded the move.

Dec 9: Rajendra Srivastav, slum citizen in Anand Nagar, Andheri (W) committed suicide as a protest against the demolition. No FIR was filed.

Dec 15: A daylong dharna was held as a sign of resistance by the evicted slum dwellers in Azad Maidan, Mumbai.

Dec 17: 59 people were arrested when the evictees started pelting stones on the demolition squad at Govandi. There was resistance in Byculla.

Dec 18: Two girl-children were killed during the demolition operations in Bandra slums.

Dec 20: One Rajendra Chaddha died of burn injuries in Mangelwadi, Juhu slum. Police reported this as suicide.

Dec 21: The state finance minister assured the industrialists of the Indian Merchant Chambers that as per the “Vision Mumbai” plan all slums would be cleared and the plan would be implemented as per the Shanghai development model.

Dec 22: The Zopadpatti Bachao Parishad organised a massive rally against brutal evictions. In a single day, 8,000 huts in Malavani were demolished. The Shiv Sena mouthpiece reported that, “slum dwellers were illegal Bangladeshis and had TV, fridge, mixer and washing machines in their dwellings.”

Dec 24: Mumbai officers pleaded their inability to demolish the unauthorised constructions of the high-income group people. Governor SM Krishna supported the drive. The Republican Party of India convention opposed the demolitions.

Jan 4, 2005: Fifty thousand huts were demolished covering 300 acres of land. The builders and the industrialists claimed that land valued at Rs1,500 crore had been ‘liberated’ from the slum dwellers.

Jan 5: The elite Citizens Action Group met the chief minister and the deputy chief minister, applauded the state machinery for the demolition. CM Vilasrao Deshmukh expressed his resolve to severely punish those who dared to build or occupy slums in the city. On the same day, one Shankar Potgire from Subhash Nagar, died as the police did not provide any shelter or medical aid. Shankar died due to severe cold in the open space.

Jan 8: At an NRI conference in Mumbai, the Citizens Action Committee commended the prime minister for clearing the slums. The prime minister assured that Mumbai would be converted into a Shanghai within five years. The industrialists also demanded that the coastal regulation zone-CRZ Act be done away with and a new international airport be constructed near Mumbai along with new highways.

Jan 13: Over 100 evictees stormed the Mantralaya (secretariat office) and the CM’s office. The state government had by then demolished over 80,000 hutments, displacing over four hundred thousand people. More than 150,000 children were rendered homeless. Many children and elders died and many more were sick or got broken their limbs. The state government claimed that it had spent Rs 84 crore on demolition and 3989 police personnel were used during the eviction.

Jan 17: An IPT was organised to investigate the legality of the slum demolitions. It was conducted in three areas: Maharashtra Nagar, Indira Nagar in Mankhurd and Kannamaur Nagar Park Side, Vikhroli.

**The terms of reference for this enquiry were:**

1) To investigate the human rights violations and the legality of the evictions
2) To look into the government policies relating to the housing for the poor
3) To examine alternatives in the urban planning practices that include the poor and make recommendations on the basis of these

The IPT panel conducted a site visit to three areas where people’s homes had been demolished followed by a public hearing on January 17, 2005, at Mumbai Marathi Patrakar Sangh. The IPT report was published as – “Bulldozing Rights” in June 2005.

Jan 31: The NAPM along with 22 slum organisations, held a two-day long dharna (sit-in protest) near

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56. Indian People's Tribunal on Environment and Human Rights, Bulldozing Rights, June 2005
Mantralaya. The slum dwellers started reoccupying the land and houses were rebuilt in Rafiq Nagar. Over 70 people were arrested and cases for rioting and forceful entry registered.

Feb 5: The Mumbai Police lodged an FIR against Ms Medha Patkar for unlawful assembly and violation of prohibitory orders.

Feb 11: Over 500 activists were arrested and then released in Govandi suburb.

Feb 12: Police lathicharged a gathering of over 1,200 activists near the Deonar police station. The people were protesting demolition of their houses in Rafiq Nagar slum area and were demanding release of 300 arrested persons. Most of them were released, but nearly 30 senior activists were re-arrested. (Rafiq Nagar slum was reclaimed from a marshy land in 1996. There were about 800 houses before demolition. The police, aided with bulldozers, demolished the houses in December 2005. Since then, the people have been living in the open in makeshift locations.)

Feb 13: The AICC General Secretary Mrs Margaret Alva expressed shock and disapproval of the evictions. Over 500 people laid siege to the office of the ruling Congress party at Tilak Bhavan in Dadar. The party assured immediate stoppage of demolitions and relief to the evictees.

Feb 14: Nearly 300 activists were arrested in wee hours in Chembur while protesting in front of a local elected member of the state legislature. Twenty five activists were arrested in Ambujawadi in Malad for entering the land where they had lived for past so many years. (Ms Margaret Alva, incharge of monitoring the implementation of the party manifesto, took a clear position favouring the protection of Mumbai slum dwellers).

Feb 16: The Congress President Sonia Gandhi intervened and reiterated the same words as Ms Alva. But the contradictory statement of the CM, thereafter, compelled the civil society organisations to continue the struggle.

Feb 21: Ms Medha Patkar along with Mohan Chavan and two other anti-slum demolition activists of Zopadpatti Bachao Sanyukta Kriti Samiti were arrested during evening hours near Ambujawadi slum, Malad, Mumbai. The Borivalli Court Magistrate sent them to judicial custody. They were taken to the Byculla and Thane jails.

Feb 23: An NAPM press release confirmed that Ms Medha Pathkar was on indefinite fast, since the time she was arrested. For three continuous days she was fasting in the Kalyan Jail.

Feb 24: Thousands of Zopadpatti Bachao Sanyukta Kriti Samiti activists marched at Sadakant Dhavan Ground and Parel in Mumbai demanding her release. The fast of Medha entered the fifth day.

Feb 26: At midnight, Medha was taken to the Central Hospital, at Ulhas Nagar. She was then shifted to JJ hospital at 3 am and forcefully put on a saline intravenous drip. She was taken out of the jail on the pretext of taking her for medical tests. Large number of activists from Govandi, Mankhurd, Malad, Kurla and from the different organisations visited her during the day to express their solidarity. Medha, Mohan Chavan and Ramesh Kasbe refused to sign personal bonds in protest against their illegal arrest and demanded that false cases against them be withdrawn.

March 15-16: Over 1,000 evicted slum dwellers from Mumbai and Narmada disaster victims held a joint dharna in New Delhi in front of the union ministry of social justice and empowerment. Representatives of 42 slum communities demanded an urgent enquiry into the violations of the Urban Land Ceiling Act 1976, DC Rules of Greater Mumbai, Master Plans for all cities and Coastal Regulation Zone (CRZ) Management plans, resulted in grabbing and usurpation of land reserved for the poor resulting in huge profits and environmental destruction.

March 16: The Maharashtra chief minister issued a statement that there was not an inch of land available for the poor in Mumbai. The civil society and slum activists came out heavily against the CM’s statement protesting that the poor have neither physical nor political space in the city. The utilisation plan of 300 acres of land cleared through evictions includes only amenities and provisions for the rich sections.

April 1-2: In Mumbai Ghar Bachao, Ghar Banao Yatra (Save a house, build a house) was organised. A march-tour was held of about eight communities, to express solidarity with the struggle of the urban poor and to expose the injustices. The activists asserted their rights during the two-day procession or yatras.
April 6: The slum organisations took out a rally from the historic August Kranti Maidan to Azad Maidan and towards the Maharashtra assembly. Before reaching the grounds, the activists were confronted with a brutal lathicharge by the police. Though the march was peaceful and there was no single incident of lawlessness, the police without warning, suddenly attacked the peaceful marchers, which included a majority of women, children and the aged.

April 8: The civil society groups demanded an inquiry into the April 6 lathicharge incident. Medha led a delegation to a meeting with the Deputy Chief Minister RR Patil, who gave an assurance of a judicial enquiry within a day, but no enquiry was instituted or action taken against the police officials.

April 29: An enquiry commission on right to food on the invitation of the NAPM visited the demolished slums of Rafiq Nagar, Mandala, Anna Bhau Sathe Nagar, Jai Amba Nagar and other slums.

May 1: May Day was celebrated by thousands of slum dwellers at Adarsh Vidyalaya, Tilak Nagar and later they marched to the residence of MP Gurudas Kamat demanding proper rehabilitation and compensation. The representatives lighted a mashal (torch) symbolising their determination to take forward their fight for justice.

May 7: Ms Sonia Gandhi summoned the Maharashtra CM to New Delhi for a meeting the very next day. She ordered the CM to immediately provide alternative rehabilitation site to all the evictees.

May 10: The state government got exposed regarding the fake scare of Bangladeshis taking over Mumbai. An application filed under the Right to Information Act came out with records that there were only 626 Bangladeshis in the entire city, as of 2004, out of 16.43 million people in Mumbai. The struggle organisations alleged that the government was trying hard to believe that these “encroachers” were “terrorists” and were “crowding” the country in large numbers.

In a press release, the NAPM pointed out that the fact is that it is not the Bangladeshis, but the desi (nationals) - corrupt builders and their protectors – who are the real threat to India. When American, European and other videshis (foreigners) are welcomed into our country, why not the Bangladeshis? The hypocrisy and double standards of the government were evident and shameful.

May 12–16: A Yatra (procession) against the forced evictions called Samvada Yatra was organised. It toured various places in Maharashtra to seek support against illegal demolitions. The yatra met different groups in various cities and villages to devise strategies for a common struggle. Samvada Yatra marched through Dhadgaon, Dhule, Nasik, Sangamner, Ahmed Nagar, Pune, Sangli and Kolhapur.

May 13: Ms Sonia Gandhi wrote a letter to the CM of Maharashtra for allowing the displaced slum dwellers to re-occupy the lands they had inhabited till the state government found any alternative and to construct appropriate housing.

May 16: The slum organisations held a sit-in dharna at the Azad Maidan demanding rehabilitation and to adhere to its election promises of extending their cut-off dates to 2000.

May 31: Mumbai High Court admitted a petition and the bench expressed that it couldn’t understand the reference of cut-off dates. Justice Chandrachud stated that the poor, who serve, go wherever there is a source of livelihood. He was of the opinion that the issues were very basic and needed to be taken up at the earliest. The Judge asked the Advocate-General, who represented the government in the court, to advise the state government to organise a meeting urgently with the peoples’ organisations and NGOs, and to listen to their views and proposed solutions.

June 6: The slum organisations held a conference ‘Consultation on urban development’ at the Azad Maidan. Justice (retd) BG Kolse Patil inaugurated the meeting.

June 9: Hundreds of slum dwellers marched to Tilak Bhavan, headquarters of the Congress party in the state (MPCC) demanding accountability and fulfilment of the poll promise of extending the cut-off date to 2000. The people gheraoed the headquarters and demanded that Ms Prabha Rao, Mr Vilas Rao Deshmukh and Mr Gurudas Kamat meet the people and explain their stand.

June 10: Slum dwellers continued their agitation on the second day at Tilak Bhavan, demanding an explanation.

57. The NAPM press release on May 10, 2005
on the eviction issue. The people waited at the gates to hear from Ms Prabha Rao, acting president of the MPCC, on party’s stand on the letter written by the UPA chairperson Ms Sonia Gandhi to the Maharashtra CM.

June 11: At Rahul Nagar, Chembur, 70 concert houses were demolished.

June 14: After a two-hour meeting with Dharavi Congress MP, Eknath Gaikwad, the state government announced that it would stop demolitions during the monsoon. The meeting was held with the representatives of the slum dwellers, led by Ms Medha Patkar. The slum dwellers demanded that they be allowed to return to the plots from where they were evicted, and the cut-off date be further extended to 2004. Mr Kamat said that the matter was for the Maharashtra government to decide. The MPCC agreed to offer a compensation of Rs 50,000 each to the families who lost lives due to the demolition.

The Nationalist Congress Party President Sharad Pawar too stated that slums should not have been demolished without proper rehabilitation for the slum dwellers. None of the NCP leaders, however, seemed to be coming forward to take any ameliorative action in the matter.

26 July: Mumbai received a record rainfall, with 94.4 cm falling in the city’s suburbs. The death toll in the Maharashtra state was more than 1,000. The city was hardest-hit, with 500 causalities. This main cause of the flooding was directly linked to city’s hazardous infrastructure development. The main cause was particularly the filling in of the nullas, drainage rivulets along roads, widened by Mumbai Urban Transport Project (MUTP) and other development activities. This man-made disaster was the manifestation of a corrupt “unholy builder-politician nexus”, which had led to massive and extensive damage in Mumbai’s suburbs. Flooding was also linked to the filling of the city’s waterways as well as the destruction of the city’s mangroves.

Oct 15-16: A national consultation workshop was held at the YUVA centre in which 300 participants took part from various parts of the country.

Oct 17: A protest rally against the urban renewal programme was organised and over 3,000 displaced slum dwellers and activists from cities of 18 states took out a rally from Darbi Talkies, Sandhursts Road to Azad Maidan to protest against anti-poor urban renewal plan.

Shamin Banu sustained miscarriage after a policewoman hit her in the stomach. The police dragged people from their houses, breaking vessels and utensils. They poured water in the food being cooked in the community kitchen and seized all the foodgrains.

Nov 10: Rafiq Nagar houses were again demolished where people were living in a Qubristan (Muslim cemetary). The police arrested 20 activists. Mr Simpreet Singh, an NAPM activist, was dragged and thrown into the vehicle. One pregnant woman, Ms Pramila Chaudhari, was manhandled and arrested. The municipal corporation with the assistance of police bulldozed about 350-400 houses. The arrested activists were taken to the Nehru Nagar Police station at Chembur.

Legal interventions

A petition was filed on behalf of the NAPM in the Bombay High Court because several colonies, which had been established after January 1, 1995 were being demolished by the government. The petition prays for a policy for urban poor housing. In this case, the court appointed a committee to work out such a policy and the HRLN is part of the policymaking committee. Three other petitions were filed on behalf of persons whose settlements were built after Jan 1, 1995. These cases are pending. One case was also filed for a disabled person whose house had been demolished. There are two other cases regarding the Slum Rehabilitation Schemes and in these cases the court has granted interim relief.

(Pravin Ghag, activist of Girani Kamgar Sanghatana, won the case in the High Court which is a major victory of the Textile Mill Workers of getting about 200 acres of textile mill land to the mill workers).

Jan 21: Chief Minister Vilasrao Deshmukh announced that slums encroaching on roads and airport land needed to be removed and 200,000 houses constructed to rehabilitate slum dwellers. He was speaking at a meet on “Slum free Mumbai”. Deshmukh said the city would be free of slums by 2020.

Feb 6: At Mahakali Nagar Worli, the municipal authorities demolished 60 houses inhabited since the late 1980s and
the residents had various documents such as voter identity cards, etc., to prove that they were living there for a long time. Police lathicharge several old women and children while they were trying to collect their belongings. Three of them sustained serious head injuries. Police arrested six housing activists including a pregnant woman and a child.

**Feb 8:** The Mumbai Metropolitan Region Development Authority (MMRDA) demolished around 600 houses of the Chum Community Centre at Khar Danda, Khar Road. Residents were residing there prior to 1995 in permanent structures. They had identity cards and other proof of pre-1995 residence. The Maharashtra Housing and Development Authority (MHADA) had built public toilets there, which were also razed. These evictions were carried just a few days before the examinations of the school children living there, thereby leaving them in the middle of the road with no means to study. Kar Danda residents had requested the authorities to extend their demolition dates for two months as the board exams were nearing, but in spite of their pleas the authorities razed their shelters without prior intimation. The local police held housing activists who had protested.

**Mar 11:** With total disregard and absolute insensitivity towards the children who were appearing for their board exams, hundreds of police personnel along with the Mumbai Municipal Corporation officials demolished around 350 to 400 houses at Indira Nagar Kurla on March 11, 2006. The residents of informal settlement at Indira Nagar on the banks of Mithi River were also evicted. The evictions were carried out on the pretext of blockage of the river. This blockage is not just because of the informal settlements but also due to diversions and construction at the mouth of the river, including the Worli Bandra Sea Link and Bandra Kurla Complex. Targeting poor slum settlements clearly indicates the vested interests and bias of the state in favour of the rich and powerful. These settlements have legal documents and existed there even before 1995.

**Apr 25:** Again at the same settlement, more than 1,000 houses were demolished by the MMRDA with hundreds of police personnel brutally beating up local inhabitants, who opposed the brutal attack. Poisonous sludge was poured over the land to prevent people from occupying the site. The sludge, which is being dredged from Mithi, contains heavy metals such as lead, cadmium, nickel and zinc. According to Vikas Tondwalkar, project director of the Mithi River Development Authority, about 2,500 shanties have been demolished. Meanwhile, demolitions continued in other areas at Powai – BEST colony, Pathanwadi, Mahatma Phule Nagar, Milind Nagar, Bhimnagar and Morarji Nagar for widening of the riverbed.

**May 9:** 5,000 houses were demolished at Mandala. Around 45 housing rights activists were injured in the lathicharge unleashed by police during and after the demolition.

**May 11:** Eight activists including three women were arrested in Mandala. They were taken to the Govandi Police station and were beaten up there. Aisha Bi, an activist from Mandala was picked up from her house. The police took Aisha Bi from inside her house. Some of them were even handcuffed. Activists were abused and beaten up in front of their advocate and were charged with attempt to murder, a non-bailable

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**Arrest of Raj Awasthi**

The Mumbai police arrested Raj Awasthi, a housing rights activist, on January 3, 2006. He was detained because of the pressure from the local land mafia, local MLA, builders, officials of the Mumbai Metropolitan Regional Development Authority, the collector’s office and the police. Awasthi was held in Thane Jail and then transferred to Nasik Jail.

Awasthi was involved in mobilising the slum dwellers and shop owners of the Kurla region, Mumbai and making them aware of their constitutional and human rights. He was instrumental in exposing the corrupt practices and policy violations by the World Bank and the local officials in the WB funded Mumbai Urban Transport Project, which has displaced more than one lakh people in Mumbai.

He was charged under Prevention of Dangerous Activities (MPDA) Act in the Bombay High Court bench of Justice Deshpande and Justice Tahilramani. The case was quashed and he was released on May 5, 2006.
offence. An independent team consisting of Ms Lata Narayanan, Ms Amita Bhide and Mr Vijay Nagaraj of Tata Institute of Social Sciences (TISS) had gone to the site collecting first hand information and statements from the injured people. The evicted victims were not allowed to go to the hospitals. Police also threatened basti people not to give food or shelter to the evicted families and were forced to leave their lands. One of the women named Shamin Banu had to through the trauma of miscarriage in the Sion Hospital after a policewoman hit her in the stomach. There was massive brutal lathicharge and the police dragged people from the demolished site, breaking vessels and other utensils. They also poured water in the food being cooked in the community kitchen and seized all the foodgrains.

May 17: Thousands of people from Mandala, Mankhurd whose houses were demolished and set on fire marched to Mantralaya for an indefinite dharna (sit-in) demanding immediate stoppage of demolitions and right to shelter.

The affidavit by the government of Maharashtra clearly stated the allocation of 55 acres under Survey No 80 at Mandala (Turbe) for providing accommodation to those whose families that have been staying there before year 2000 and were demolished during the demolition drive of 2004-05.

May 18: On the second day of the agitation at Mandala, more organisations and civil society leaders came in support demanding rightful restoration of the land to the slum dwellers. As part of the agitation, Justice Suresh at Azad Maidan felicitated Mr Raj Awasthi, an associate of the NAPM, who was jailed, booked under the MPDA Act.

The eight activists who were falsely booked during and after the demolition at Mandala kept in the police custody were produced in the court. Though a bail application was made and a request for judicial custody, the court extended the police custody for four more days. Two of the main activists from among the ten were re-arrested in relation to an old case registred against them during the anti-demolition struggle in 2005. The bail application of the three women are kept pending for the report of the assistant public prosecutor.

May 25: The evicted families of Mandala continued their indefinite dharna on the eighth day. The child rights organisations and childrens’ groups also joined in solidarity with the affected children and their families.

The slum children shared and discussed their feelings about the happening in their basti, and their city. The mayor of Mumbai joined the children and helped facilitate the children in their responses to the demolitions. The scene at Azad Maidan was rather different from the regular dharnas with around 300 children from demolished communities and other vulnerable children, either homeless or threatened by violations of their personal spaces, came together to demand their right to safe home.

**Slum children narrate their experiences**

Salma Bano (10 years) said: “My parents were dragged and beaten up by the police. My home was burnt including my books and other belongings.”

Imran (12 years) lost his bicycle when his house was demolished. He had got this cycle after years of request from his mother who stitches clothes to make a living.

14-year old Ibrahim’s home got demolished in December 2004. He said: ‘If we do not have a home, we cannot study. What will we eat if our parents lose their livelihood? Home is a place which gives you a shelter and protection.”

Yogesh Medar, childrens’ mayor of Mumbai, expressed his solidarity and support with the children from the demolished communities. He said: “Every child has a right to have a secure home and that right cannot be denied by anybody. The government is responsible for securing rights of children and these rights also include right to housing. It is important that we as children raise our concerns regarding issues affecting us.”

Later, children painted their images of a home on a 15-metre long cloth which remained in Azad Maidan for public display. A small children’s park was also made with flags and balloons for the children to play.

The children then inaugurated their dream house in solidarity with all homeless children in the world before taking out a procession around Azad Maidan. They vowed to protect their symbolic house, till their Balawadi in Mandala was re-established and their right to housing and education gained. The child rights organisations: Bal Adhikar Sangarsh Sangathan, Bal Haq Abhiyan vowed to take forward childrens’ demand and their right to housing.

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58. Every child has a right to a home, Maju Varghese, Eviction Watch May 25, 2006 (evictionwatch@yuvaindia.org)
**Recommendations**

- Urban Land Ceiling Act should not be repealed rather be implemented in letter and spirit, by which land can be made available for housing the poor. Since the role of the World Bank in pushing the repeal has been exposed, it needs to be challenged and opposed.
- Land leased out to the rich with unduly low lease rent or outdated lease should be withdrawn and the land be used for requirements of the deprived. Land utilisation existing and proposed, should be immediately reviewed and proportional allocation for the poor be made mandatory.
- Any planning process underway should take in consideration the anticipated requirements of low cost and self-reliant housing schemes by involving the construction workers, carpenters and masonry workers from the slums only.
- For the slums in existence, the only viable and desirable option should be in-situ rehabilitation, by the Basti Sabha being the decision making body as also stipulated under the 74th Constitutional amendment.
- Instead of having isolated policies for sectors like transport, basic services and housing and hawkers, all these should be covered by a comprehensive pro-poor policy, enable to attain their rights and needs.
- Since infrastructure projects — especially the highways, flyovers and expressways — benefit the car owners but occupy maximum space at the cost of other land use patterns, cess on private vehicles should be imposed as a source for financing pro-poor schemes.
- Instead of public-private partnership models being pushed by the JNNURM, community-public or public-public partnership models should be developed and implemented for the delivery of basic services and other projects.
- An Act recognising the livelihood and housing rights of the urban poor be introduced and enacted by Parliament. Provisions of the existing Inter-state Migrant Workmen Act be implemented.
- Street hawkers and other informal sector activities should be mandatorily included in the urban planning and development process.
- Regarding access to basic services like water, sanitation, ration or health and law, rule or regulations cut-off date, which restricts access of the poor to the above, should be considered illegal and unconstitutional.
- Environment friendly and economically sustainable modes of transport, be it pedestrian, cyclists, cycle rickshaw pullers, should be encouraged and be made safer by providing dedicated lanes in all urban infrastructure and transport projects. The Mass Transport Systems should be prioritised over and above private modes of transportation, which includes Metro Rail system.
- Urban dwellers including slum dwellers, service providers, street vendors should be delegated the rights and responsibility of conducting a basic socio-economic and mobility survey as a step towards the fulfilment of their rights.
- Respect the electoral promise and protect all slums and houses built prior to 2000, improvement of the slums and rehabilitating dwellers is also necessary.
- Rehabilitate all people in the same place. Constitute a joint task force with government, non-government organisations working in the affected areas and community representatives acceptable to slum inhabitants.
- Accept identity proofs like ration card, photo pass, survey receipt, and other government documents along with voter’s identity card as eligible identity proof for rehabilitation.
- Issue immediate photo identity pass to slum dwellers that have been surveyed before 1995 or later.
- Pay compensation worth at least Rs 30,000 per family to those whose houses and belongings have been demolished.
- Transfer ownership of land on which the hutments stand, onto the names of the hutment dwellers and plan and execute low cost housing schemes for the affected through people’s cooperatives, keeping builders out.
- Enact a national rehabilitation policy for any type of displacement and forced evictions.
- Implement the Supreme Court order on right to food issued till 2004 and execute the concerned schemes for people below the poverty line.
- The cases filed against slum dwellers and activists should be immediately withdrawn unconditionally and all who are in jail should be released.
- Implement the Urban Land Ceiling Act and acquire 2500 acres of land belonging to the Godrej, Jeejeebhoy Beheramjee Trust, etc., and utilise it for housing the urban poor.
- Amend the existing law for allowing the transfer rights of hutments prior to 1995 (SRA) and give full rehabilitation rights to new occupants of the same structure.
- In the city development plan, there should be a provision to ensure that every person who comes to the city of Mumbai should be provided affordable housing and demarcate separate land for slums, poor and marginalised sections.
- In planning the Vision of Mumbai, special consideration should be given to the vision of the poor, 60 percent of the population. There should be a dialogue with labourers – organised and unorganised, pavement and slum dwellers, tenants, etc. The final decision should be based on these hearings and special consultations with the people’s organisations.
- People should be displaced only with their informed consent and participation in the decision-making process. No one should be displaced without proper rehabilitation.
- Mumbai’s plans pursued in the name of “Mithi River revival” or “Mumbai’s Development” should proceed in a transparent manner, with consent and partnership of the city dwellers and those living along the banks of the river.
- The government should recover the public lands used by unauthorised occupiers on ridiculously low lease rent or where the land lease is expired and use it for the poor people housing.
**List of forced evictions in Mumbai**

**Metropolitan areas**
1. Priya Darshini Nagar, in front of Police Station, Wadala
2. Sai Nath Nagar, Pandu Budhakar Marg, Bombay Dyeing Mill, Worli
3. Barister Nathpai Marg, PDO community, Ray Rd (West)
4. Shivaji Nagar, pavement in front of Ambedkar College, Wadala
5. Ganesh Murti Nagar, Cuff Parade, Wadala
6. Bangali Pura, Masjid Bunder, on the bridge
7. Sitaram Mill Compound, Lower Parel
8. Kamla Nagar, Jasmine Mill Road, Dharavi
9. Prakash Nagar, Near Machimar Colony, Mahim
10. Nanyaneshwar Nagar, Jer Bai Wadia Marg, Sewri
11. Madanpura, next to Byculla Fire Brigade office

**Western suburbs**
1. Siddharth Nagar, Mahada, behind Four Bunglows RTO, Andheri West
2. Mangela Koliwada, Moragaon, Ruia Park, Near Chandan Talkies, Andheri West
3. Sai Baba Nagar, behind Jan Shatabdi Hospital, Kandivali West
4. Asmi Nagar No. 7, Malwani, Malad West
5. Rathodi Gaon, Malwani Church, Malwani Malad West
6. Ambuj Wadi, near Aakashwani Malwani, Malad West
7. Ameena Nagar, behind Meghwadi Police Station, Jogeshwari
8. Ambedkar Nagar, Mahada RTO, Four Bunglows, Andheri West

**Eastern suburbs**
1. Ganesh Nagar, behind Mahada Colony, Mulund East
2. Kamraj Nagar, behind Kamraj Nagar Municipal School, Ghatkopar East
3. Netaji Nagar, behind Panjabi Chawl, Ghatkopar East
4. Annabhau Saathee Nagar, Along Mumbai Pune Highway, Mankhurd
5. Ramabai Ambedkar Nagar, Mulund Highway, next to MHADA Colony, Mulund East
6. Rafiq Nagar, Govandi East (Apnalaya - NGO providing services)
7. Shivaji Kutir, LBS Road Kurla
8. Mandal, Mumbai, Pune Highway, Mankhurd (Path - NGO providing services)
9. Indira Nagar, LBS Marg, Agra Road, Kurla
10. Bhim Chhaya Nagar, Kanamwar Nagar, Vikroli (E)

| Table – 4 |

NAPM, YUVA and ICHRL contributed in finalising the Mumbai report

**Housing campaign network in Mumbai**
- Zopadi Bachao Parishad
- Apli Mumbai
- Shahar Vikas Manch
- Girangaon Rozgar Haq Samiti
- Bruhan Mumbai Bhadekaru Parishad
- Ghar Haq Jagruti Parishad
- YUVA
- India Centre for Human Rights
- Zhopadi Bachao Joint Action Committee
- Nirbhay Bano Andolan
- Chembur Zopadi Dharak Mahasangh
- Asangathit Samajik Suraksha Parishad
- Zopadi Bachao Kruti Samiti
- AITUC
- Rajiv Gandhi Nagar Rahivashi Sangh (Dharavi)
- Baladhikar Sangharsh Sanghatan
- Manav Mukti Morcha
- Ashankur
- Adarsh Ekta Nivara Kruti Samiti
- NAPM
Post widespread demolitions in the city on September 20, 2005, the World Bank had received a letter from Ms Medha Patkar and Mr Simpreet Singh detailing serious problems with the MUTP works and their implementation as number of the resettled households were facing with a set of post-resettlement problems. The World Bank had temporarily suspended financial support to the Mumbai Urban Transport Project (MUTP).

The MUTP is an ambitious road and rail renewal plan, which involves the involuntary resettlement of more than 17000 households, and about 2500 shops and small industrial units. About 14000 households have already been moved to secure dwellings. These people were among the city’s poorest, most living along railway tracks in squalid and dangerously unhealthy conditions.

The World Bank had devoted high-level attention to the project and had taken significant steps to try to bring the project into compliance with its policies and procedures. The inspection panel had received four successive complaints for inspection related to the MUTP.

**The MUTP objectives**

The objectives of the Project was to “facilitate urban economic growth and improve quality of life by fostering the development of an efficient and sustainable urban transport system including effective institutions to meet the needs of the users in the Mumbai Metropolitan Region”.

The main objective of the project was to carryout improvement in the transport infrastructure of Mumbai city. Likewise, the panel experts recognise the difficult challenge in resettling an estimated 120,000 or more people in Mumbai.

This was one of the largest urban resettlement projects that the World Bank had undertaken in India or elsewhere (except in China). According to the report, the MUTP project intended for economic development and that large numbers of people must benefit from the project.

The World Bank Panel was concerned with the number of complaints they were receiving from the affected people who would be largely displaced by the project, they were being harmed and the associated costs were being ignored. The MUTP began in 1995, as large number of families would be displaced by the project, the WB prepared two separate but interlinked projects:

1) for transport infrastructure and
2) for resettlement and rehabilitation

The WB recognised that the projects involved significant risks when in 1999 a major policy shift was made to combine the two projects into one project. The resettlement and rehabilitation project became the sub-component of the infrastructure project. This resulted in major adverse implications especially on the resettlement and rehabilitation part of the project related to both rail and road components.

The WB had approached the local NGOs in the city to implement the resettlement aspects of both components of the project.
The US$940 million MUTP is supported by an IBRD loan of US$463 million for the road and rail components of the project and an IDA credit of US$79 million for resettlement. Disbursements to the IDA credit and the road component of the loan (US$150 million) have been suspended pending a resolution of issues outlined above. The IDA is the International Development Association, the concessional lending arm of the World Bank Group, and the IBRD is the International Bank for Reconstruction and Development, the Bank’s low-interest lending window. The closing date for both the loan and the credit is June 30, 2008. According to the project documents, the road-based transport component of the project amounts to US$183.02 million, with the IBRD loan financing US$150.47 million of this. The resettlement and rehabilitation (R&R) component amounts to US$100.08 million, of which the IDA credit finances US$79 million.

Four legal agreements are relevant to the project: The IBRD Loan Agreement, the IDA Development Credit Agreement; the Maharashtra Project Agreement, and the Mumbai Railway Vikas Corporation Project Agreement. All agreements were signed on August 5, 2002. The Loan and Credit Agreements became effective on November 6, 2002.

The WB inspection panel team had released extensive investigation report (223 pages) on the Mumbai Urban Transport Project. This report was officially released on December 21, 2005. The project had affected about 120,000 persons (19,200 households) and 3000 shops displaced from their present habitat and in some instances from their source of livelihood.

The Inspection Panel was formed in September 1993 by the Board of Executive Directors of the WB to serve as an independent mechanism to ensure in the WB operations with respect to its policies and procedures. The Inspection Panel is an instrument for groups of two or more private citizens which provides a link between the Bank and the people who are likely to be affected by the projects it finances.

The investigation team was assisted by the local NGOs, national and state government officials in New Delhi and Mumbai, the MMRDA, SPARC, NSDF and SRS providing documents, discussing points of concern, and facilitating the panel’s work.

The MUTP fails to provide adequate income restoration and adequate resettlement arrangements. The shopkeepers fear of suffering irreparable damage to their businesses

The special advisers of the panel were Prof Michael Cernea, anthropologist and sociologist, Prof Alan Rew, anthropologist and sociologist, Prof Richard Fuggle, environmental scientist, and Dr Renu Modi, sociologist. Members, who were handling the investigation, were Eduardo Abbott, Anna Sophie Herken, Peter Lallas and Zachary Liscow.

The project has three components: improvement of Mumbai’s rail transport system, improvement and extension of the road-based transport system, and resettlement and rehabilitation of affected persons.

All four complaints for inspection pertain to the proposed construction and improvement of east-west connecting roads within the road-based transport component and to the proposed resettlement and rehabilitation of persons affected by the road component.

The first three complaints concern the six km Santa Cruz-Chembur Link Road (SCLR), while the last complaint addresses similar came from the issues related to the 11 km Jogeshwari-Vikhroli Link Road (JLVR). The request economically diverse people, representing low and middleincome shopkeepers and other affected residents of Mumbai.

Objections filed

On April 28, 2004 the Inspection Panel received the first objections request related to the MUTP from the United Shop Owners Association (USOA). These people are small shop owners whose commercial premises are located in the Kismat Nagar area, Kurla West, in the city of Mumbai.

The second objections was submitted by three organisations located in the city of Mumbai – the Hanuman Welfare Society, the Gazi Nagar Sudhar Samiti and the Jai Hanuman Rahiwi Sewa Sangh – on behalf of 350 residents living in the area known as Gazi Nagar in the Kurla West district.

On November 29, 2004 the panel received another objection file by the Bharati Nagar Association on behalf of the residents of Bharati Nagar.

On December 23, 2004, the panel received a fourth objection file by Ekta Vyapari Jan Seva Sangh, on behalf of residents and shopkeepers of Bandrekar Wadi, Bhavbani Chowk in the Jogeshwari district of Mumbai.
Fifty-eight members of the organisation living in the area signed the request.

The objections against the MUTP were similar in substance and allege the same violations of the World Bank’s operational policies and procedures. The complainants claim that they were suffering due to the Bank’s failure to follow its operational policies and procedures related to their resettlement and rehabilitation under the project.

The MUTP fails to provide adequate income restoration and adequate resettlement arrangements. The shopkeepers among the “Requesters” fear that they were suffering irreparable damage to their businesses.

With regard to the project design for the road component, the first complainant also demanded that the widening of the road be limited to the original proposed width of 39.0 metres as set forth in the MUTP project approved by the WB. The objection was filed appealing the Bank not to approve the MMRDA’s proposed widening of the road to 45.7 metres, which they claim would displace more shopkeepers and inhabitants and force them away from their customer-base.

They will also be harmed by the project’s resettlement and rehabilitation (R&R) policy that entitles them to an area of only 225 square feet regardless of the actual area of their current premises. There was a dispute of the quality and accuracy of the pre-displacement surveys as their structures have not been surveyed properly, because the resettlement survey took into account only the length and breadth of their present structures, not the height, even though the structures are three dimensional and often have an upper level.

The complainants further stated that they were not provided with proper information regarding the portions of their commercial premises that would be affected by the project. Some of these people, the Requesters, objected to the classification of their current area as a “slum,” which has a specific status within the State regulations.

Complaints related to resettlement sites

The first three objections filed against the project were on the resettlement site called Mankhurd. The requesting persons objected on the economic and environmental grounds to being removed to this site, arguing that it was unsuitable and too far away (nearly 15 km) from their current location.

They claimed that if they were relocated, their well-established businesses would suffer irreparable losses. Instead, they asked to be relocated to alternative sites available near their present location.

Those who made requests also complained about the environmental conditions of the resettlement site in Mankhurd and alleged that the location was amongst the

<table>
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<tr>
<th>Date of estimate</th>
<th>Sources of estimates</th>
<th>Number of people</th>
<th>Number of families/ households</th>
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<td>1995-February</td>
<td>GoM housing dept.</td>
<td>130-155,000 Approx</td>
<td>25,000 – 30,000 families</td>
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<td>1996-February 29</td>
<td>World Bank PID</td>
<td>225,000</td>
<td>45,000 residential units</td>
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<td>1997-March (repeated, 2000)</td>
<td>GoM MUTP R&amp;R policy</td>
<td>Approx 169,700</td>
<td>25,000 to 30,000 families</td>
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<td>1998-October</td>
<td>World Bank Miss. MMRDA Aide Memoire</td>
<td>1,69,700 Approx</td>
<td>30,000 families</td>
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<td>World Bank Miss. &amp; MMRDA Aide Memoire</td>
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</tr>
<tr>
<td>1999-March 15</td>
<td>World Bank – PCD for MURP</td>
<td>77,000</td>
<td>13,000 families</td>
</tr>
<tr>
<td>2002-May 21</td>
<td>World Bank PAD for MUTP</td>
<td>80,000</td>
<td>19,000 households</td>
</tr>
<tr>
<td>2002-May 21</td>
<td>World Bank PAD for MUTP</td>
<td>120,000</td>
<td>19,200 households</td>
</tr>
<tr>
<td>2004-April</td>
<td>World Bank Supervision Mission BTO</td>
<td></td>
<td>23,800 families</td>
</tr>
</tbody>
</table>

(Source: Inspection Panel Report, page 71)
most polluted and located near Mumbai’s main municipal dump, from which they feared the spread of diseases. Several huge open drains pass through this area, which carry the city’s waste, including blood, excreta and wastes from animals butchered at the nearby abattoir as well as drainage water, and cause bad smell.

The Requesters also fear that the drains carry radioactive wastewater from the nearby Bhabha Atomic Research Centre (BARC) and that the centre might pose other risks to them. They further argued that chemical factories and refineries in the area could cause serious and enduring health and environmental hazards.

**Complaints related to the housing and living conditions**

The Requesters claimed that the design and construction of the buildings at the proposed resettlement site were of very bad quality and that they were hazardous and likely to cause health and social problems. They further claimed that the people to be resettled would not be able to afford the maintenance charges of the new high-rise buildings.

**Complaints related to income and living standard restoration**

The report states that the project’s resettlement component fails to provide income restoration, which had caused significant harm to the resettled people and their businesses. The proposed relocation would cause them to lose their current customers and thus their businesses, cause their supporting networks and kin to disperse, and result in a very significant loss of income.

There were no consultations or opportunities to participate at any stage of project planning or the R&R planning and that their attempts to raise their concerns and grievances were not successful. The Bank had failed to address their grievances and to disclose information to them and that the project-related public information centres (PICs) were not been working properly. They also expressed concerns regarding Bank supervision.

In response to the objections to the choice of Mankhurd as the relocation site and their preference for an alternative site, management stated that other sites were either not suitable or, if available, were allocated to buildings of higher value use. In management’s view, the Mankhurd site constituted one of the best options available, mainly because of its proximity to a railway station.

The second response management identified several serious weaknesses in implementation. Issues that needed urgent attention and required follow up included, *inter alia*:

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**The inspection panel process**

If you and at least one other member of your community believe that you are suffering, or may suffer, harm caused by a World Bank-funded project, that the World Bank may have violated its operational policies or procedures, and that this violation is causing the harm, you may submit a Request for Inspection (Request) to the World Bank’s independent Inspection Panel. The World Bank’s policies and procedures are intended to ensure that the projects and programmes it finances provide social and economic benefits, and avoid harming people and the environment.

You may submit a Request in any language. A local non-governmental organisation (NGO), or another person who represents you, can also submit a Request on your behalf. In exceptional circumstances, or if you have no local representation, a foreign NGO or group may represent you. You may ask for your name to be kept confidential by the panel.

**What Requests are eligible?**

In order to submit a Request you need to have already raised your concerns with the World Bank staff. To do so, contact the World Bank office in your country or the nearest World Bank office. You may also contact the Inspection Panel to let them know of your communication with the World Bank.

If you are not satisfied by the response from the World Bank, you may immediately submit a Request for Inspection to:

The Inspection Panel
1818 H Street, NW
Washington, DC 20433, USA

You can submit a Request to the panel even before the World Bank has approved financing for the project or programme. Requests are not eligible when the loan and/or credit funding the project is closed, or if more than 95 percent of the funding has been disbursed.
What happens to a Request?

When the panel receives a Request, it registers it and sends it to World Bank management for a response. The panel decides whether to recommend an investigation to the World Bank’s Board of Executive Directors, and the Board then decides whether to approve the panel’s recommendation. The panel informs the Requesters of the Board’s decision. The Request for inspection, the panel’s eligibility report, World Bank management’s response, and the content of the board’s decision are released to the public and posted on the panel’s website.

If the board approves an investigation, the panel reviews relevant documents, interviews the World Bank staff, and normally visits the project site to meet with the people who submitted the Request. The Panel then sends to the board a written report on its findings.

Within six weeks, the World Bank management must respond and indicate how it plans to address the panel’s findings. The board makes a decision on the project based on the panel’s report and management’s recommendations. The panel’s report, management’s recommendations, and the content of the board’s decision are released to the public and posted on the panel’s website.

How do I prepare a Request?

Write a letter to the Inspection Panel:

- Provide the name and/or a brief description of the project or programme
- Describe the damage and/or harm you have experienced, are experiencing, or may experience
- Describe the failures or omissions you believe the World Bank is responsible for. (If known, list the World Bank policies or procedures you believe have been violated)
- Indicate when and how you have discussed your concerns with the World Bank staff and why you are not satisfied with the explanations or promised actions by the Bank staff
- Attach any other information or documents you believe may be relevant to your Request. If you are representing an affected group, you need to attach proof of representation

Suggested Format for a Request for Inspection

To
Executive Secretary,
The Inspection Panel
1818 H Street, NW, Washington, DC 20433, USA
Fax No. 202-522-0916; or c/o the appropriate World Bank Country Office

1. We [insert names] live and/or represent others who live in the area known as [insert name of area]. Our addresses are attached.
2. We have suffered, or are likely to suffer, harm as a result of the World Bank’s failures or omissions in the [insert name and/or brief description of the project or programmes] located in [insert location/country] .
3. Describe the damage or harm you are suffering or are likely to suffer from the project or programme.
4. List (if known) the World Bank’s operational polices you believe have not been observed.
5. We have complained to World Bank staff on the following occasions [list dates] by [explain how the complaint was made]. We have received no response, [or] we have received a response and we are not satisfied that the explanations and answers solve our problems for the following reasons:
6. We request the Inspection Panel recommend to the World Bank’s Executive Directors that an investigation of these matters be carried out.

Signatures: ________________ Date: ________________
Contact address, telephone number, fax number, email address and list of attachments.

establishing cooperatives and completing other post-resettlement activities in the housing areas; strengthening implementation capacity in the MMRDA; improving the dialogue and focusing on problem solving with shopkeepers; and strengthening the grievance redress procedures.

With regard to the requesters’ allegations concerning income erosion and restoration, management stated that the measures for economic rehabilitation described in the resettlement action plan (RAP) were consistent with the provisions of the R&R policy. With regard to the grievance process, management acknowledged that communication of the grievance procedures may not have been adequate and that the grievance mechanism itself needs to be improved. The Bank rated safeguard management
The loss of job by 28.7 percent of additional family members, mainly women domestic servants, as a consequence of increased distance.

Disruption of women’s earning such as small jobs like selling vegetables or fish, due to the absence of residential localities at the new sites.

An increase in commuting charges, an average monthly increase of travel costs about Rs 158 per affected household, and

An increase in expenses due to maintenance and society charges.

The TISS also observed that... no systematic rehabilitation work has been initiated by the SPARC. “Our impression performance as unsatisfactory, in part because of the lack of timely handling of grievances.

This report concludes the panel's investigation into the matters alleged in the request for Inspection. The panel's current chairperson, Edith Brown Weiss, led the investigation. Four expert consultants/advisers on social issues and environmental assessment assisted the panel in the investigation. The report extensively examines the merits of the claims presented in the requests.

The investigation panel reviewed relevant project documents and other materials from the Requesters, Bank staff, the MMRDA officials, NGOs, and other sources. The panel interviewed the Bank staff in Washington and in the Bank office in New Delhi, visited the project areas on three occasions, met with the Requesters and other PAPs throughout the area, and met with local, state, and national authorities. The panel also gathered considerable data during its field visits to the project sites with which to evaluate the Requesters claims and conducted extensive interviews with the PAPs at selected sites.

Par 6 of OD 4.30 quotes: “The responsibility for resettlement rests with the borrower. The organisational framework for managing resettlement must be developed during preparation and adequate resources provided to the responsible institutions. The organisation responsible for resettlement should be strengthened when entities executing infrastructure or other sector-specific projects lack the experience and outlook needed to design and implement resettlement... There also may be considerable scope for involving the NGOs in planning, implementation and monitoring resettlement.”
is that the SPARC (and its allies) are so burdened with the ‘entitlement’ and ‘resettlement’ process that they could not pay much attention to the ‘rehabilitation component… since the process of deciding entitlement and resettlement is a complex and challenging task, the same NGO may not do justice to simultaneously taking up the necessary rehabilitation work. In fact, we consider it relevant to assign the latter task (in future resettlements) to a different NGO with wide experience in the area.”

The panel observed that the formation of community revolving funds for economic rehabilitation has been difficult and that the funds not distributed. A major problem was that the funds were to be paid to housing cooperatives but very few cooperatives were already established yet. The housing societies are institutionalised mechanisms for empowering people to take charge of their place of residence and provide scope for community participation through elected representatives. As of November 2005, the panel found that most cooperatives have not been registered. Given the key role of the housing societies, the panel noted that it would be important to make sure that the PAPs were not resettled before the conditions for appropriate and functioning of the housing cooperatives had been a problem throughout the project execution which would require intensive supervision that the implementation of the resettlement component of the project was consistent with the WB policy.

The panel found that this resulted inevitably in inexact physical data and in highly conflicting demographic estimates, with negative consequences for project planning. The methodology used for population counts from the early phases of preparation was structurally imprecise and flawed. The WB staff did not carry out their professional responsibility: They paid scant attention to the method of preparing population surveys and were remiss in exercising quality-control from the preliminaries of the survey to their reported final results. This confirms and explains the types of omissions, miscounting and defective housing inventories and measurements that led to, and are described in the complaints received by the Inspection Panel.

(Source: Inspection Panel excerpt report)
Rehabilitation in disarray

Demography
South India’s largest city, Chennai, is the state capital of Tamil Nadu. As per the union ministry’s urban development NURM note, the population of city is 6.56 million. As per the civil society survey of 2000, the homeless population was 40,533. 22 percent of huts are of the individuals. The density is 24,231 persons per square kilometre, which is the second largest density after Kolkata, Mumbai and Ahmedabad\(^{59}\).

City profile
Chennai city has eight municipal towns, 27 town panchayats, 213 village panchayats, and one defence (cantonment) area. The Madras Corporation was formed in the year 1688. The city’s municipalities were created after the Town Improvement Act, 1865 and the Government of India Act, 1919 provided for a clear demarcation of powers for the organisation of local bodies. The Madras Town Planning Act, 1920 marked the beginning of comprehensive town planning legislation in the country.

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 locations far-off from the city, these projects are on the brink of failure. Many low-income families who are economically well off within the city fear the impending poverty from loss of livelihoods arising out of the vicious policy of relocation outside the city. The Tamil Nadu Slum Clearance Board, which had constructed the rehabilitation sites, is now in a dilapidated condition. The government has denied basic facilities such as safe drinking water, electricity, toilets, garbage collection, sanitation, and proper maintenance of tenements. The major relocation sites are: Kodungaiyur, Velachery, Pallikaranai and Okkiyum Thoraipakkam located far from the city. Thus the policy of the Tamil Nadu government is to build houses for the informal sector far away outside the city, which is the reverse of the principal of housing workers in multi-storeyed tenements \textit{in-situ}, where they were living. As part of the new policy package, the rolling back of the Urban Land Ceiling Act is a real setback to acquiring excess private lands for re-housing the urban poor near the city centre.

Growth of informal settlements in Chennai (1932 – 1981)

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|}
\hline
Year & Informal settlements & Population \\
\hline
1932 & 187 &  \\
1956 & 306 &  \\
1971 & 1202 & 7.69 lakhs*  \\
1981 & 1417 & 13 lakhs*  \\
\hline
\end{tabular}
\caption{Table – 6}
\end{table}

\(^{59}\) http://www.censusindia.net

* see conversion table page number........
Presently, the informal settlements contain one-third of the city population, located in only six percent of the total city area. Census 2001 statistical count shows that families living in informal settlements in Chennai Metropolitan area were 34,6348 with a population of 176,1168. Trends indicate that in Chennai city the urban poor inhabitants have been constantly evicted to far-off locations to favour the affluent sections of society for commercial interests. The unorganised workers’ livelihood and habitat conditions have been continuously downgraded making them more and more vulnerable and poor.

Mass Rapid Transit System (MRTS)\(^6\)

One of the major evictions in Chennai was due to the Mass Rapid Transit System (MRTS) project by the ministry of railways. In the 1980s, the urban transportation policy focused on diverting the burden of traffic from personalised transport modes to the public transport system and this caused major evictions in the city. Twenty four settlements were displaced. The first phase of Chennai’s MRTS was executed covering a distance of 8.45 km and in the second phase an additional distance of 10.3 km.

Displacements in the first phase of the MRTS project

<table>
<thead>
<tr>
<th>Year</th>
<th>Area</th>
<th>No of families affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>1988</td>
<td>Presidency College slum area</td>
<td>144</td>
</tr>
<tr>
<td>1990</td>
<td>Sunkuvar Street slum area</td>
<td>136</td>
</tr>
<tr>
<td>1990</td>
<td>Rajiv Gandhi street</td>
<td>84</td>
</tr>
<tr>
<td>1990</td>
<td>Ayodyakuppan</td>
<td>189</td>
</tr>
<tr>
<td>1990</td>
<td>Neelambasha Darga</td>
<td>225</td>
</tr>
<tr>
<td>1990</td>
<td>Nadukuppan</td>
<td>76</td>
</tr>
<tr>
<td>1990</td>
<td>Parameswaran Nagar</td>
<td>156</td>
</tr>
<tr>
<td>1991</td>
<td>Ganesapuram</td>
<td>412</td>
</tr>
<tr>
<td>1991</td>
<td>Kaliviar Street</td>
<td>97</td>
</tr>
<tr>
<td>1997</td>
<td>Lalathottam</td>
<td>308</td>
</tr>
<tr>
<td>1997</td>
<td>Poonthottam</td>
<td>816</td>
</tr>
</tbody>
</table>
| Total|                             | 2643 families were evicted in the first phase.

Second phase of the MRTS project

<table>
<thead>
<tr>
<th>Year</th>
<th>Area</th>
<th>No of families affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>Saradapuram Extension</td>
<td>200</td>
</tr>
<tr>
<td>1999</td>
<td>Canal Road</td>
<td>40</td>
</tr>
<tr>
<td>1999</td>
<td>Canal Bank</td>
<td>40</td>
</tr>
<tr>
<td>1999</td>
<td>Nehru Nagar</td>
<td>75</td>
</tr>
<tr>
<td>1999</td>
<td>Illuppai Thoppu</td>
<td>100</td>
</tr>
<tr>
<td>1999</td>
<td>NSK Avenue</td>
<td>60</td>
</tr>
<tr>
<td>1999</td>
<td>Canal Bank Road I</td>
<td>200</td>
</tr>
<tr>
<td>1999</td>
<td>Arangannal Salai</td>
<td>400</td>
</tr>
<tr>
<td>2000</td>
<td>Canal Bank Road (2)</td>
<td>200</td>
</tr>
<tr>
<td>2000</td>
<td>Angalamman Koil Street</td>
<td>100</td>
</tr>
<tr>
<td>2000</td>
<td>Ranganathapuram</td>
<td>400</td>
</tr>
<tr>
<td>2000</td>
<td>Avvai Nagar</td>
<td>150</td>
</tr>
<tr>
<td>2000</td>
<td>Perunthalaivar Nagar</td>
<td>150</td>
</tr>
</tbody>
</table>
| Total|                             | 2115 families were evicted in the second phase.

Evictions during 1994

Again in 1994, the city witnessed large-scale evictions, though the state government’s official cut-off date was June 30, 1984, many slum settlements were demolished. This demolition angered large numbers of unorganised workers. Some slum dwellers along with Pennurimai Lyakkam sought Supreme Court’s intervention. The Supreme Court in its judgment of December 6, 1988 by quoting the Tamil Nadu Government GOMs No-1488 dated November 3, 1988 ordered resettlement within a reasonable distance from the related place of employment. Tamil Nadu government GOMs No 1488 dated November 3, 1988, mentions that the slums on government land will be evicted only for public purpose and it will be done with due notice to the dwellers, by providing alternate site with basic amenities and loans for construction of houses. In spite of the Supreme Court order and assurance, the Chennai Corporation continued to evict urban poor inhabitants.

Evictions from the riverbanks

The 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 Adiyar, Cooum and B’Canal and in the storm water drainage systems in the city. The Tamil Nadu government is intending to evict these families as they feel that the communities pose a hindrance to the de-silting operations of the public works department. The TNSCB plans to evict all the 8164 families and dump them at Okkiyum Thoraipakkam, Semmencheri, and Perumbakkam, which are 20 kilometres away from Chennai city.

Evictions and protests

Dideer Nagar

1500 families from Dideer Nagar slum were evicted, most of them had pucca houses close to Marina Beach After completion of MRTS Phase - I from Beach to Thirumylai in 1997, the Phase - II has been taken up to Velachery at a cost of Rs 716 crores for a total length of 11.2 km

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60. Joint venture of State & National Governments in Developing Rail facilities: A Case Study of Chennai in India – T Anantha Rajan, V Shanmuga Sundaram, S Ponnu Swamy and K Kumar

49 Rehabilitation in disarray
in Chennai. They were relocated 20 kilometres away from Dideer Nagar. Those who were living in rented houses before the tsunami calamity were not given alternate houses for settlement. They continue to live either in the dilapidated houses or in the open air in the same slum. The place chosen for their resettlement has no drinking water, transport, electricity, toilet and school facilities.

**Kannagi Nagar and Kargil Nagar**

Marina beach fishing communities were shifted outside of the city to 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.

When the residents of Kannagi Nagar, another seashore slum, protested against the compulsory relocation, the police brutally lathicharged them. Fifty one persons, including 15 women, were arrested. The injured were not even given first aid and were straight away lodged in the jail. Most of the evicted families were daily wage earners and their children have been forced to drop out from the schools, as there was no school in the resettlement area. In Kargil Nagar, a few kilometres down the road, there are around 2142 families. Srinivasapuram families who had been rehabilitated at Kannagi Nagar and Kargil Nagar together have about 2700 residents. Though the collector, S Chandramohan, had visited the site and promised the families that they would be relocated from Kannagi Nagar and Kargil Nagar, Srinivasapuram.

The people in the neighbourhood slum, Srinivasapuram, have been served with eviction notices. But a few of them have managed to seek the intervention from the Madras High Court, which has granted a temporary stay against eviction. Similarly, their counterparts in Anna Nagar Kuppam in Royapuram in North Chennai succeeded in getting a similar stay from forcible relocation 10 km away from their traditional habitat. On February 18, 2005 a large number of revenue officials, including the Chennai district collector, and police officials came to Srinivasapuram and informed the residents that they should vacate the area by February 24.

The people of Srinivasapuram, Pattanapakkam and Kasimedu have been living in temporary shelters after the tsunami washed away their huts. The Madras High Court, in February 2005, restrained the state authorities from forcibly evicting the tsunami-affected residents of Srinivasapuram. Tsunami had washed away more than 50 people and hundreds of thatched huts in the region. More than 4000 families were rendered homeless.

**Rajakkamangakalam**

In the Rajakkamangakalam in Kanyakumari district, people were not been given temporary shelter even after two months of tsunami. However, the administration did not forget to serve notices on them to give consent to relocate them to a new place 500 metres away from the coastal area. But 99 percent of the families had firmly said ‘no’ to the eviction proposal.

**Maduravoyal**

Tension gripped Maduravoyal in suburban Chennai as the revenue officials arrived at Seikmaniyam and Iyappan Nagar to evict the residents from land, which they claimed belonged to the government. The residents of the locality protested, alleging that no notices had been issued to them. Ambattur deputy commissioner reached the spot for a dialogue. The officials left the place after urging the residents to vacate the area.

**Proposed secretariat at Marina Beach dropped**

Proposed new secretariat at Marina Beach, Chennai, was dropped by the Tamil Nadu government. The National Human Rights Commission announced this after intervening in the matter in New Delhi on July 19, 2005.

The National Commission for Women held a public hearing on the problems of Marina Coastal Fisherfolk and other unorganised workers on May 21, 2003.

The coastal fishing communities have come together to oppose the conversion of Marina Beach for the purpose of foreign missions, five star hotels, etc., and also to shift the government secretariat to the Marina. The proposed plan, if implemented, would render nearly one hundred thousand people displaced.

**Tsunami and the CRZ violations**

On December 26, 2004 tsunami created a natural process of eviction. The coast of Tamil Nadu and Pondicherry bore unprecedented damages and destruction to lives and to the coastal economy and ecology.

Demolition site on the banks of Adiyar
The rehabilitation discourse of the Tamil Nadu state government is guided by the coastal Regulation zone notification (CRZ). According to the central government notification, there should be no buildings – both residential and non-residential – within a 1000 metres distance from the seashore. But the trends visible in the post-tsunami scenario are of serious concern, especially for the coastal communities. There were gross irregularities during the rehabilitation process and the reconstruction was intentionally delayed in order that the coastal communities should themselves leave the coastal areas.

The authorities without informing the coastal communities any details took signatures from the coastal communities to relocate them beyond 1000 metres from the shores, so that coastal lands could be allotted to the industries, resorts, hotels and other corporate projects. Using the tsunami as a pretext, the World Bank and the Asian Development Bank (ADB) are keen to promote modernisation of ports and the fishing industry project.

The private companies, factories, shrimp farms were taking over the area much before the tsunami had struck along with sand-mining companies which have destroyed the sand dunes along the coast. This was in violation of a coastal regulations notification released by the central government in 1997 stating that the coastal areas from 20 to 500 metres from the high tide line (HTL) belong to the residents of the coastal area.

In July 2004, a proposal was sent by the Tamil Nadu government to the union ministry for the development of mangrove-rich areas of Pichavaram in Cuddalore district at a cost of Rs 375.6 lakhs. This has been sanctioned by the central government after the tsunami disaster occurred.

Islands where more than 100 lives were claimed by tsunami and from where the survivors fled to safer places have been now been targeted for eco-tourism.

A Rs 540 crore project for the development of a port at Nagapattinam that was pending for a long time was immediately sanctioned keeping in view the fact the coastal lands could be grabbed after thousands of people had already been displaced from the sea shores by the tsunami waves and also through invoking the CRZ notifications and forcible evictions.

The other mega-project is the construction of International Tourism Convention Centre in Mahabalipuram at a cost of Rs 1,400 crores.

The Tamil Nadu government in the past has also violated the CRZ regulations several times, the most glaring being the construction of the East Coast road to link Chennai with Kanyakumari for the benefit of the motorists to reduce the time of travel. These violations have worked against the interests of the fisherfolk community.

In the year 2002, Chief Minister Jayalalithaa made an announcement regarding the Tamil Nadu-Malaysian government joint venture of Rs 1,000 crore, to construct residential buildings for the multinational companies and foreign missions. But the project failed due to stiff resistance from the fisherfolk communities.

For example, on the Adyar creek (hardly 50 mt away from Srinivasapuram), a luxury hotel is being built since the CRZ is not applicable to the hotel. The fisherfolk who have the traditional rights are being evicted.

Needs assessment report
A consortium of the World Bank, Asian Development Bank and United Nations made a Needs Assessment Report for the rehabilitation of the tsunami affected on the basis of which an MoU had been signed for providing loan to the Government of India, of which $1380 lakh was for Tamil Nadu.

The civil society groups have pointed out that the entire report is based on an incorrect assumption that the

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**Discrimination on caste lines**
The dalit communities had to face much discrimination even at places where relief was provided along with rehabilitation work.

In the relief camps, there were reports on how the members of the fishing community prevented the distribution of relief materials and demanded that the dalits be shifted to some other camps.

In a number of tsunami-affected areas, the bodies of the dalits killed by the waves had to be removed only with the help of the sanitary workers brought from far away places as the members of the fishers’ community were not willing to help dispose off these bodies.
traditional fishing sector does not contribute much to the GDP while aquaculture is making a substantial contribution. The plans for rehabilitation were drawn up under these assumptions – naturally, the fishing communities most affected by the tsunami have gained little from the rehabilitation plan.

**Construct of compound wall**

One of the so-called ambitious projects of the Tamil Nadu government to protect the seashores (not the people living there) from future tsunami attacks is to construct a compound wall for the entire coastal distance of 1000 kilometres from Chennai to Kanyakumari! The central government headed by Dr Manmohan Singh has already come out with a draft New Environmental Policy aiming to liberalise the CRZs Notifications introduced in 1991. Tsunami has thus struck the coastal areas in yet another manner; it has paved the way for privatisation of coastal areas and commercialisation of coastal zones.

**Costal community meeting**

The civil society organisations and the coastal communities held a meeting on February 28, 2005 in Padi, Chennai, to campaign and advocate on the coastal rights front.

**Major demands**

1. The coast is the primary entitlement of the coastal communities and they have usufructual rights to the coastal land for the purposes of their livelihoods and residence.
2. The government should take measures to reclaim the CRZ zone-1 from existing encroachments in the form of hotels, resorts, shrimp industries, mining industries, etc.
3. The community must regain access to fishing nets, fishing craft and other equipment, especially the beach based ones, which are essential for their livelihoods.

**Coastal yatra**

On May 21, 2005 a Coastal yatra (campaign) was organised from Vedaranyam and ended in Chennai on May 30, 2005. The yatra was undertaken to focus public-governmental attention on the need for people oriented and participatory livelihood restoration, provision of housing organically linked to livelihoods, to make appraisal of the WB-ADB and UN Report on Post-tsunami Reconstruction Programme and to create awareness among the coastal people on their livelihood rights.

**Legal interventions**

The Human Rights Law Network (Chennai) took an initiative to intervene legally, in collaboration with other organisations. A PIL was filed in the Madras High Court on behalf of North Tamil Nadu Tsunami Relief and Rehabilitation Committee to stay the forced evictions of fishermen community who were being forced to leave their homes and move to temporary shelters, even though their houses were not destroyed by the tsunami and were livable. There was no need for them to be moved to the temporary shelters. The court had granted interim relief and given an order for the stay of eviction of the fishermen.

**Conclusion**

The state government is blatantly trying to promote so-called eco-tourism and allowing the corporate and multinational sectors to construct buildings after forcibly evicting and relocating the people traditionally living along the seashores in the name of their protection from future tsunami attacks. In fact, the CRZ norms explicitly state: “Construction/reconstruction of dwelling units between 200 and 500 metres 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”.

But, in contravention of this provision, the Tamil Nadu government had issued a letter dated on January 19, 2005 addressing the district collectors of 13 coastal districts in Tamil Nadu to compulsorily relocate even those living within a 500 metre distance from the seashore and takeover the lands from the coastal communities.

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61. Shelter Rights in Chennai by Dr K Shanmugavelayutham, paper presentation on behalf of the Chennai Slum Dwellers Rights Movement
62. State level NGO consultation on the Coastal Communities’ Right to the Coast Report of February 28, 2005
Demography
Kolkata (formerly known as Calcutta) is the capital city of the West Bengal state. Population of Kolkata is 13.21 million, according to the Census 2001. The city has the highest density per square kilometre. The area of the city covers 185 square kilometres. West Bengal is also the most densely populated state in the country\(^63\).

City profile
In early 1911, the city introduced the ‘Improvement Trust Act’, after Mumbai. The proliferation of local bodies is one of the features of Kolkata. The city has two municipal corporations, 32 municipalities and 37 urban entities. Besides these, there are: Calcutta-Howrah Improvement Trust, West Bengal Development Corporation, Joint Water and Sewage Board, Calcutta Port Authority, West Bengal State Electricity Board, transport authority, university, State Housing Board, Indian Railways and numerous micro and meso-level agencies having their own sphere of activity in the same geographical entity with very little coordination.

Geographically, Kolkata is bound on its north, northeast, east, and partly south by a network of canals, natural as well as artificial, that once formed part of a unique inland navigation network. The city’s sewage system was based on the use of this natural drainage basin and the waters of the Hoogly river were brought in through these canals to flush the wastewater into inland fisheries, which naturally treated it. This natural drainage system has been disrupted due to a variety of reasons not the least being the so-called planned urban development of these water bodies leading to all kinds of problems. One upshot of this has been the collapse of the navigation system due to the silting of the canals and the development of slums along their banks. During the 1960s, the poor working class community started settling beside the canal banks under the most unhygienic and hazardous conditions. At present, the largest concentrations of informal settlements in Kolkata are residing along these canals. The northern stretch of the Beliaghata-Circular Canal is the most densely occupied.

Evolution of housing movement
Apart from various national movements, the state also played a vital role in giving birth to the national campaign for housing rights in the 1980s. In 1977, one of Kolkata’s pioneering housing rights campaigners, Jai Sen, had set up an organisation called ‘Unnayan’ – meaning...

\(^63\) http://www.censusindia.net
'development'. The organisation documented and researched people's living and working conditions, published reports and undertook public campaigns.

After a wave of brutal citywide evictions in May-June 1983, Jai Sen, pointed out: “dehousing is as real and constant a social process as housing, and the two are interlinked. What is happening is no accident: the ‘dehousing’ of poorer people – the seizure of their homes and their domestic security – is in itself a process of relentless impoverishment. The word in Bengali that is most commonly used by ordinary people in Kolkata for ‘housing’ is – bashosthan, meaning ‘a place to settle, to live’, as distinct from abashan, which is the term of planners and builders meaning mere buildings or ‘housing’ projects”.

Eviction scenario
In the last couple of years, Kolkata witnessed one of the most brutal forced evictions by the local and state authorities on the one hand, and demonstrations of tough public resistance from the poor working class community on the other. Though the ‘propeople’ Left Front government has been ruling the state for almost three decades, it has been instrumental in perpetrating one of the worst housing rights abuses and has failed to provide adequate housing within the legal framework.

A sizeable population of the city is living in the slums, on pavements, beside railway tracks, under bridges and along side canals. Habitable land has not yet been made available to these working class people at an affordable price within the legal framework. The inquiry team found one of the highest displacements from the Kolkata metropolitan region. Though these poor working class inhabitants had ration cards and names in the voters’ lists, these sections constitute a stable vote bank of the political parties and yet they are under the threat of multiple forced evictions. There are at present, second and third generation of local inhabitants who face a constant threat of forced evictions. Evictions by the local and state authorities have been conducted with most ad-hoc and inhuman manner in the city. Ever since the multilateral institution funded projects started investing in heavy infrastructure through state agencies, the local inhabitants have been largely affected and housing rights abuse has become a regular component of arbitrary state practice.

On September 22, 2001 an inquiry was held by the “People’s Commission on Eviction and Displacement”. During the inquiry meeting, one of the evictees had directly questioned: “Why the brunt of development was borne by the urban poor only when the benefits of such development don’t reach them?”

Operation sunshine
‘Operation sunshine’ was executed in 1996 to evict hawkers from the footpaths in Kolkata city. The first operation of eviction was in December 1996 in which 1834 stalls were demolished and later between 3500 and 4000 stalls. In the year 2000, a similar operation of eviction was followed at Gariahat, Kalighat and Lake Market.

Tolly’s Nala
Tolly’s Nala evictions were one of the brutal evictions in the city in which 1150 families were evicted and 20,000 people were displaced. On September 22, 2001, the ADB-sponsored project, was twofold: Dredging the canal under Ganga Action Plan Phase-II, and extending the Metro Railway from Tollygunge to Garia in the south. These projects were financed by the ADB to improve the drainage/sewerage of the canals, undertaken by the Kolkata Municipal Corporation. Ucchhed Birodhi Jukta Mancha, Kolkata — a forum of organisations — had built a strong resistance in the city, by demanding rehabilitation, and setting up of community kitchen at Garia.

Inquiry into Tolly’s Nala evictions
People’s Commission on Eviction and Displacement was held on September 22, 2002. The inquiry was held by Justice RSachar (retired) and Justice Moloy Sengupta (retired). Going through the dispositions of all the displaced and evicted persons, the ‘People’s Commission in Eviction and Displacement’ concluded, “The system is not only colonial; the judicial system is downright pathetic. To say that it is designed

for the rich is an understatement. The poor in this country have not the slightest chance of even approaching a court of justice, let alone pursue a case”.

December ten carnage

On December 10, 2002, when the world was observing International Human Rights Day, the West Bengal government was brutally evicting some 4000 families. The civil society organisations remember Beliaghata eviction as ‘December ten carnage’. This incidence is marked as a monumental mistake against the poor citizens by the West Bengal government. Till date, none of the 4000 families have been provided any alternative accommodation. In early Eighties, the same government had provided alternative site to these inhabitants. The dispossessed residents had names in the electoral roles and ration cards as proof of residence.

Bellilious Park evictions

On February 2, 2003, seven thousand scavengers’ community was brutally evicted from Bellilious Park, 129 Bellilious Road, Howrah. They have been denied any compensation or provided rehabilitation. The Asian Human Rights Commission had issued an appeal on December 18, 2003 regarding the death by starvation of a 3-year-old eviction victim, EM Shiva, who was one of the seven thousand ‘untouchables’, forcibly and illegally evicted from Bellilious Park.

During February 9-11, 2005, the AHRC team members along with the staff from the MASUM and Mr Kirity Roy, a human rights activist, met several state governmental officials and international agencies to discuss the matter. But there has been no rehabilitation and compensation programmes planned for evictees so far. The victims are living in very poor conditions and a number of people are known to have died from illnesses brought about by the appalling living conditions and starvation.

Threat of evictions

Several thousand families in the South 24-Paraganas district in West Bengal are threatened by forced evictions. A 21-kilometre road expansion project has been planned along the Budge-Budge Trunk Road. An estimated 20,000-30,000 families currently reside along this stretch of road and will be rendered homeless by the expansion project. No prior legal notice has been given to these families. Furthermore, because of their oppressed social status, the families have been labeled illegal occupants of their homes, despite living in this area for decades. This indicates that the families will be evicted and not resettled or given compensation for the eviction.

On March 2, 2005, the West Bengal government had called-off the eviction drive to remove about 20,000 encroachers from the railway land in the Lake Gardens area of Kolkata due to stiff opposition by the Trinamool Congress party workers. The drive was being carried out in accordance with a Calcutta High Court order. The government decided to call-off the operation as the slum dwellers put up a strong resistance. Women and children were in the forefront of the protest. Ms Mamata Banerjee, Trinamool Congress leader, warned the West Bengal government that without any alternative rehabilitation the slum dwellers must not be displaced.

West Bengal Corridor Development Project

The West Bengal Corridor Development Project is aimed at constructing national and state highways that would link the state with other eastern Indian states as well as with neighbouring entries like Bangladesh, Bhutan and Nepal. The impact of displacement will be: 1300 residential structures razed; 10,000 roadside shops affected. Over 5000 community structures affected and

67. India: New Eviction case in the name of road expansion, West Bengal (http://foodjustice.net/ha/mainfile.pha/ha/mainfile.pha/ha2005/37/)
37 hectares of agricultural land will be taken over by the project. The ADB has approved a loan of US $210 million. However, the state has no plans to rehabilitate those who would be displaced by the project.

**Forced evictions**
- On March 8, 2004 hawkers were evicted near Howrah subway station
- On July 13, 2004 eviction was carried to renovate the Gariahat market
- On August 28, 2004 huts were removed on the Eastern Metropolitan bypass in Kolkata. More than 3000 persons were displaced
- In the month of May 2004, evictions were carried out on the Eastern Railways between Ballygunge and Tollygunge stations, on the Sealdah south section. Kolkata High Court had ordered the eviction. The West Bengal government had provided logistical support to the railway authorities during the time of eviction
- In March 8, 2004, Golabari police evicted hawkers from the Howrah subway station
- On December 2004, from the Salt Lake, Bidhannagar Municipality had evicted some pavement dwellers

**Housing rights workshop**
Keeping in mind the gravity of the housing crisis and impending evictions in the city, the HRLN, Kolkata unit in collaboration with the housing rights organisations held a three-day national housing rights workshop on November 1-3, 2003 at Nitika Don Basco.

The housing rights groups from all over the country as well as representative from the Centre on Housing Rights and Evictions (COHRE) attended the meeting. The workshop not only proved to be a platform for exchanging notes on strategies adopted in different part of the nation, but also enabled consultations to coordinate and build a national level campaign on the housing issues.

**Conclusion**
It is sad to observe that the 'pro-people' Left Front ruled West Bengal is the only state in India, which has adopted a policy of no alternative land or accommodation to those who are displaced from the slums in the city. Whereas in other states like, Madhya Pradesh, Uttar Pradesh, Rajasthan, Delhi, Tamil Nadu and Andhra Pradesh, evictees are provided alternative rehabilitation sites. The civil society organisations have expressed deep concerns about the state of affair and have several times sincerely appealed for an urgent intervention in this matter and to stop this criminal act of making children, women elderly and physically incapacitated persons homeless. For last several years, Bellilious Park scavengers’ community has appealed to the various national and international agencies but the state government has not even heeded to their single demand. The West Bengal state government must come out with stated official policy on rehabilitation as practiced in other states of the country.

Jan Sanhit Kendra, Uschedh Birodhi Jukt Moncha and Human Rights Law Network (Kolkata) contributed in finalising the Kolkata report

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68. West Bengal’s Road Network: An Assessment  (http://www.ciionline.orgastern/regionalfocus/1833/images/wb_road.pdf)
Demography
Hyderabad is the capital city of Andhra Pradesh state. Population of Hyderabad is plus 5.3 million as per Census 2001. The area of the city is 203.07 square kilometres. The decadal growth rate is about 9.661 percent. Andhra Pradesh has shown the sharpest decline in the decadal growth rate among all Indian states, a decline from 24.20 to 13.86 percent between 1991 and 2001.

City profile
Hyderabad Urban Development Authority (HUDA) was set up in 1975. It is a regulatory agency for development functions. The Municipal Corporation of Hyderabad (MCH) has notified 170.86 square kilometres as planning area in the Master Plan. The German geographer, Christaller, had planned the future development of the city with a vision when the HUDA was set up. The growth of the city was controlled by various measures, including the planning of ring roads around the city (20 km from the city-centre). In addition the state was supposed to follow a rational policy for equitable planned settlements. The Andhra Pradesh Urban Area Development Act came into force in 1975. The first Town Plan of the city was framed in the year 1976. According to the Act, the HUDA executed the formulation of the Town Plan and its implementation.

According to the HUDA, the slum population was around 15 percent in 1975. During 1975-76, the HUDA was influenced by progressive policies. It had planned for an integrated policy to accommodate economically weaker sections (EWSs) by providing optimum utilisation of land within the stipulated planning area. In 1977, state Chief Minister Vengal Rao and Labour Minister Anjaiah, distributed pattas and housing loans to the weaker sections at an affordable interest rate of four percent. The MCH and HUDA took initiatives in this regard and upgraded some slums in the city. Later in early 1980s, the HUDA’s research wing was closed. This paved the way for the manipulation and violation of building norms and land use specifications provided in the Hyderabad Master Plan.

After the commencement of the first town plan period, the HUDA started formulating the second draft of the Master Plan for 2011. For this, a conference was organised in 1994. As per AP Urban Area Development Act, 1975 a detailed discussion had to be held in public about the proposed land use pattern. But the HUDA was hesitant to display maps of the draft plan in parts of the city. The local struggle organisations including the Campaign for Housing And Tenurial Rights (CHATRI) accused the HUDA of selling off major parts of prime residential land to various business interest groups. This organisation has vehemently opposed selling of the EWS land to real estate brokers. One of the major challenges before civil
rights organisations in the city is to reinstate the HUDA in its proper role as a planning organisation, which can facilitate a solution to the housing crisis in the city.

**August 2000 floods**

Hyderabad is notorious for the worst violations of the building norms. The HUDA and MCH had supported this illegal practice resulting in the August 2000 floods. During this man-made disaster, there were 21 deaths, more than 7500 houses washed away, 3000 houses partially damaged and more than 80,000 people rendered homeless. Eighty-eight localities of sixteen mandals in Hyderabad and Rangareddy districts were affected. The CHATRI and other associated civil rights organisations had forewarned the administration of the dangers of this kind of haphazard infrastructure development well in advance. This was nothing but planned inundation to displace the urban poor out of the city. The August 2000 floods were a monumental man-made disaster that aggravated the housing shortage for the poor in city.

Displacement from Mussi Riverbanks

The river development project in Hyderabad under the name of Save Mussi Campaign is being used by the AP government to displace 12,000 households from the banks of the 18 km long Mussi River, which divides the city.

On August 9, 2005, two hundred families living under Shivaji Bridge were forcefully evicted. Though 60 families had received a stay order from the court. This is an ADB project with a budget of Rs 900 crore. The work has already begun and will be completed in 30 months. There are around 27 such settlements residing on the 11 km stretch from the Tipu Khan Bridge to the Chaderghat Bridge since which have been there since the 1950s.

During the 1970s and 1980s government had provided houses in different schemes. Many of them have patta and even registration title deeds. Many of the working poor inhabitants have built four pacc houses with their own hard earned savings. The government has also spent crores of rupees in providing water, electricity, drainage, roads, community halls and other facilities.

On the Mussi riverbank, there are farmers in 40 villages cultivating on 50,000 acres of land who would also be affected by the project. Similarly, in 1997 under the name of Nandanavanam Project, the administration had threatened to dislocate thousands of poor families residing along the riverbanks.

**Evictions in 2003**

1) **Lakadi ka Pul**: On January 9, 2003 450 families were evicted from Lakadi ka Pul near Nirankar Nagar. The

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**Landmark Judgment in favour of the poor**

The judiciary has not been favourable to the urban poor on housing rights issues over the past few years. However, a landmark judgment by Justice K Ramaswamy of Hyderabad High Court has strengthened the campaign for the housing rights. In 1985, residents of Indramma Nagaram at Rasalpura were issued notice of eviction. Here around 8,000 households were to be displaced. The AP state government was planning an international airport there. A Unani doctor, Ahmed Pasha, filed a case against the eviction orders. The poor working class communities had been residing there since 1976. After three years of housing rights struggle, in 1988 the Indramma Nagaram Slum Dwellers Welfare Association obtained a stay order from the Hyderabad High Court.

**Indramma Nagaram Slum Dwellers Welfare Association**

Versus

State of Andhra Pradesh

Order passed by the Honourable High Court Judge Justice K Ramaswamy

The Court passed an order in favour of the Indramma Nagaram residential colony. The summary report of justice K Ramaswamy states...

So long as the land is not required for any compelling public purpose, then allowing the hutments to remain in the government land, which is a right of residence provided under Art 19 (I) of the Constitution of India, the petitioners shall not be dispossessed. If however, the land is required for any other higher purpose, then the authorities have to take action as required under law after giving notice to each of the occupants, consider their objections and then pass appropriate orders as per law. The writ petition is accordingly ordered.

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71. Dr Anthoniraj Thumma, In Deep Waters...CHATRI publications, Dec 2000
72. WP17777/85, Andhra Pradesh High Court
Eviction was carried out under the metro railway project for Lakadi ka Pul station extension. Though there was enough space left after the building the station the place has been used for a park.

2) Lakdi Depot: 170 families were evicted from Lakdi Depot located opposite Gandhi Bhavan. Under the TDP rule, this land was allotted to set up the BJP head office even though people had been staying there for the last seventy years. The eviction took place in April 2003. The families have been rehabilitated at Nandanavnam relocation site.

3) Pitala Basti: From behind the secretariat office at Pitala Basti, 230 families were evicted. The land has been acquired to construct a helipad for the chief minister as it is close to the secretariat office. Out of 230 families, only 160 families were given rehabilitation at Kharman Ghat. The evictions took place on October 6, 2003.

4) Charasta Basti: Thirty families were evicted on February 21, 2003 at Charasta basti located near Musram Bagh area and the families have been relocated at Kharman Ghat.

5) Anna Nagar Basti: Thirty-five families were evicted from Anna Nagar Basti at Ashok Nagar. Private builders had bribed the councillors and the local MLAs.

6) Petla Bridge: At Petla Bridge seventy families were evicted on October 2, 2003. This site is adjacent to the Mussi River.

7) Bapu Ghat: At Bapu Ghat near Laxmi Nagar, 26 houses were demolished for making a garden. The eviction took place on December 22, 2003. The families have been rehabilitated at Guddi Malkapur site.

8) Malkaj Giri: At Malkaj Giri, 124 families were forcefully evicted, but due to CHATRI’s intervention the families have been relocated at the same site.

9) Bapu Ghat: At Bapu Ghat, 21 families were evicted on December 2, 2003 for making a garden. The families have been relocated at Guddi Malkapur rehabilitation site.

**Evictions in 2004:**

1) Batkama Kunta: Houses of six hundred families were demolished at Batkama Kunta on February 1, 2004 located on the Shivam road in the Ambar Peth area. The Municipal Corporation of Hyderabad acquired a total of 68 acres land for its employees.

2) Gandhi Nagar: On May 19, 2004, 92 houses were demolished in Gandhi Nagar, but due to intervention of the CHATRI the families again rebuilt their houses on the same locality.

3) Chandraya: Huts of 56 families were demolished on May 28, 2004 in Chandraya. The families have been rehabilitated at Kharman Ghat.

4) Four villages evicted: Villages of China Gola Pali, Anantha Reddy Guda, Mamdi Pali, and Galva Guda were evicted for constructing the international airport. Out of 550 families, 370 families received compensation ranging from Rs 60,000 to Rs 10,000. The evictions took place on August 4, 2004.

5) Suraram Bajpali: At Suraram Bajpali, Satyam Computers company had evicted 300 families. The Sarpanch of the village had sold the land through fake documents despite the fact that the land belonged to the government. The eviction took place on November 27, 2004.

6) Gabi Lal Peth Basti: 1600 huts were evicted at Gabi Lal Peth Basti located at Shamir Peth Mandal on December 22, 2004. The political parties like the Congess, TDP, BJIP, CPM and TRS had made their base by providing huts to the slum dwellers. This government land is 6300 acres in area and in total there are around 6000 huts.

7) Elama Banda: At Kukat Pali, around 75 families were evicted on November 28, 2004. These were Harjans families and the government had given them patta. Initially the government had promised to build houses for them.

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**City’s homeless**

In Hyderabad, there are a large number of homeless persons living on the streets. Usha Rani from SANNIHITA, is working among street dwellers and sex workers in the city. Usha said that most of them are beggars, but there are also a large numbers of workers sleeping on the road dividers. Along the roadside many people sleep in jam-packed pavements. These homeless persons are often mobile. The possessions of the street dwellers are one sack in which their bedding and small hand baggage is kept and a water bottle. Thieves often attack them in the night. Due to this reason street dwellers prefer to sleep under streetlight. During the night to find a safe area they run from one place to another. Only after 1 am at night do they manage to settle at one place to take a nap for a few hours. Sometimes due to police harassment the whole night is spent in running around from one place to another within the city. Usha narrated an incident of March 24, 2000, when former US President Bill Clinton had visited Hyderabad city for the first time. The local city administration forcefully packed hundreds of street dwellers out of the city promising to provide them permanent houses. They were loaded in large trucks and dumped a hundred kilometres away from the city. It took several days for them to walk back into the city. There are around a hundred thousand people living on the streets in Hyderabad.
at the rehabilitation site but when it reneged on this the families made their huts themselves at the demolition site.

8) Chilka Nagar Basti: At Uppal area, Chilka Nagar Basti, 30 families were evicted on November 10, 2004. This was 300 square yards of land and adjacent to it there was a private compound wall. The CHATRI had to intervene when it saw that a private boundary had been constructed.

9) Karvan Basti: On December 21, 2004, 700 huts at old Hyderabad, Karvan Basti were evicted. Though it was a government land, the eviction was done on the pretext that it was being occupied by private landowners.

Evictions in 2005

1) Singarani colony basti: On February 9, 2005 the Singarani colony basti was burned down. This was a 22-acre piece of land and a total of 5000 families were residing there. The government is constructing houses for about 300 families.

2) Musram Bagh: In February 2005, 68 families were forcefully evicted from Harijan basti at Musram Bagh. The families have been involuntarily displaced to Kharman Ghat.

3) Shivaji Bridge: For the Mussi River development plan on August 9, 2005, 200 families, residing under the Shivaji Bridge, in the area which is known as Shivaji Nagar, were forcefully evicted. Though 60 families had received a stay order from the court. The families have been rehabilitated at Kharman Ghat.

Relocation sites in Hyderabad

The Andhra Pradesh government has introduced several relocation sites some of which are very far from the city.

1) Kharman Ghat/ Nandana Vanam Colony has 10034 houses near LB Nagar. The families were evicted from Chatra Ghat Darwaja, Chandan Ghat Darwaja, Kamala Nagar and Musa Nagar. This project was started in 2001 by the TDP government. The site is located at Ranga Reddy district, 18 kilometres away from the city.

2) NTR Nagar: 5500 housing units have been built. The site is located near Ellam Banda village and the project started in the year 2000.

3) Guddy Malkapur is located behind Tolichoki. Around 1500 houses have been built there. Families who had been evicted were those from Shivaji Bridge, Domal Guda and Numas Maidan, which is 12 km away from this site. This project was started in 1998 by the TDP government.

4) Jillal Guda: 230 houses have been constructed there.

5) Bora Banda: 25,000 houses have been constructed there, a place 14 kilometres away from the city and situated in Ranga Reddy district.

6) Kukat Palli: This rehabilitation site is 18 kilometres away from the city. The rehabilitation site has a one-plus-one multi-storied building. Each unit is 22 square yards, 13 feet by 22 feet including kitchen and lat-bath. Around 600-800 buildlings have been built at the site.

8) Chandran Kutty Gous Nagar: This rehabilitation site is 15 kilometres outside the city. The site is built on untenable wasteland. The inhabitants are artisans who had migrated in early 1980s from Mehboob Nagar district. In this site, the artisans are residing in one-room apartments of merely 200 square feet that cost them Rs 30000 each.

9) Elama Banda relocation site is near Jagat Giri Gupta. This is one of the largest relocation sites, 17 kilometres from the city.

10) Bandla Guda is on the Mahadipatna road. This site has 600 houses of families who were evicted from Shivaji Nagar, Harijan Basti and Wadar Basti.

Conclusion

Hyderabad, which had hundreds of lakes is left with just 170 lakes. It is the administration and private builders who have encroached upon the water bodies all across the city resulting in the August 2000 floods. The next development disaster is the Mussi River Development Project that will displace 12,000 families. The local authorities in the city have evicted numerous families on the pretext of beautification or development of the city's infrastructure. The hi-tech city has a sizeable homeless population, most of them belonging to the working class. Hyderabad city has earned the kudos of international financial institutions and multinational corporations for being an efficient facilitator of hi-tech development, this outward sheen has an inner ugly face which is totally anti-people and insensitive to the problems of habitation being faced by the urban poor.

Campaign for Housing And Tenurial Rights (CHATRI) and SANNIHTA contributed in finalising the Hyderabad report
Visakhapatnam (also known as Vizag) is a fast developing port city and the second largest city in the state of Andhra Pradesh. The city has several State owned heavy industries. It has the only natural harbour on the eastern coast of India. The population of Visakhapatnam metropolitan region is 1.06 million and decadal growth is 40.95 percent, according to Visakhapatnam Urban Development Authority (VUDA) (2001). The Visakhapatnam metro region covers 1721 sq km, which includes five urban centres namely Visakhapatnam, Vizianagaram, Ankapalli, Bheemunipatnam and Gajuwaka and also a large rural area with 287 villages.

Costal Regulatory Zone violations
Visakhapatnam Urban Development Authority (VUDA) is constructing the four-lane 200-metre roadwork, which is a direct violation of Coastal Regulation Zone of 1991. The AP Government had approved Coastal Zone Management Plan and VUDA Master Plan in 1989. As per the CZR notification of 1991, no permanent construction should be allowed in the CZR area.

The state High Court has also directed the government agencies not to allow any type of construction in the area earmarked by the Master Plan. The government, since many years, didn’t allow the fisher folk community to construct pucca houses on the pretext that it would violate the CRZ notification. The government, as it is the beach area, also issued the CRZ notification, which is prone to cyclones.

The proposed road from Visakhapatnam to Bheemunipatnam, known as “Swarnandhra Sagaa Theeram” road is taken up within the 200-metre range, on no development zone. The VUDA has already completed more than 2 km road violating the CRZ notification without any permission from the ministry. The road passes through the survey number 121, 122, 123, 146, 147 and 150 of Chinadadili village. In the village, Andhra Pradesh Coastal Zonal Management Authority demarcates the CRZ-I areas. Further, the revenue map of Endada village clearly shows that there are sand dunes in the survey numbers 145, 114 and 113 and 106. And now R&B department is making efforts to construct road in another 3 km stretch violating the CRA notification.

The existing road alignment from Visakhapatnam to Bheemunipatnam would affect, nearly 17 fisherfolk villages. These communities are going to loose their shore area for boats, landing, fish drying, net keeping and in turn loose their livelihood. The fisherfolk community had approached the High Court, which sanctioned stay on the construction of fourlane road. But recently the road and building (R&B) department started the construction work.

Vizag to Bheemunipatnam area is 27.2 km stretch road
- MVP Colony
- Chinagadila
- Endada Village
- Jodugullapalem
- Guddavanipalem
- Rushikonda
- Kapulauppada
- Thimmaparam
- Mangamaripeta
- Chepalaukppada
- Nerallavalasa
- Bheemunipatnam

http://vuda.nic.in/masterplan.htm
After exposed to recent disastrous tsunami, all the concerned government and non-government people have been expressing that the CRZ notification should be implemented strictly. The Fishermen's Youth Welfare Association has appealed to strictly implement the CRZ notification without any deviation.

**Illegal constructions**
D Ramanaidu studio construction is on at Madhuravada village. Filmmaker Ramanaidu was allotted 40 acres in survey number 336 in 2003 by the then Telugu Desam government at the rate of Rs 40,000 per acre. The entire survey - 336 extending to 80 acre, in which the site was allotted to Ramanaidu, falls under CRZ-I. Jalari Petha, fishermen colony near coast of the sea where there are 3000 fishermen living.

Mr. M Venkateswarulu and Laxmi are housing rights activists who regularly seek legal interventions in courts and mobilise community to demand for their rights. Venkateswarula has formed the Slum Dwellers Welfare Union, working in more than twenty-five slum settlements in Visakhapatnam city. 

In Visakhapatnam, Slum Dwellers Welfare Union has made many legal interventions and obtained stay orders from the court preventing forced evictions. But the administration had ignored the court orders in many cases and executed arbitrary evictions.

**Evictions in Visakhapatnam city**
1) Sabastian colony area Nanapuram on Oct 12, 2002 90 houses were demolished
2) Bharat Nagar behind the Nanal Science and Technical Ltd (NSTL) 40 families of SC and OBC communities were residing since 35 years. These inhabitants were eviction on January 18, 2003. Around 24 persons were arrested on Feb. 24, 2003
3) Vinayak Nagar is a 30-year old colony located at Hill Area near Ram Nagar. 150 families of SC/ST and OBC and minorities were staying there
4) Sidharth Nagar, 350 families staying since 1980s. Land was acquired under the Urban Land ceiling Act, a false housing society was made to evict Sidharth nagar inhabitants
5) Rajeev Nagar, Chakali Gadha Dayanad Nagar, Kancharapatalam
6) Karasa Basti area near Naval Armed Department
7) Gowri Nagar area (NAD)
8) Ekalavaya Colony near Roads and Buildings office
9) Chitti Babu Colony
10) Shrama Shakti Nagar
11) Shiv Shankar Colony (Dhobi Colony)
150 families of dhobi community were evicted in June 2005
12) Vasudeva Nagar
12) Venkateshwar Nagar between Akya Palam and Tatichakla Palam of NH-5 road (Chennai-Kolkatta highway)
13) Indira Nagar Colony
14) Endada Colony

**Rehabilitation site**
Similar to other major cities, Visakhapatnam is on the same lines constructing the EWS housing units at Madhurwada, which is 20 kilometres away, at Sudd-Ibbalu area. This is a remote area of forestland where 50,000 houses have been planned to dump the working urban poor at this so-called rehabilitation centre.
Ahmedabad report

Grabbing the riverside land

Demography
Ahmedabad city is the seventh ranking metropolis in the country. The population of the city is plus 4.51 million. Decadal growth rate is 22.18 percent. The population has grown from 1.8 million in 1901 to 3.5 million in 2001. The city covers an area of 47,156 acres. Approximately there are 176,000 slum households in the city. The average density of the city in 2001 was 18,420 persons per square kilometre.

City profile
Ahmedabad is a business centre and forty percent of the inhabitants are poor. In recent times the increasing spectre of communal violence has led to a sharp polarisation of the Hindus and Muslims. The Sabarmati river has divided the city into the newly developed western and the older eastern city. In recent times the city has expanded on the western side and the poor are concentrated more there. The city’s slums began mushrooming after the growth of textile industries. Most of these established slums are located in the industrial zones in the eastern parts.

During the 1950s and 1960s there were large-scale evictions by the Ahmedabad Municipal Corporation but in the early 1970s the strategy was altered focusing on improving the health and environment of slums. Most slums have no toilets and even lack electricity. Eighty four percent use drinking water from community standpipes generally each catering to 20 to 25 households. Slums without tenure rights are denied necessary services.

Since 1950s, urban growth largely took place in the eastern part of the city and, particularly, the western urban peripheries. The occupation of marginal areas is the only available housing option for economically weaker urban groups.

Eastern Ahmedabad has about 44 percent of the total housing units in the Ahmedabad Municipal Corporation (AMC) region, with 54.8 percent of the total dwelling units in the category of chawls and slums. It accounts for 75 percent of the chawl units and 47 percent of the slum units in the city.

The percentage of Ahmedabad housing categorised as slums increased from 17.2 percent in 1961 to 22.8 percent in 1971 and 25.6 percent in 1991. It is estimated that 17.1 percent of Ahmedabad’s population lived in slums in 1971. This rose to an estimated 21.4 percent in 1982. The last estimate, based on a population census for the year 1991, indicates that 40 percent of households lived in slums and chawls.

75. UN-Habitat (2003), The Challenge of Slums, Earthscan, London; Part IV; ‘Summary of City Case Studies’, pp 195-228
In Ahmedabad city, the first Integrated Urban Development Project (IUDP) was initiated after the flood of 1973. This project affected nearly 300 families living on the banks of the Sabarmati. The plan was to develop a low cost housing colony on a plot of 43 acres. The project failed because the relocation area was situated far away from the core area of the city. In 1984 a new slum upgradation programme was initiated under the urban development programme of the World Bank. However, the programme failed due to the weak financial position of the Ahmedabad Municipal Corporation. As a result, the programme was abandoned in 1992. In 1990, the department of International Development, DFID, UK started a project to cover nearly 400000 people living in 183 slum locations.

In 2004, the Gujarat government had apprised a top-level World Bank team led by its country director Michael Carter about the state’s desire for a comprehensive slum upgradation plan for the city. The World Bank team visited several slum areas of Ahmedabad, the state and WB are working out a policy to transfer the land titles to private owners and remove the slum dwellers from their original place.

Sabarmati Riverfront Development Project
The slum dwellers in Ahmedabad are facing huge evictions. At the banks of Sabarmati, the beautification programme, Sabarmati Riverfront Development Project, has already started. The aim of the project is to grab the urban space presently being used by the poor inhabitants for commercial use. Some forty thousand families are likely to be displaced, of whom 80 percent are Muslims and the rest are members of other backward classes (OBCs) and scheduled castes (dalits).

This project was conceived way back in the 1960s by Bernard Cohen and during the 1970s and 1980s the Ahmedabad Municipal Corporation had attempted to revive it but, it was dropped due to a series of protests from civil society organisations. Now, Mr Bimal Patel of the Environmental Planning Collaborative (EPC) has once again taken keen interest in reviving the riverfront project for commercial purposes.

In previous instances, the EPC had notoriously designed similar projects (like Nandanvan Project) on Hyderabad’s Mussi river, where over 2000 poor households were relocated at a far-off place. The issue of resettlement is still plagued with controversies against the interests of the local inhabitants.

The Sabarmati River Front Development Corporation Ltd (SRFDCL) was registered on May 28, 1997. The main objective of the SRFDCL is to undertake business promotions for building commercial complexes, markets, for commercial use. Some forty thousand families are likely to be displaced, of whom 80 percent are Muslims and the rest are members of other backward classes (OBCs) and scheduled castes (dalits).

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The Sabarmati River Front Development Corporation Ltd (SRFDCL) was registered on May 28, 1997. The main objective of the SRFDCL is to undertake business promotions for building commercial complexes, markets,
hotels, motels, cinema houses, farm houses, water resorts, canals, fountains and showers on the Sabarmati riverfront.

The project is clearly anti-poor as it alters the present land-use pattern by grabbing land from the poor and illegally transferring it to the powerful business interest groups (PBiGs) for spinning money out of the valuable land, which the poor have inhabited for years. The SRFDCL project will also drain out all the water resources in spite of acute water scarcity in the region. Though the EPC in May 1998 made tall claims for recharging the underground aquifers and managing the floods, the irrigation department of Gujarat had expressed serious objections and even the central government’s environment ministry had rejected the project on environmental grounds.

Grabbing the riverside land from the poor has been the core dream of the SRFDCL. The BJP leaders have also put consistent pressure to wrap up all objections to support the business lobby. The Chief Minister Narendra Modi has already handed over a nine km stretch of the riverbanks and riverbed to the developer lobby (led by the SRFDCL), while the poor people residing on the banks have been kept in dark. The state government didn’t even bother to consult with the inhabitants while deciding the issue.

On the eastern side of the river around 25 thousand families have been residing, while on the western side around 15 thousand families have been residing for the last forty years. Mr Pathan Mohd Saleem, convenor of the Sabarmati Nagrik Adhikar Manch, a key organisation mobilising the community members against the riverfront development project, reported that a rally was organised on December 12, 2005, in which around 10,000 people joined from the banks of Sabarmati slums. A dharna was also organised on the occasion against the SRFDCL project in front of the Ahmedabad commissioners’ office.

**Survey of bastis**

Through the initiative of CBO leaders, a survey was conducted of all the eighty-one bastis to find out the exact number of housing units. The Ahmedabad Municipal Corporation claims that there are only 14 thousand families residing in this locality and the rest of the families are encroachers, though almost all of the families have ration cards, voter’s identity cards and pay water and electricity bills regularly.

The crucial question is whether or not private corporations should play with the lives of 40,000 families by taking away their habitats and livelihoods and justify it by saying that all this is being done in the name of development?

**Struggle against cultural fascism**

Samvedan Cultural Programme, youth forum created to promote secular cultural movement in Ahmedabad, has taken up the challenge to expose the anti-poor policies of the state and the struggle of Sabarmati inhabitants by organising the stage play *Suno nadi kya kehti hai* (Listen, what the river is saying?). The play was based on the real-life situation of slum dwellers residing on the Sabarmati banks. It depicts the struggle of the urban poor and their resistance against displacement, globalisation, gender-bias and rising communal fascism. The aim of the director of the play, Hiren Gandhi, was to sensitise common people and strengthen secular efforts through providing a cultural medium for anti-fascist struggles. The Gujarat government has banned the play as the state alleges that it has ‘objectionable’ dialogues. Mr Hiren Gandhi has filed a public interest litigation (PIL) against the censor board for cultural programmes, which is pending in the High Court.

**Evictions from places of religious importance**

The Gujarat assembly had passed the Gujarat Public Premises (Eviction of Unauthorised Occupants) Amendment Bill 2004 on February 25, 2004. The legislation allows pubic trusts to summarily evict unauthorised occupants from trust-run places of religious importance with greater ease. According to the state road and buildings Minister, I K Jadeja, the aim of the legislation is to “clean up” the state’s pilgrim centres and make them more attractive to the tourists.

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76. The Times of India, New Delhi, February 25, 2004, Rajiv Jagubhai Shah, "Religious Places are Public Premises"
Major eviction threats in the city

- Eviction threat to an approximate of 10,000 households by the Ahmedabad Municipal Corporation through 11 Town Planning Schemes.
- 40,000 families on the banks of Sabarmati are vulnerable to displacement.

**Slums threatened with evictions due to the TP schemes**

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Cluster area</th>
<th>No of slums affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>Vatwa</td>
<td>03</td>
</tr>
<tr>
<td>2)</td>
<td>Danilimada</td>
<td>42</td>
</tr>
<tr>
<td>3)</td>
<td>Gomatipur</td>
<td>05</td>
</tr>
<tr>
<td>4)</td>
<td>Bapunagar</td>
<td>02</td>
</tr>
<tr>
<td>5)</td>
<td>Naroda</td>
<td>02</td>
</tr>
<tr>
<td>6)</td>
<td>Juhapura/Gupatanagar</td>
<td>04</td>
</tr>
<tr>
<td>7)</td>
<td>Dariyapur/Chamanpura</td>
<td>03</td>
</tr>
</tbody>
</table>

The Town Planning Schemes are engaged in
- Broadening of roads
- Lake beautification
- Circular Sardar Patel Ring Road
- 132 feet wide Inner Ring Road

**Recent evictions in Ahmedabad**

- **Gulby Takera**: 600 huts were demolished in November 2004 and the families have been relocated 20 kilometres away out of the city at a place named Odhav. Gulbai Tekra is located near Indira Nagar.
- **Devji Pura Sahibag**: Around 380 huts were demolished in December 2004. The land was acquired to build a post office and a police station. No alternative accommodation was provided to the evicted victims.
- **Wastra Pur Old Lakh**: 200 families were forcefully evicted to beautify the lake area in December 2003 and no alternative habitat has been provided to the victims.
- **Mahakali Danilim bada**: Houses of around 100 families were demolished for broadening the road and laying a pipeline, but due to the HRLN intervention a stay order has been obtained from the court. Presently, the families are living in the same locality. Similarly in January 2004, Ambika Bridge area houses were demolished but the people got stay order from the court.

- **Lakodi Talab**: There is a threat of eviction as 200 families are staying in this locality.

**Bapu Nagar basti**

In Bapu Nagar Muslim community has been staying for the last 18 to 20 years. The municipality wants to evict the community on the pretext of making a vegetable market there. Around 38 families are staying in the basti.

**Relocation sites**

Like other cities Ahmedabad’s relocation sites are like dumping grounds, which are on the outskirts of the city periphery. Odhav relocation site is 20 kilometres away. The Ahmedabad Urban Development Authority had built around 1500 housing units in a four storeyed complex in 2000-2001. Since this rehabilitation scheme was started, around 400 families have been relocated there and are residing in one-room apartments. Odhav is one of the industrial areas outside the city.

Vejalpur is seven kilometres away from the city and around 100 housing units have been built there. This is also a four-storeyed complex. Most of the occupants are from Bodakdev basti and were evicted in 2004.

Vatwa rehabilitation site is 30 kilometres away and another named Nikol rehabilitation site is 35 kilometres away from the city.

**Legal interventions**

Human Rights Law Network, Ahmedabad, has filed five PILs in the Gujarat High Court on illegal evictions of hutments in Sanklitnagar, Ganeshnagar, Shashtrinagar, Bhathujinagar, Bhimnath and Jamwad localities of Vadodara. Through these PILs, the petitioners have sought relief to provide for alternative living space for those who have been evicted.

A PIL was filed on behalf of the Jan Sangharsh Manch to stop the eviction of the 43 hutment dwellers living in their hutments situated at the TP Scheme number 8, FP number 200, Talvadi Chali, Holi Chakla, Asarwa Chamanpura, area of Ahmedabad City, for over past 25 years, who are sought to be forcibly evicted without providing any alternative accommodation. A favourable order was also received in this case from the court.

A special civil application has been filed in the Gujarat High Court against the forced eviction of the community of manual labourers living in the hutments situated in New Mental Colony of Asarwa area of Ahmedabad.

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77. Eviction/demolition — Struggle for housing right by Ms. Beena Jadhav, ActionAid India Gujarat RO Ahmedabad, Gujarat
These people were being evicted from their homes without prior notice and without provision of any alternative accommodation. The court has granted stay in this case and the government has been told to provide alternate accommodation.

Special civil applications were filed for the stay of the eviction of the hutment dwellers living at Dani Limda area of Ahmedabad city, southern zone for over past 25 years, at Indiranagar, Mahendra Road, Kalol for over past 25 years, at plot number 305 opposite Ambica Mill under Khokhra over-bridge in Gomtipur area for the past 30 years and southern side of Dhulia Highway near Mindholan river on the land bearing city survey number 2582 of Vyara town of Surat district for over past 20 years. All of these people were being evicted without prior notice and also without alternate accommodation. In each of these cases, the court granted stay order and the forced eviction, therefore, averted.

**HC stays evictions**

In response to a PIL filed by the Jan Sangharsh Manch, the division bench of the Gujarat High Court, comprising Chief Justice Bhawani Singh and Mr Justice HK Rathod issued notice to the secretary, road and building department, government of Gujarat and the executive engineer, road and building department, Ahmedabad and stayed the eviction of around 112 slums situated in New Mental Colony, Meghaninagar, the PWD Campus at Asarwa, Ahmedabad till further orders.

It was urged by the petitioner, and on behalf of the slum dwellers, that the said slum dwellers were residing on the plots bearing survey number 146/1, 146/2, 147 and 148 for more than 30 years. The said land was wasteland. Earlier, the slum dwellers were working in the stores of the PWD as labourers and they were even provided with electricity connections and water facility. Never in the past the authorities had raised any objection against the existence of the hutments nor they were ever given any notice at any point of time in the past for eviction.

It was further urged that in a democratic country the poor and landless citizens have also right of having dwelling and they cannot be evicted and chased away like animals. Such an action would be violation of Article 21 of the Constitution of India. As observed by the Supreme Court, the right to life enshrined under Article 21 includes meaningful right to life and not merely animal existence. Right to life would include right to live with human dignity and it is a basic human right.

After hearing Advocate SH Iyer, appearing for the petitioner Manch, the division bench while issuing notice to the respondents, sought to know from the government as to whether alternative residence could be provided to the said slum dwellers. Mr Iyer has filed a number of PILs and litigation on housing rights issues and has received favourable orders from the courts in the past.
review papers

- myths and realities - housing Mumbai's poor affordable, alternative housing policy
- globalisation and impact on the poor
- polemics of urban space
- strategies to combat post-evictions
Myths and realities

Housing Mumbai's poor
Deepika D'souza *

The real answer to the question of why so many people live in slums is systematically analysed in this chapter through the extracts of various official documents that provide a vivid picture of the housing scenario.

As against the annual need of 46,000 housing units in 1960s and 60,000 in 1970s in Greater Mumbai, the supply of formal housing by public and private sector together has been only 17,600 and 20,000 units. During 1984-91, the supply increased to 47,400 units per annum, whereas the current need is of 85,000 units - a deficit of 45,000 units persists. (pp 245 - 246 the MMRDA Regional Plan 1996 -2011)

The cost of 40-sqm unit is minimally Rs 140,000. The data on incomes indicate that such formal supply is affordable to only top 6.25 percent (monthly income more that Rs 6,451 at 1991 prices) of households in Mumbai (pp. 248 the MMRDA Regional Plan 1996 - 2011).

The private housing market leaves out the poor; the public sector supply is limited. As a result, the shelter needs of 53 percent of the poorer or 45,000 households are satisfied in the informal market every year. This supply is in the form of further densification of existing slums and growth of new slums (pp. 248, the MMRDA Regional Plan 1996 – 2011).

From inception (1997) to 1995, the MHADA has constructed 33,890 units for economically weaker sections and another 19,184 units under the slum clearance scheme from 1995 onwards, not a single unit for the EWS housing has been constructed in Mumbai (The MHADA: Activities and Achievements 2002).

The Lok Awas Yojana, a component of the National Slum Development Programme, was not implemented in Mumbai due to unfeasibility (per unit Rs 30,000). The new avatar of this scheme: the Valmiki Ambedkar Awas Yojana was commenced on a small scale in few pockets of Mumbai from 2002 onwards.

Housing supply by the public agencies has been far below the requirement and that by the private sector has always been beyond the reach of the poor. The housing conditions deteriorated as 73 percent of the households in 1991 compared to 69 percent in 1981 lived in one-room tenements (Government of Maharashtra, 1995). Rental markets were locked and as such the only option for many low-income families was to encroach on public and private open lands and build structures, which they could afford (The BMRDA, 1994, pp 259).

Myth of lack of land and money
When it comes to housing for the poor one of the most famous reasons given for not providing rehabilitation, security of tenure is that of land shortage, insufficient funds and a constant stream of migration. Under the present demolition drive in response to the demand for rehabilitation for those whose homes have been

### Average annual supply of housing in Greater Mumbai

<table>
<thead>
<tr>
<th>Period</th>
<th>Housing board</th>
<th>Employers for employees</th>
<th>Privates co-op society</th>
<th>Total</th>
<th>Annual need</th>
<th>Deficit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1956-66</td>
<td>4233</td>
<td>3666</td>
<td>9673</td>
<td>17572</td>
<td>46000</td>
<td>28428</td>
</tr>
<tr>
<td>1973-82</td>
<td>3183</td>
<td>494</td>
<td>15949</td>
<td>19626</td>
<td>60000</td>
<td>40374</td>
</tr>
<tr>
<td>1984-91</td>
<td>16,341</td>
<td></td>
<td>31076</td>
<td>47417</td>
<td>85000</td>
<td>37583</td>
</tr>
</tbody>
</table>

* Deepika D'Souza is Executive Director of the Human Rights Law Network
demolished, the chief minister has been quoted in several newspapers as saying: "We don't have the land and the money and that daily over 300 families enter Mumbai city." Coincidently, however, while the struggle for housing is continuing on one hand on the other hand, at the same time, the Democratic Front has been caught in the Mill lands controversy and in a controversy regarding improper allotment of the CIDCO land.

The Mill lands controversy

In Central Mumbai, the Mill lands covers an extensive area of about 250 hectares. The 150 year old textile industry was the economic backbone of the city that employed two-thirds of the labour force of the city in the early twentieth century. The flourishing industry, however, had been rendered sick mainly due to the sustained and illegal diversion of the funds by the owners into newer and more profitable industries rather than using the profits for modernisation of the mills. In the last 15 years, the real estate prospects of these vast tracks of land lured the mill owners to exploit the land potential than running the mills. As a result, the state government was also pressurised to change the development control rules in 1991 allowing the sale of land on the condition that the mills were modernised. The floor space index, which could not exceed 0.5 on the industrial land on, was increased to 1.33 and the 'change of use' was allowed from industrial to commercial. The closure of the mills and the redevelopment of the land were allowed through the DCR 58 (i), on the condition that 33 percent land was given to the MCGB for open spaces and civic amenities and 33 percent was given to the MHADA for public housing. The mill owner enjoyed the full FSI on his share of land and as the TDR (transfer of development rights).

In 2001, however, this DCR 58 was changed in such a way that the land share for the public open spaces and public housing reduced to about 5 percent and in some cases to almost nil. On the other hand, the mill owner’s share is increased by more than triple.

The Municipal Commissioner Johnny Joseph justified his demolition of the slums by announcing that the space vacated was needed for gardens and parks. At the same time, he (MCGB) surrendered more than 80 hectares of the mill lands reserved for the open spaces to the private use of the mill owners.

An enquiry into the functioning of Shivshahi Punarvasan Prakalp Limited

Mr SS Tainaikar alongwith Mr RB Budhiraja, principal secretary to the government (housing department), was appointed by a government resolution housing and special assistance department No SPP – 1021/131/desk 2 dated April 4, 2001 to enquire into the working of the Shivshahi Punarvasan Prakalp Ltd (SSPL). The SSPL was set up as a government company with Rs 300 crore equity from the MHADA and Rs 300 crore equity from the MMRDA under the Shiv Sena – BJP combine to assist in financing slum rehabilitation schemes thereby provide free housing for 200,000 slum dwellers by December 1999.

The Tainaikar Committee was appointed to investigate into whether the standards adopted for granting loans to private developers were proper and whether the building construction works undertaken by the SPPL fulfil a public purpose. In his 200-page report, Tainaikar is extremely critical of the functioning of the SPPL. Critising the manner in which the SPPL was set up and the constitution of the board of the SPPL and the process of granting loans, Mr Tainaikar’s investigation revealed that the SSPL had received

Improper allotment of land

In a report tabled before the Mumbai High Court in the first week of December 2004, former municipal commissioner SS Tainaikar inducted chief ministers both present and past – Deshmukh, Shinde, Joshi, Rane and others for improper allotment of land in Navi Mumbai. Land worth Rs 150 crore, measuring 6.4 hectares was allotted to eight publishing houses including Prabodhan Prakashan, Saamna, Tarun Bharat, Dainik Pudhari and Daily Pudhari, Lokmat, Hinduostan Prakashan and Gaokari Prakashan at less than half its market value.

The matter came to light when on October 26, 2003 Mahalaxmi Mahila Grahak Sanstha, a proposed society, applied for 6,550 sq mt of land in Sector 13, Vashi. The Democratic Front, then in power, overruled the CIDCO’s decision and allotted the plot to Ratnagiri Times for Rs 3.5 crore when the Mahalaxmi Mahila Grahak Sanstha was ready to pay Rs 10 crore. The society moved the court and on April 29, 2004 the court scrapped the allotments. The allotted publishing houses then appointed builders and constructed highrise buildings for sale and an insignificant portion of the land was used for publishing. These allotments cost the State a loss of Rs 41.5 crore.

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78. The Mill lands controversy section contributed by Neera Adarkar, writer, social activist and architect closely associated with the Mill lands and Mill Workers Struggle
79. They’re to Blame for Rs 41.5 Crore Loss, Indian Express, Mumbai Newsline, Page 2, January 6, 2005
80. Report of the committee appointed by government for enquiry into affairs of the SPPL, Volume 1, August 1, 2001
application of 51 projects and had sanctioned 30 projects but there were only 11 developers behind these 30 projects. Public lands whose value was reduced by the government to Rs 0.25 per sq mt, which were only marginally encumbered with the slums and located in premium localities, were among the first to be picked up by the builders. Originally as per government resolution of May 28, 1998; June 30, 1998 and September 25, 1998, it was decided that the SPPL should financially support the MHADA to enable it to embark into massive slum rehabilitation projects. After the SPPL was constituted without express consent of the government the SPPL money was used to finance a few builders at a great financial risk. Loans to the tune of Rs 73.17 crore were disbursed at a very low interest within couple of months in 1999 without any clear selection and screening policy.

Two of the biggest beneficiaries were M/s Akruti Nirman Pvt Ltd and SD Corporation (SDCPL) who received nearly 54 percent ie Rs 39.35 crore. To quote Tinaikar, “As regards M/s Akruti Nirman Pvt Ltd, as we have pointed out in preparatory matters, proprietors Shri Vimal Shah and Hemant Shah enjoyed special confidence of the minister Shri Suresh Jain, which is evident from the fact that they along with three others were formally invited to attend and participate in the meetings of the steering committee of Shivsahi Punarvasan Prakalp between June 1998 – August 1998, before it was registered as a government company in September 1998.”

Akruti Nirman was given permission to combine nine slum pockets involving rehabilitating 4600 slum dwellers in different sites in the MIDC area of Marol and convert them into one project in compensation for which they received one of the largest free sale commercial area of all the projects having 163,0791 sq. ft. of area. The case of the SD Corporation is similar, only the land in question was the MP Mill Compound.

On the other hand, Tinaikar points out that much of the MHADA land allotted for the development of housing for the poor was diverted to build transit camps in order to ‘assist builders’ clear their lands and profit from the sale of free sale commercial area. Builders also benefited from transfer of development rights to the value of Rs 209.51 crores (page, 72).

**Lands available on enforcement of the Urban Land (Ceiling & Regulation) Act**

The Urban Land (Ceiling & Regulation) Act of 1976 sought to control land speculation and to achieve a more equitable distribution of land by putting a ceiling of 500 sqm on the vacant urban land in Mumbai that could be held in private ownership. All the land in excess of this ceiling was supposed to be returned to the government, which could use it for housing the poor. Optionaly, the owners could seek exemption, mainly under Section 20 or 21 of the Act, for the excess vacant land on the condition that the said land would be used to build one-room tenements for the weaker sections (as per the GR of 1986). The objective of the government resolution of August 22, 1986 is clearly laid down in the guidelines of the government resolution. Therefore, clearly the objective of the Act was putting in place a process by which affordable housing stock would be made available for the urban poor within a reasonable span of time.

However, this has not happened. Some of the major owners of vast stretches of vacant lands in Mumbai are charitable trusts of big industrialists and businessmen. The Act was often bypassed by using the 'exemption clause’ by manipulation and getting permission from the corporation to build — leading to a total defeat of the stated objectives of the Act. These restrictions actually reduced the supply of formal land. As a result of such criminal Acts, while the housing stock meant for the poor people in the slums who are mostly employed by such rich people as their servants, drivers, security guards, etc.

**Lands reserved for construction of houses for the dehoused people**

Lands that have been reserved as the HD lands as per the development plan and meant for housing the dehoused have also been openly used for other purposes even though housing for the poor is one of the main lacunae in the urban policy of the state.

The department of housing and special assistance was established in 1980 with an overall mission of providing housing schemes for common people, slum improvement programmes and repairs. Its over all share of budget is 0.87 percent (Centre for Budget Studies 2002) or Rs 782.36 crores.

The Ninth Five Year Plan (1997 – 2002) had estimated an expenditure of Rs 159.65 crores of this only 61.62 crore was spent. (Centre for Budget Studies 2002 – 2003). The Tenth Finance Commission allocated a sum of Rs 50 crores to improve the conditions of slums in Mumbai. Of these,
30 crores were allotted to the MHADA. This sum was utilised to cover the loss incurred in a supposedly self-financing scheme of constructing transit tenements for the MMRDA. This is a gross irregularity as has been pointed out in the CAG Report 2000 and the Tinaikar Report.

In the Indian Express of April 22, 2005 another mention was made of funds meant for housing for the poor being left unutilised. In its Sixth Demands on Grant 86-page report the parliamentary standing committee pulls up the ministry of urban development for lack of initiative and planning. The report reveals that one of the main reasons for non-utilisation of funds has been caused by the failure of the Mumbai slum relocation scheme to take-off.

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Mumbai makeover and the World Bank

The conflict on housing rights for the poor has not only remained in the domain of the Maharashtra government but is also influenced by the World Bank and other international agencies. In a meeting organised by the Mumbai First and MMRDA on the Mumbai Makeover held in the Taj Hotel, Mumbai on May 25-26, 2005, the country head of the World Bank was among the keynote speakers. In his presentation, he stated that the only way to provide for housing for the poor was to leave it to the market. More so, the city must repeal the Urban Land Ceiling Act, lift the cap on the FSI and open up the salt-pans for housing.

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At the same conference, other international speakers shared experiences about similar urban renewal endeavours in London. In their presentations they clearly stated that in order to provide housing for the poor they had to keep special zones and government had to be closely involved as market forces leave out the poor.

Union Finance Minister P Chidambaram, however, in his speech at the conference, largely reiterated what the World Bank representative said. Newspaper reports following the conference spoke about the need to repeal the Urban Land (Ceiling & Regulation) Act, 1976.
Costal regulation zone

The other so-called plan on the horizon is one devised by the private consulting firm McKinsey for Mumbai First, an organisation representing the city's corporate sector. The report “Vision Mumbai: Transforming Mumbai into a World-class City,” suggests constructing special housing zones on the salt-pan lands in the north of Mumbai with 300,000 housing units for slum dwellers. They would have to pay between Rs 750 and Rs 1,000 a month in addition to regular taxes. There is no plan to ensure that these lands will be made accessible to the livelihood sources of these poor people. Nor have ecological considerations been taken into account. Against the background of the tsunami tragedy, the importance of the coastal regulation zone (CRZ) rules cannot be over-emphasised for in many areas the violation of these rules exacerbated the impact of the killer waves.

What we are seeing in Mumbai is the culmination of decades of mismatch between precept and practice. Instead, what we need is a step-by-step approach that places housing at the centre of all urban development policies. Changes are needed in antiquated laws that have stifled the growth of affordable rental housing. Vast lands in the heart of Mumbai's former textile mill area are waiting to be developed in an equitable and just manner. They would be ideal for low-cost rental housing. Instead, they are becoming home to shopping malls and high-end housing.

In the mid-1980s, the idea of sites and services to home the poor had been tried. This involved marking out plots in lands that is provided with basic infrastructure by the state. The actual type of construction is left to the family. If in addition financial services are designed to help the urban poor build and develop such housing, we might arrive at a more sustainable model for housing the poor. A “world-class” city cannot emerge if half the citizens of Mumbai are denied their rights. The problems are serious and complex. But surely the solutions do not lie in a callous approach towards the very people who service the city.
Affordable, alternative housing policy

PK Das

This draft proposal has been prepared on behalf of the Nivara Hakk Suraksha Samiti. The points mentioned in the report were discussed in detail and have been approved as a joint charter of demand by the various housing rights organisations in Mumbai.

Legalisation of slums land
Land occupied under slums must be legalised and reserved in the development plan (DP) as sites for housing of the urban poor. Necessary amendments in the DP must be carried out for this purpose. Surveys of slums be conducted and their boundaries demarcated. The present DP is irrelevant to the needs and demands of our city's majority people, particularly the poor and the working class. There is no exclusive reservation of land for housing of the urban poor. A miniscule reservation for housing of the dehoused (HD) is inadequate. Moreover, the housing requirement of people being displaced from old dilapidated buildings or because of infrastructure projects, etc., is also not met under the present reservation. The reservation of land for project affected persons (PAP) as provided in the development plan is also inadequate given the number of slum dwellers who are being displaced due to various projects.

Slums occupy a mere eight percent land in the city and that too illegally. Nearly five million people living in the slums occupy about 2500 hectares. It is not possible to relocate or rehabilitate five million slum dwellers on alternate sites. Therefore, it is necessary that their present sites be recognised as sites reserved for housing of the urban poor in the DP, thus legalising them.

Rehabilitation policy
We agree that not all slums can be regularised in their present sites. Many slums exist in the dangerous locations and many others are situated in areas that are harmful to the health of the local inhabitants. Besides this, certain sites have to be cleared in order to carry out important infrastructure work. Slums on such locations and sites have to be, therefore, relocated. A comprehensive rehabilitation policy, thus, has to be formulated for this purpose.

There will be need for vacant land for these rehabilitation projects. The ULCRA must be strengthened and implemented for this purpose and its loopholes plugged. The vacant NDZ land must be considered as sites for rehabilitation along with infrastructure development. We consider the NDZ land as contingent land, made available for development as required, but with the development of infrastructure for it. The rehabilitation cost must be included in the budget of the primary project for which the slum sites have to be cleared.

Infrastructure development thrust
Upgradation and expansion of infrastructure must be considered a priority in the redevelopment programme for our slums. It is not possible that around 2,300 slums in the city can be rehabilitated or reconstructed within a short period. It is, therefore, important to carry out infrastructure work that includes adequate water supply, sewage disposal, sanitation, solid waste management, accesses, etc. What is needed is the upgradation of the environmental condition in the slums and not merely pursue a real estate agenda for mega construction and turnover.

Redevelopment alternatives
A. The SRD amendments: Necessary amendments to the present Slum Redevelopment Policy regulated by the SRA should be carried out to plug the various loopholes and make it more slum dweller friendly.
B. The SUP: The slum dwellers be given the option to upgrade or improve their slums if they so desire, particularly, where people are opposed to the SRD schemes led by the builders.
C. Reconstruction plan: Reconstruction of slums can be carried out by the slum dwellers co-operatives in partnership with the government (and not with the builder). The government's contribution will be in the form of infrastructure development while the slum

PK Das is based in Mumbai. He is an architect and activist associated with the Nivara Hakk Suraksha Samiti, an umbrella organisation formed in early 1980s when footpath dwellers were displaced in Mumbai city.
dwellers pay for the construction of their houses. The government and its various agencies like the MHADA must play a pivotal role in steering and facilitating the projects, including its planning. Any new housing scheme constructed will be under the possession of the government and it may be used for the relocated slums and/or made available for new demands.

D. Ward-based redevelopment: Relocation, rehabilitation and reconstruction of slums must be undertaken on ward basis. This means a comprehensive review of the slums within each ward is undertaken to minimise the dislocation of the slum dwellers and to integrate them in the development of the ward itself.

E. Finance/ loans: Once the government legalises slum land and provides the slum dwellers with tenurial rights, they can individually and/or through their co-operatives take loans from housing banks to pay for the construction cost of their houses. The slum dwellers will then be able to mortgage their houses against the loan.

F. Planning/ designing: The slum dwellers’ co-operatives will along with the government agencies like the MHADA, steer the projects. The government agencies may provide professional services and assistance to them in planning and designing. The government agencies may constitute a panel of architects and planners to provide professional services.

Building affordable housing stock for the EWS

A. Government Initiative: The government and its various agencies must give priority to the building of houses for the economically weaker section in proportion to its population. Today, the MHADA and other agencies have stopped building houses for the poor but they promote housing in the upper segments for profit thus competing in the market along with the private developers and builders.

B. Employee housing: It must necessarily be a condition with large industries and/or agencies generating large employment to plan and provide housing for its employees including the working class. The governmental sector including the BMC, Port Trust, the state government, police etc., must also provide housing to all its employees. Housing for the employees must be seen as an integral aspect of their planning and investment.

C. Reservation for the EWS housing: Every housing project in the city particularly in the HIG and MIG segments by rule must provide a certain percentage of the area for housing of the poor. Similar reservation for housing of the EWS must be a condition in the development of land reserved for public housing. The proportion of this reservation must be consistent with the ratio of the population of different economic categories.

While conditions for reservation for housing of the EWS exist today in certain developments, they have been manipulated and sold to the MIG and HIG by combining several units. It is important, therefore, to carry out an effective public audit and scrutiny where such conditions are imposed in various projects.

D. Transit housing: The state government must develop transit housing to deal with the displacements due to emergencies, repairs and reconstruction, redevelopment projects, etc.

E. Rental housing: The policy to promote development of rental housing in the city must be framed. Necessary incentives and benefits to the developer-for-rental housing must be considered.

F. Informal sector housing: It is necessary to promote housing schemes for the working class population in the informal sector. As we know, large number of construction workers are employed in the city in the various projects. Similarly, there is also a very large working class population in other informal sectors. Housing of this population must be seen as a part of the infrastructure development cost. Thus the responsibility for this housing will rest on the government as well as the promoters of the various projects in the city.

Act against forced eviction

The most important demand in present circumstances, when the slums are being indiscriminately demolished, is to stop forced demolitions and evictions by promulgating an Act. We believe that forced demolitions and evictions create worse slums and seriously violate human rights. The Act against forced evictions must apply uniformly to all settlements of the poor without discriminatory policies such as the cut-off date criteria. There shall be no demolition prior to rehabilitation.

<table>
<thead>
<tr>
<th>General conditions</th>
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<tr>
<td>1. Surveys concerning slums must be jointly carried out with the participation of slums’ communities, NGOs, etc.</td>
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<tr>
<td>2. Information and data must be made available to the public and widely published.</td>
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<tr>
<td>3. Sanctions and activities under the SRA must be monitored by the public (a representative body of the NGOs, eminent citizens, etc.) and be in full knowledge of the affected slum dwellers.</td>
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<tr>
<td>4. Information regarding infrastructure projects and other schemes in larger public interest leading to the displacement of slums must be widely published and discussed before being forced for implementation.</td>
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Amchi Mumbai goes global!

Harsh Dobhal

Mumbai is a classic case of the excesses of globalisation. The city-architecture is being exclusively designed for the seekers of profit makers, powerful and influential, the richest of the rich, land mafia and employees of the transnational corporations. The governance of the city is being connivingly handed over to the land sharks to get rid of its poor inhabitants as fast as possible by demolishing their homes, throwing them out, intimidating and if they demonstrate against state atrocities, beating them up, arresting them and putting them behind the bars. The city is in for an overhaul to re-shape into the image of a ‘global’ city. While the policymakers and the city planners have completely failed to chalk out a comprehensive city plan for the public welfare catering to the ordinary inhabitants.

The successive governments, the BJP-Shiv Sena or NCP-Congress coalitions, have been pathologically obsessed with converting Mumbai into a dream city, a mini Shanghai with spiralling flyovers and world-class malls, dotted skylines and glittering five star hotels. A modern, slick and beautiful city, sanitised and clean, cleansed of its poor, meant for the rich and powerful. A corporation-friendly city with no place for the working inhabitants who have built it and who have no plans to abandon the “dream land” they had migrated to decades back in search of livelihood. Mumbai’s own inhabitants, who have given to this city many more times than it can ever pay them back. Millions of working poor, honest and hard working, who have given their sweat and blood to build this city, its roads and buildings, its electricity lines and complex water networks, its gutters and sewer systems, its bylanes and walls, brick by brick. Those who have carried the burden and refuge of the city for decades, on their heads, backs and shoulders. That’s why they don’t want to leave Mumbai for they love it much more than the harbingers of ‘one dimensional’ development. Perhaps they understand this city with much more intensity than the political leadership and transnational corporations.

The political leadership in the state of Maharashtra is obsessed for its love with land mafia and mighty commercial builders who want to turn Mumbai into an

Global Facts

- In 1800, merely two percent of the world’s population was urbanised
- During 1950, thirty percent of the world population was urban
- In the year 2000, 47 percent of the world population was urban
- More than half of the world’s population will be living in urban areas by 2008
- It is expected that by 2030, 60 percent of the world population will live in urban areas
- Almost 180,000 people are added to the urban population each day
- It is estimated that there are almost a billion poor people in the world, of this over 750 million live in urban areas without adequate shelter and basic services
- World population touched 6.1 billion in 2001, and is growing at an annual rate of 1.2 percent, or 77 million
- Every fourth households lives in poverty in cities of the developing world
- Thirty seven percent of the population in cities of the developing world is employed within the informal sector
- The annual need for housing in urban areas of developing countries alone is estimated at around 35 million units (200-2010). In other words, some 95,000 new urban housing units have to be constructed each day in developing countries to improve housing conditions to acceptable levels
'international' city that can capture the perverse imagination of the multinationals, business tycoons and world financial institutions, a city that can match Manhattan or New York, even if built on human graveyards. After all, Mumbai is the financial capital of India, the super power of coming decade, the nuclear power, the fastest growing consumer market with its ever burgeoning, decadent middle class.

Since Mumbai is a strategic point for multinational companies, a corporate friendly environment is the need of the hour. Therefore, Mumbai will be linked up with other global, commercial hubs and delinked from its own people and its immediate periphery. And this process of de-linking has taken-off through the biggest slum demolition drive launched in December 2004, when Sushil Kumar Shinde was the chief minister.

Mumbai's poor are being deprived of their livelihoods, housing, education, health, public transportation and even the basic amenities, a hapless populace being pushed to the wall. Every iota of human rights trampled upon. The 'global' city is being built on the debris of homes to lakhs of people.

The inhabitants of a free, democratic India, the poorest of the urban — unorganised labourers, hawkers, lorry drivers, rickshaw pullers, daily wagers, whose shanties were razed between December 2004 to January 2005 before the Congress President Sonia Gandhi halted the drive while Maharashtra government contended that it was merely removing "illegal" encroachments on "public" lands. That's why about 3,000 inhabitants of Mumbai, who were 'dehoused', travelled all the way to Delhi in March 2005 in the hope of getting a compassionate audience from the central government and Ms Sonia Gandhi as there was no hope in Maharashtra government— politicians being habitual to shrug off from the election promises soon after the polls. The Congress party had made a pre-election promise to regularise slums built before 2000 and the slum dwellers had voted for the Congress for this reason, overthrowing the Shiv Sena and BJP combine. But the chief minister, in keeping with the tradition of the political parties, was quick to make a dramatic turnaround and change the cut-off date from 2000 to 1995 soon after elections.

Betrayed by the Maharashtra government, people from Mumbai squatted around Jantar Mantar in New Delhi. Completely non-violent and peaceful, they wanted to draw the attention of a government busy complying with

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**Urban India scenario**

- India has 1027 million people with an urban population of 27.7 percent (285 m in 2001). The decadal growth rate over 1991-2001 is 21.35 percent, of which urban growth rate is 31.13 percent and the rural growth rate is 18 percent.

- There are 400 million children in India (up to 18 years). 60 million children under the age of six live below the poverty line. Estimates of street children in India range from 4.14 to 11 million. The magnitude of child labour varies from 11 million to over 100 million.

- In the last 50 years population of India has grown 2½ times, while urban population has grown nearly five times.

- 50 percent of the population living in slums possess less than 5 percent of land used as shelter.

- Housing is perhaps the most neglected human development activity in the country. In 1991 the housing shortage was estimated at 22.90 million units, which has shot up to 40.8 million units, in the year 2000.

- More than 90 percent of shortage in housing is experienced by the economically weaker sections of society.

- In 2001, former PM AB Vajpayee announced that by 2010 every urban poor family would have houses.

- Sub-standard settlements house 70 percent of Delhi's population.

- In Chennai city, 40 percent of the population lives in slums.

- National commission on Urbanisation in 1987 reported that 91 individuals in Mumbai own 55 percent of vacant land.

- Majority of the urban poor live in less than 1/10 of city space.

- Of the 19 cities in the world with a population over 10 million, India has three cities: Mumbai, Kolkata and Delhi.

- Out of 3.5 million — plus cities in the country, six are in UP: Kanpur, Lucknow, Agra, Varanasi, Meerut and Allahabad.

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the TRIPs related obligations of the WTO and hobnobbing with other political parties for approval of the Patents (amendment) Bill in Parliament.

With a concern as stark and immediate as next meal and the roof over their heads, they came back, empty handed, after Ms Sonia Gandhi gave some vague assurance of "protecting" their rights. Back in Mumbai, they were thrashed by the police, dragged by hair, children lathicharged, hit all over their bodies and locked up in the police stations. Others faced extreme repression. There was terror in the air, the police vacated the lands and builders recruited private security personnel to intimidate. The iron fencing in Ambujwadi, Indiranagar, Rafiq Nagar and Wadala had uprooted thousands of inhabitants. The dalits at Ambedkar Nagar and Bhimnagar Vikroli-Kannmavar Nagar, were too badly hit.

The Maharashtra government's justifications for demolition were as hollow as its pre-election promises. The official line contends that slums eat up space and infrastructure. But the government has been proved wrong on both these counts. The infrastructure excuse has been questioned by the YUVA, a Mumbai-based organisation that came up with a study establishing that slum dwellers actually used very little infrastructure as only 5.26 percent slum-dwellers had access to individual water taps and 62 percent of them used public or shared toilets.

The displaced slum dwellers are posing serious questions asking, if the government lacks infrastructure, how can it afford to give quick permission to build about 100 forty-storeyed buildings all over the city. Obviously, while the government cares only for the rich and upper middle class sections, the poor inhabitants find no place in its agenda.

The civil society groups again contest 'lack of space' justification vociferously. Mumbai was once known for its thriving textile mills that have all been closed in last decade and half. These lands were leased out to the mill owners by the government over 50 years ago but they have not returned the land after shutting down the mills. About 2,000 acres of lands are lying waste in defunct mills and docks. But the government has no plans to provide houses to the poor in these lands. In fact, in the absence of a comprehensive plan, these lands are going for unbridled sales.

Table - 12

<table>
<thead>
<tr>
<th>S No</th>
<th>Population</th>
<th>Cities in 1991</th>
<th>Cities in 2001</th>
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<tbody>
<tr>
<td>1.</td>
<td>1 million (10 lakh)</td>
<td>23</td>
<td>35</td>
</tr>
<tr>
<td>2.</td>
<td>1 lakh - 9.99 lakh</td>
<td>300</td>
<td>388</td>
</tr>
<tr>
<td>3.</td>
<td>Towns</td>
<td>4290</td>
<td>4700</td>
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Mumbai First, a powerful lobby of builders, industrialists and ex-bureaucrats, initiated the 'city development plan' for Mumbai with the multinational, McKinsey. The Maharashtra government adopted the plan, without consensus, not even in the legislative assembly. The McKinsey report had no much concrete solution for the habitat needs of the working poor inhabitants. Instead it suggested that slums should be slashed to 10 percent.

The Maharashtra Housing Development Authority stopped constructing low-cost houses after 1990. Mumbai First and other groups propounded the idea of "developing Mumbai into a world class metro" and complained that there was no land for real estate.

McKinsey and Mumbai First have reasons to smile. The state government has been remarkably docile and obedient, police prompt and ruthless. Slum dwellers have been warned in no uncertain terms that they should forget Mumbai, government has no plans to house them. Their children have been thrown out of the schools, their school bags and pencils and their dreams, have been crushed with their slums and hutments, more could be underway.

Mumbai has become the hunting ground for the national and transnational corporations. The World Bank has been extremely generous to come forward with one billion dollar to push the 're-modelling' plan, to develop the city into a global financial centre. Of course, there will be a time to pay back, with "heavy interest".

For now, damn the poor, Amchi Mumbai is going global!

This article was first published in the Combat Law journal, Vol 4 issue 1, April-May 2005, pp 32
One of the worst manifestations of urban poverty is homelessness. Homelessness is not a malaise, but a symptom; a symptom of serious distress, embedded in grave economic disorder and social injustice. The homeless, is a person who has no roof over her/his head, or her/his family’s head. Even if a person has a home in a village, is that home of any use to him or her, in the urban context? Why would anybody leave it to sleep on the footpath, in corridors or parks, under flyovers, at night shelters (wherever it is available), in the city?

Our studies and interactions with the homeless across the country have shown that people come to cities as a last resort, due to one of these reasons: poverty, unemployment, destitution, debt, atrocities (against dalits, women), communal riots, drought, floods, cyclone, earthquakes and personal hardships. The homeless then, are deprived, dislocated, dispossessed, disentitled, and disenfranchised people. Unlike what our bureaucrats and economists are wont to think (that people from rural areas come into cities because they are attracted to the glamour), we have, in our experience, reason to believe that they leave their villages because they have been compelled to; it is not of their own volition.

Bureaucrats talk of putting checks on migration from rural to urban areas; this is not only unjustified and inhuman, it is also unconstitutional, in violation of Article 19 of the Constitution of India (which empowers the people of this country to reside and settle in any part of the territory of India). Poverty then, is systemic/structural in nature, a product of skewed and disempowering social interactions, political and economic processes. Ascribing it to any person as a personal attribute is a fallacy. A product of misconception, guided by myths and opinions. The government programmes and policies have a half-hearted approach while dealing with poverty, rural as well as urban. Rampant corruption at all levels is responsible for it too. If all the resources that were put in towards poverty alleviation had been utilised with full sincerity, we would have, by now, eliminated poverty, not just alleviated it.

The way to deal with urban poverty lies in removing rural poverty, not the poor people. The other way to deal with it is, by making housing accessible to all and putting a stop to all evictions in urban settings.

Mindless eviction intensifies the poverty of those who are already very vulnerable. With no mechanisms for immediate redressal, they continue to move from one fringe to other. The case in point is the eviction of homeless women and children from the NDMC Palika Hostel complex (in New Delhi) on October 16, 2004. This happened despite the assurances given by none other than the PM Manmohan Singh and UPA Chairperson Sonia Gandhi just three days before the eviction. This action flouted the UPA government’s common minimum Programme (CMP) commitments, the Constitution of India, the UN Habitat I & II commitments, and UN Conventions and Covenants (UDHR, CRC, CEDAW, ICESCR).

Just three percent people (the elite) have appropriated 75
percent of all private land in the world. 50 percent of the slum population possesses less than five percent of the whole land. The majority of the urban poor live in less than one-tenth of city space, and we all know that 90 percent of the shortage in housing is experienced by the economically weaker sections of our society. And still, we are not tire in saying that there's no land. Land for whom? The issue is that there is enough land for the rich to buy and stock it as farmhouses, but not for the urban poor, the homeless and the inadequately housed, who run the cities of India through their hard labour, construct the buildings at a risk to their own health and life, and work in our homes as domestic labour, languish in the dungeons of the city. Ironically, they are seen as a drain on urban economy; we forget that our cities would collapse if they were not there. We need to treat the urban poor as citizens of our country, and not as 'pickpockets and thieves', as noted by our judiciary.

The urban spaces should also spawn lots of livelihood options, and need to embrace the rural settings. The corporate sector has an important role to play in this. And the livelihood options need to be aligned with the housing locations. A divorce between the two is what has created the mess that we are in today.

**International instruments**

The list of the international instruments ratified by India that protect the right to housing include: The ICESCR, CEDAW, CRC, International Covenant on Civil and Political rights (ICCPR), and The Convention on the Elimination of all Forms of Racial Discrimination (CERD).

The right to adequate housing is the most comprehensively elaborated in Article 11 (1) of ICESCR...India's commitment to adequate housing under the ICESCR explicitly precludes the practice of forced evictions. General comment 7 of the Committee on Economic, Social and Cultural Rights recognises this abrogation of liberty, justice, security and privacy as a violation of 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.

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. Article 21 provides that no person be deprived of his 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. Because the practice of forced eviction results in the loss of livelihood, it is *prima facie* transgression of Article 21.

Article 14 and 15 guarantee of substantive equality, obliging the state to take affirmative action in facilitating opportunities for the disadvantages and prohibiting discrimination on the grounds of religion, race, caste, sex or place of birth. 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.

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**A rights-based approach to development in the housing sector can:**

- Empower the poor and the homeless
- Promote security of tenure, particularly for women and vulnerable groups in inadequate housing conditions
- Strengthen protection against forced evictions and discrimination in the housing sector and
- Promote equal access to housing resources and remedies in cases of violations of housing rights

**Policy framework**

The national policies that are relevant for the fulfilment of the right to adequate housing in India are:

- National Policy on Resettlement and Rehabilitation for Project Affected Families, 2003
- Government of India Tenth Five Year Plan (2002-2007)
- Draft National Slum Policy, 2001
- National Housing and Habitat Policy, 1998
- National Policy on Resettlement and Rehabilitation for Project Affected Families, 2003

In its preamble it notes: "Compulsory acquisition of land for public purpose including infrastructure projects displaces people, forcing them for [sic] give up their home, assets and means of livelihood."
Apart from depriving them of their lands, livelihoods and resource-base, displacement has other traumatic psychological and socio-cultural consequences. The Government of India recognises the need to minimise large-scale displacement to the extent possible and, where displacement is inevitable, the need to bundle with utmost care and forethought issues relating to resettlement and rehabilitation of project affected families. Such an approach is especially necessary in respect of tribals, small and marginal farmers and women.

It has issued broad guidelines, fixed different rates as compensation and mechanisms for R&R.

In the past involuntary displaced persons were given meagre compensation and left to find ways for their rehabilitation. Most of these project-affected people are now living in slums of urban cities.\(^88\) The Planning Commission of India estimates that 21.3 million individuals were displaced due to development projects between 1990 and 1995.\(^89\)

**Tenth Five-Year Plan (2002-2007)**

In its report the Steering Committee on Urban Development, Urban Housing and urban Poverty for the Tenth Five Year Plan notes, "India has one of the largest urban systems, but its effectiveness is considered as far from satisfactory due to paucity of funds and ineffective management. The major urban concern is the growing gap between the demand and supply of basic infrastructure services like safe drinking water, sanitation and sewerage, housing, energy, transport, communication, health and education."

The report further states: "Poverty reduction has been uneven between the states. The most important point about the interstate variation in poverty is that it shows no correlation with per capita income or other development indicators levels of Industrial and infrastructural development, etc., in urban areas during the Nineties. It may be seen that the dynamics of development in the urban areas of the states during the past two decades have been such that rapid economic growth has not led to a corresponding decline in poverty. Urban poverty, thus, emerges as a more complex phenomenon than rural poverty."

Studies have shown that casualisation of the labour is the main and increasing source of urban poverty... "It is necessary that the policy-related causes of urban poverty such as inappropriate policy framework of public services such as education, health, infrastructure and transport, lack of labour rights and unemployment benefits, land and housing regulations which make it unaffordable for the poor to find housing and push them to disaster-prone and unhygienic areas, lack of safety nets and social support systems, etc., are dealt with within the urban poverty alleviation programmes.

"Areas that need considerations include urban governance issue with special focus on the problems of the urban poor and slum dwellers, urban transport and housing."

**Night shelter for urban shelterless, 1988-89**

This scheme is for the homeless. Under this, 50 percent subsidy is provided by the HUDCO and the remaining has to be arranged by the state government/implementing agency. The following table speaks volumes about the commitment of our country for this scheme:

What emerges from the table is that of the 35 states and UTs (28 states and seven union territories), only seven states attempted to create night shelters for the homeless. Out of the 47 shelters in tents that came up, Maharashtra had the lion’s share of 28; the rest six states put together 19 shelters in all.

<table>
<thead>
<tr>
<th>Year</th>
<th>States (no of schemes)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>Chhattisgarh (1)</td>
<td>1</td>
</tr>
<tr>
<td>2002-03</td>
<td>MP (1)</td>
<td>2</td>
</tr>
<tr>
<td>2001-02</td>
<td>Andhra Pradesh (3)</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>Chhattisgarh (2)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Karnataka (1)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>MP (2)</td>
<td></td>
</tr>
<tr>
<td>2000-01</td>
<td>Maharashtra (7)</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>MP (1)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Orissa (1)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Rajasthan (1)</td>
<td></td>
</tr>
<tr>
<td>1999-2000</td>
<td>Chhattisgarh (2)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Maharashtra (21)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>MP (3)</td>
<td></td>
</tr>
</tbody>
</table>

While MP went for seven, Chhattisgarh for five, Andhra Pradesh for three, the remaining ones: West Bengal, Karnataka, Orissa and Rajasthan had one each.

88. Combat Law, op cit, p 24
89. HIC-HLRN, op cit, p 34
90. HIC-HLRN, p 33
Delhi, UP, Bihar and other states were totally absent from all this. The issue is also that the idea of having 24 hours shelter for women, children and families has not yet been thought about. Our work with the homeless, across the country, tells us that even men require shelters for 24 hours. For many work until 2 am – 5 pm. Where would they sleep if the shelter is only a night shelter? The idea is to create *Aashray Griha* cum activity centres.

Shelter spaces could be: Community centres, schools, public (government)/private office spaces, under flyovers, multiple uses of existing spaces: shelter parking lots, pedestrian subways, etc.

**Draft National Slum Policy, 2001**

It is really a tragedy and travesty that since Independence we have no semblance of a national slum policy.

The union urban ministry finalised the National slum Policy Draft in April 1999. The ministry received comments up to December 3, 2001 but finality still remains elusive. Owing to this indecision the existence of the slum dwellers is at the mercy of the bureaucrats, judiciary, land mafia and politicians. Even the NHRC finds its hands tied.

In recent years, as it was evident to the HIC-HLRN fact finders, the quality of judicial rulings has deteriorated. It is worth nothing that the UN’s appointed expert of the RAH (right to adequate housing) has observed that the Supreme Court and the Bombay High Court have "revealed a regressive attitude towards housing rights and disregard for both fundamental human rights and India’s obligations under the ICESCR."91

91. ibid, p 7
92. ibid, p 8
93. ibid, p 12
94. Combat Law, op cit, p 11

All this is so because the majority of slums within a city are “illegal” from the point of view of planners. The slum Areas (improvement and clearance) Act, 1956 states that the authorities may declare an area to be a slum area when, based on a “report from any of its officers or other information” it is determined that the buildings in an area are in “any respect” unfit for human habitation or “detrimental to safety, health, or morals”

Although the Act’s purpose was to improve the housing conditions, it has frequently been interpreted as giving licence to demolition and eviction.92

Forced evictions consistently violate slum dwellers’ rights to adequate housing in the main cities of India. During the past four years, municipal authorities have evicted many people living in the slums and sent them to the outskirts of cities on the pretext of beautification or development of the cities... Relocation sites have often been in deserted areas where women and children feel insecure. They lack basic facilities such as electricity, drinking water, transport and schools. There is no source of livelihood and people have to travel long distances at great costs to get to their place of work at the centre of the city.93

Forced eviction without adequate resettlement also violates congruent rights such as the right to food, right to health, right to education and the right to livelihood.94 The steering committee for the Tenth Five-Year Plan note: “Slum dwellers need not perennially be at receiving end of the selected doles but made part of the urban economic and social processes with adequate opportunities for upgrading their lives, while contributing what is well-known to be a major share in the economic activities of the cities. The urban upgradation has to be recognised as part of the national development process.”

It further states, “The Working Group on Housing has observed that around 90 percent of housing shortage pertains to the weaker sections. There is a need to increase the supply of affordable housing to the economically weaker sections and the low-income category through a proper programme allocation of land, extension of funding assistance, and provision of support services. The problem of the urban shelterless and pavement dwellers has not been given the consideration that is looked for in a welfare or pro-poor polity as seen from the lack of progress in the Programme for the Night Shelter Scheme.”

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National Housing and Habitat Policy, 1998

The first National Housing and Habitat Policy (NHHP) draft was introduced in January 1987. The second draft of the National Housing and Habitat Policy was formulated in 1998. The policy was laid before Parliament on July 29, 1998. It opened with a very radical assessment: "After 50 years of Independence, most of us still live in conditions in which even beasts would protest... The situation is doubtless grim and calls for nothing less than a revolution - "A Housing Revolution"."

The NHHP notes: "No housing policy can make any significant headway without massive participation of the private sector... The National Agenda sets a target of construction of two million houses out of which 1.2 million will be for rural areas and 0.7 million for urban areas every year with the emphasis on the poor and deprived. The National Agenda also emphasised that housing activity would be an engine for substantial generation of employment in the country. In fact, the economy can only be revived by vigorous housing activity spread through the length and breadth of the country. To this end, all legal and administrative impediments that stand in the way should be removed forthwith."

And what got repealed in 1998 was the Urban Land (Ceiling & Regulation) Act, 1976. The ULCRA had a ceiling to the amount of land that could lie vacant with private agencies in urban areas, a limit of 500 metres had been set for Mumbai and Delhi. Any vacant land in excess of the ceiling was to be acquired by the state governments for public housing purposes. This law, if properly implemented could have greatly reduced the housing deficit. The NDA government preferred to succumb to the wishes of the World Bank rather than provide housing to its toiling citizens.95

The negative consequences appear quite serious. With the repeal, there will be no bar on the amount of urban vacant land a person can hold. This will obviously lead to a situation where the rich and powerful will start purchasing-off large chunks of land on the periphery of the cities.96

This is a dangerous trend for it enables winds of globalisation to turn to a storm, and disperse the poor and vulnerable to such an extent there in no coming back for them. The steering committee for the Tenth Five-Year Plan states: "With the anticipated entry of foreign direct investment into real estate sector, care has to be taken that the needs of the urban poor and marginalised sections are not ignored."

So serious is the reforms (privatisation) for government that it has initiated a scheme called Urban Reforms Incentive Fund (URIF). The URIF scheme was approved by the government on June 28, 2003 with an annual allocation of Rs 500 crore during the Tenth Plan. The fund seeks to provide incentive to the states to have reforms. In the first phase (2003-2004), the following areas (with weightage indicated against each) have been identified:

Amount under the URIF is released as additional central assistance (ACA) to annual plan of the states. The state-wise allocation of funds has been made on the basis of percentage of urban population of each state with reference total urban population. During the year 2004-2005, second-generation reforms and their weightage were under consideration.

Of the 35 states/UTs, only 24 have signed the MoA with the Government of India. Seven of the states (Appellant, WB, Goa, Arunachal Pradesh, Meghalaya, Bihar, Himachal Pradesh) have not agreed to the first reform area. While ten states have said no to the second reform area, seven have declined reform in third area

### Urban Reforms Incentive Fund

<table>
<thead>
<tr>
<th>SN</th>
<th>Reform area</th>
<th>Weightage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Repeal of ULCRA</td>
<td>10% of state's share out of URIF</td>
</tr>
<tr>
<td>2.</td>
<td>Rationalisation of stamp duty</td>
<td>20 percent of state's share out of URIF</td>
</tr>
<tr>
<td>3.</td>
<td>Reform of rent control</td>
<td>20 percent of state's share out of URIF</td>
</tr>
<tr>
<td>4.</td>
<td>Introduction of computerised process of registration</td>
<td>10 percent of state's share out of URIF</td>
</tr>
<tr>
<td>5.</td>
<td>Reform of property tax</td>
<td>10 percent of state's share out of URIF</td>
</tr>
<tr>
<td>6.</td>
<td>Levy of reasonable user charges</td>
<td>0 percent of state's share out of URIF</td>
</tr>
<tr>
<td>7.</td>
<td>Introduction of double entry system of accounting in urban local bodies</td>
<td>0 percent of state's share out of URIF</td>
</tr>
</tbody>
</table>

95. ibidp 24
96. Jagori, 2004, op cit, p 42
(Delhi is one), and one each in reform areas 4-6 have said no to it. All the 24 have said yes only to the last reform area. Till March 31, 2004, the following have not signed MoA: Assam, JK, Punjab, Uttaranchal, Jharkhand, Sikkim, Mizoram; UTs: Pondicherry, Daman & Diu, Dadra & Nagar Haveli and Lakshadeep.

Some of the possible areas for reform (just a glimpse of the few listed from the long list of 18, is enough to shock us on the design of things to unravel in future, by and large) under the URIF-II (2004-2005) could be (this was circulated for the conference of ministers of housing of states/UTs (Sept 27-28, 2004) in Srinagar:

i. Simplification of legal and procedural frameworks for conversion of agricultural land for non-agricultural purposes
ii. Initiation of public private partnership in the provision of civic services
iii. Introduction of independent regulators for urban services
iv. Implementation of urban street vendor policy by the states
v. Removal and further prevention of encroachment of government land (measurable parameter area encroached) and policing of such lands
vi. Reduction in number of slums
vii. To undertake appropriate reforms for easy access to land
viii. To promote private sector and cooperatives for undertaking housing construction for all segments with the focus on the EWS/ LIG in urban areas
ix. To identify specific housing shortage under each category, namely the LIG/ EWS etc., and to prepare housing action plan to meet the housing shortages
x. To make the housing finance affordable for the EWS/ LIG and to make land or shelter provided to slum dwellers strictly non-transferable

The steering committee for the Tenth Five-Year Plan inform us that “Externtal assistance for the urban sector has continued to flow from the ADB, World Bank and bilateral agencies such as FIRE, USAID and DFID.”

It is important to note that government is showing that it is concerned about the urban poor and thus there is a mention of housing action plan and other moves. But not all is well. The government seems to be abdicating its responsibility of taking care of the vulnerable urban poor (The DDA has provided for only 34 percent of total housing targets over the last two decades). By opening doors and freeing land to the market, it seems to address its two million houses every year, goal. The government approach has been of allowing housing shortages to exponentially grow, 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 in their minds by the external agencies to 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’s mode switches to demolish and relocate, with policing of lands. 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 policy for the rich to get richer and the poor to be removed from all open areas, thrown anywhere 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 turned into a resource, for beauty to spawn. And have them again removed to another abyss.

The policies regarding demolition, resettlement and rehabilitation need to be looked at more carefully, and an assessment of their impact also needs to be done. After all, when most of these populations are displaced from one area, there will be another ‘illegal’ settlement, which will rise in another area — sometimes, just across that road. This is linked to the broader issue of the failure

of the State to provide an infrastructure to a growing city, and particularly the failure to provide services and facilities — education, health, housing, electricity, water, and sanitation — to poor people. They cannot wish away the basic requirements of people migrating to the city; as citizens, they also, hold constitutional rights and as workers, it must be recognised that it is their labour that holds up the city and contributes to the national economy.

The People’s Housing Policy also makes it clear that the working poor of the city have to be provided with accessible and affordable shelter by the deliberate, affirmative action of the State. ‘Open market’ forces will never be able to achieve this objective. Hence, these arguments give rise to the possibility of a fourth strategy for housing (the first three are: environmental improvement, in-situ upgradation, total relocation) — that of providing additional land wherever (or near) the settlements are located and upgrading the facilities. This is in situ reform strategy. It is strategy that supports the unparalleled ‘private’ initiative and entrepreneurship demonstrated by vast numbers of working people to build their own shelters without any ‘subsidies’ from the government.

The alternative policy will

- Provide security of tenure to enable investments in proper housing
- Leave the earning capacity and available services of the household undisturbed
- Maintain investments within the earning capacity of the family
- Allow entrepreneurial spirit of the people free rein
- Give an adequate return on investment to public agencies; and
- Enhance the value additions in the quality of life in the city as a whole

Having drawn lessons from our deep engagement with the homeless, to continue the work with the homeless in India. Strategic focus (for all the issues) has to be on:

1. The most vulnerable of the vulnerable (women and children and men with multi-layered personal challenge/ hardship). The level of vulnerability will deepen with every personal challenge/ hardship they face, like: destitution, disability, mental illness, physically ill/ medical emergency, starving, HIV positive, sexual abuse, chemical dependence, police brutality, etc.

2. Homeless people leading the intervention: cadres as community health workers, counselors, mobilisers/ motivators/ disseminators, and managers — giving shape to a national shelter/ housing rights movement, spearheaded by them.

3. Accessing government resources (shelter spaces, health infrastructure (medicines, doctors, vans...), educational, sanitary, monetary

4. Advocacy with the MPs, MLAs, councillors on a sustained basis. Work towards getting Housing Rights Bill passed, government to keep its commitment to the human rights principles as enunciated in the various UN agencies and Treaty Bodies, policies framed on homelessness, slums, etc... Also lobby to get new schemes addressing issues like: health/livelihood/ employment/ training for enhancing skills/ micro finance for housing and setting up ventures. Intervene in Master Plan and city development report: framing processes, etc. Access to various entitlements: The BPL ration cards, voter cards, birth registration of homeless children, old age pension, etc. We should also clamour for transparent urban governance and single window dealings than multiplicity of agencies.

5. Engaging with the judiciary. Work towards building a climate against beggary Acts. Disseminate the findings of the various studies done on it in the country through workshops, inviting all the stakeholders. And then, finally knocking the doors of the legislature, for repealing such Acts. The PIL course should be used sparingly. Only, only, only as a final measure and that too, after being approved by all the leading human rights activists/ advocates. Changing the mindset is very crucial.

6. Establishing a good rapport with bureaucracy (top as well as lower rungs), which is not individual driven but issue focused with institutional support. The guiding principle should be “co-operate, where you can; resist, where you must.”

7. A better-coordinated media interface. Engaging with the media in a manner that they cover the issue regularly and the coverage is not event specific.

8. Involving the larger civil society: The RWAs, Lions, Rotarians, chambers of commerce (CII, FICCI, etc.), trader association, bar associations, doctors’ associations and other groups of professionals, students bodies, theatre groups, cultural bodies, other people’s movements, etc.

9. Facilitating the creation of networks and coalitions towards a vibrant housing rights movement. Aligning with similar regional and international bodies as well.

10. Enlarging the coverage of the issue (though documentation/ dissemination and interventions) by creating spaces for voluntary engagement on a sustained basis.

11. Use of every possible event, local, state level, regional and international to broad-base our campaign against homelessness, evictions and non-adherence of the State to various instruments: national Acts and our own Constitution and international conventions, covenants to which India is signatory.

12. Developing an understanding on the Reforms Agenda of the government and being posted on current decisions, policies, conference, etc. It will be a nice idea to establish something like Urban Areas Development Watch Group whose job will be to monitor the happenings and immediately transmit the information to all stakeholders. And seek their support or put them on vigil or alert everyone about gross violations (like evictions, hauling up homeless and destitutes as beggars)/ ramifications of new infrastructural schemes (like the URIF 0 I&II, City Challenge Fund (CCF), Pooled Finance Development Funds (PFDF) or tinkering with Acts, like the way in 1998 Urban Land (Ceiling and Regulation) Act was repealed.

13. Ensuring that the commitments made by the United Progressive Alliance (UPA) government at the Centre in terms of its Common Minimum Programme (CMP) is adhered to. The CMP released on May 27, 2004 on infrastructure “commits itself to a comprehensive programme of the urban renewal and to a massive expansion of social housing in towns and cities, paying particular attention to the needs of slum dwellers. Housing for the weaker sections in rural areas will be expanded on a large-scale. Forced eviction and demolition of slums will be stopped and while undertaking urban renewal, care will be taken to see that the urban and semi-urban poor are provided housing near their place of occupation.”

14. Making all our interventions participatory is mandatory for our engagements on urban poverty issue. After all, the movement has to be led by the homeless and other urban poor. All our present engagement must be made with this predominant element of our campaign and programmematic design.

15. Cross-regional (office) support is required, may be a zonal approach to campaign under the national campaign will be all the more better. It can be in terms of linking our rural NFs to areas (the hinterlands) from where people are migrating and having interventions in those areas as well. In fact, we need to have a holistic approach in

100. United Progressive Alliance, 2004/ Common Minimum Programme of the United Progressive Alliance, New Delhi: 12
dealing with poverty. And as much of the urban poverty is symptomatic (arising due to rural poverty), it has after all these years also gained urban moorings.

16. Programmematic interventions need to focus on livelihoods.

We need to take account of these people as well:
- Homeless people: women, children, elderly, destitute, chemical dependents, mentally ill, disabled
- Sex workers
- HIV+ people
- People living in slums
- Nomads
- Homeless unemployed youth

- Traditional artisan groups
- Vendors and hawkers
- Rickshaw pullers
- Construction workers

The domestic policy climate is against the poor, international ones are no better (exp. WB/ USAID/ WTO, etc.).
Strategies to combat forced evictions
Dr K Shanmugavelayutham*

Eviction pattern
The pattern in which forced evictions are conducted shows the intensity of violence perpetrated by the State. With the presence of the armed police, fear psychosis is created among the people, bulldozers and tractors are used and even houses are set on fire as if a military operation to eliminate 'terrorist' urban poor! In the process, women, the aged and young children are killed. The lifelong hard work and earnings of people get destroyed. People who resist the demolition are arrested and charge-sheeted. Just because they sought to retain a roof over their heads. Most of the time, no alternative accommodation is provided to the displaced slum dwellers. Compensation is given neither to persons who have lost their homes nor to those who have not been accommodated anywhere.

Public purpose
Often evictions and denial of land to the urban poor take place allegedly for 'public purposes'. Many times 'public purposes' have been utilised to the visible disadvantages of the urban poor. The choice and location of a 'public purpose' is left again to the arbitrary whims and biased planners and policymakers. It is, therefore, demanded that no choice be made without consulting the affected people concerned. Judicial review is no remedy and no solution.

Justification by the authorities
- Development and infrastructure projects (eg construction of dams and other energy projects)
- Prestigious international events
- Urban renewal/ redevelopment or city beautification projects (metro rail project for example)
- Conflict over land rights
- Removal or reduction of housing subsidies for low income groups
- Forced population transfers and forced relocations in the context of armed conflict
- Refugee movements
- Reclaiming public land for 'public purposes'
- To ensure movement of men and machinery for clearing silt and transporting it
- Clean up the waterways
- Beautification of the waterways
- Construction of stadia

Provisions of accommodation
The urban slum dwellers have been divided into 'eligible' and 'ineligibles.' The 'eligible' were given very small plots or flats at 25 to 40 km away from the city and the 'ineligibles' are just thrown out and not even considered by the State. At the rehabilitation sites their conditions even become worse due to lack of the basic services and at relocation site there are no means for livelihood to support their families.

Government's counter strategy
a) Isolate: Before eviction, the government isolates the community from rest of the neighbourhood by stating that the eviction is only for that area. In this way, they are isolated and other urban poor do not support the affected poor people.

b) Divide: The next strategy is that they divide the urban poor by using political and other factions. They convince the factional leaders and political leaders by promoting more plots and other facilities. They divide the urban poor.

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Note: The Chennai Slum Dwellers Rights Movement is an umbrella organisation of NGOs working in slum areas in Chennai. The CSORM educates the urban poor about the government strategy through street meetings and keeps a vigil on the process. The Co-ordinators of the movement are Centre for Urban Poverty Alleviation, Pennurimai Iyakkam, Legal Education and Aid Society, TN-FORCES and Nirman Mazdoor Panchayat Sangam
c) **Destroy**: Later they threaten the urban poor saying if they are unwilling to accept, nothing will be available. Rumours are spread. Police forces remain on the spot day and night. In the minds of the urban poor a psychological fear is instilled. Police also arrest the leaders.

**To counter the above methods**

a) **Integrate**: Through unity and solidarity the eviction process can be stopped. To integrate the urban poor, organise campaigns and *Pada Yatras*.

b) **Unite**: Stress should always be laid on the proverb “united we stand, divided we fall”. The people should remain united so that no one takes advantage of their situation.

c) **Promote genuine leadership**: It is always stressed that the corrupt leaders should be identified and kept away. Genuine local leaders have to be identified and the urban slums need to know of the danger of the political leaders.

**Strategies to promote adequate housing**

There are a variety of strategies to promote adequate housing for the urban poor in India. But the effectiveness of strategies will depend upon a number of factors.

1. Campaigning for a Constitutional Amendment to Articles 19 and 21 declaring housing as an explicit Fundamental Right.

2. Drafting and campaigning for a comprehensive People’s Bill of Housing Rights.

3. Organise public hearing where the affected party can depose before the panelists and seek remedies.

4. During the parliamentary and assembly elections, prepare a list of demands and ask the political parties to include them in their respective manifestoes. People’s Charter for Housing Rights was prepared and circulated before and after the 14th Lok Sabha elections in the year 2004.

5. Civil society groups should meet political leaders to request them to ask questions in the assembly sessions during the budget session on housing demand and on increased allocation on housing.

6. News regarding any forced eviction or issues related to housing problem must be informed to the media immediately so that media inevitably report their point of view.

7. Mobilise support from trade unions, planners, architects, lawyers and students to join the struggle and help in formulating alternative solutions.

8. Establish larger people-based network to demand adequate housing for the urban poor. The NGOs, activists and grassroots groups should unite, interact and build a strong force to achieve this end.

9. Form fact-finding team of experts for thorough investigations into the forced evictions.

10. Whenever housing rights are violated, organise protests in the form of hunger strikes and demonstrations.

11. Prepare an Alternative Housing Policy. In New Delhi, the Hazard Centre on behalf of Sajha Manch had drafted a “People’s Housing Policy” for Delhi City. This is an important step as the existing government policy gives low percentage of housing for the urban poor.

12. Encourage slum dwellers to form housing co-operative societies to obtain housing loans from the banks. The urban poor can build their own housing settlements as opposed to governmental tenements. Often governmental tenements are constructed with poor quality materials and workmanship outside the city.

13. Legal intervention is the last resort and the options available are:

   a) Legal appeals aimed at preventing planned evictions through the issuance of injunctions

   b) Legal procedures seeking compensation following an illegal eviction

   c) Complaint against illegal actions carried out or supported by landlords indiscriminately

   d) Allegation of any form of discrimination in the allocation of or access to housing

   e) Complaints against landlords concerning unhealthy or inadequate housing conditions

   f) Filing of the PILs in situations involving significantly increased levels of homelessness. Most of the time, only legal strategy is not successful. This strategy can be used in selective cases. One of the reasons for the failure is insufficient documentation and insensitiveness of the courts

14. Creating awareness about government schemes is an important step. Due to bureaucratic negligence and corruption many of the government schemes do not reach the poor. In order to create awareness, government orders must be printed in the form of pamphlets and should be propagated so that thousands can benefit from the government schemes.

15. Focusing on the women’s groups is the right strategy for promoting adequate housing rights. From the women’s point of view, housing is not only a basic shelter need, it is also a place of employment, social interaction and care for children and most of all a place of safety and so a Fundamental Right in the case of women.
section three

JNNURM critique

mission imposed on people
urban renewal or urban apartheid
pro-poor city planning
Brief introduction
The Jawahar Lal Nehru National Urban Renewal Mission (JNNURM) is an incentive-driven fast track programme for the state governments and urban local bodies (ULBs) in selected 63 cities focusing on urban infrastructure and regulating service delivery mechanism. This comprises of all cities with over one million population, state capitals and 23 other cities of religious and tourist importance. The focus is given on urban governance, urban infrastructure and basic services to the urban poor. The mission is the single largest initiative of the central government in the urban sector with rupees one lakh crore at stake for a period of seven years.

The JNNURM is the culmination of a long drawn process initiated by the previous NDA government in its pursuit of the neo-liberal urban reforms. The predecessor schemes included 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), USAID and UNDP. Moreover, several projects in the states of Karnataka, Kerala, Uttarakhand, Gujarat and Delhi are already underway which have been funded by the WB and ADB and formulated and implemented on the same principles, which the JNNURM upholds. While both the 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.

Why plan developed?
The plan has been developed mainly for two reasons:

1. The importance of urban centres is growing fast in our country. It is estimated that by 2011 the urban population would contribute 65 percent of the total GDP. It is also estimated that by 2021 the urban cities will comprise of 40 percent of the total population of the country. To support the growth of GDP as well as the rising population, the urban centres would require sound infrastructural development like water, electricity, health services, etc.

2. There is a huge requirement of funds estimating to around Rs 17,219 crore at the level for development of infrastructure facilities.

The policy has been formed in accordance with the common minimum programme of the Government of India, commitment to achieving Millennium Development Goals (MDGs) and the need for a mission-led initiative.

The strategy of the mission outlined as follows

1. Preparing city development plans
2. Preparing projects
3. Release and leveraging of funds
4. Incorporating private sector efficiencies

Financial assistance will be provided to the ULB’s and the parastatal agencies for implementing projects themselves as well as through special purpose vehicles (SPVs).

Broad framework of the mission
- Central sponsorship
- Sector-wise project reports to be prepared by the identified cities listing projects along with their priorities
• Time-bound commitment by the state governments and ULBs for carrying out reforms in order to access funds under the mission

• Funding pattern would be 35:15:50 (between the Centre, states/ULBs and financial institutions) for cities with over four 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 in the form of soft loan or grant-cum-loan or grant, would act as seed money to leverage additional funds from financial institutions/capital markets

The mission comprises of two sub missions, (i) Sub-Mission for Urban Infrastructure and Governance, and (ii) Sub-Mission on Basic Services to the Urban Poor. The admissible components under both these sub-missions include urban renewal, water supply and sanitation, sewerage and solid waste management, urban transport, slum improvement and rehabilitation, houses for urban poor, civic amenities in slums and so on.

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 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 percent of the project cost, and (f) the onus of minimising risks for the private investor would be on the state governments/ULBs.

Thus the mission is a completely market driven urban development process where major section of urban land will be in control of powerful business interest groups (PBIGs). The programmes have been divided into two parts, mandatory reforms and optional reforms.

**Mandatory reforms: State level**

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

(i) Effective implementation of decentralisation initiatives as envisaged in the Constitution (seventy-fourth) Amendment Act, 1992

(ii) Repeal of Urban Land (Ceiling & Regulation) Act, 1976

(iii) Reform of rent control laws

(iv) Rationalisation of stamp duty to bring it down to no more than five 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 the local decision making; and

(vii) 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 the 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 the state governments and ULBs, any two of which they are supposed to implement each year. These include:

(i) Revision of byelaws 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
Mission imposed on the people!
Sushil George*

On December 3, 2005, Prime Minister Manmohan Singh announced the controversial National Urban Renewal Mission Programme named after Jawaharlal Nehru. On the occasion, he showered pro-poor statements like providing to the urban poor basic services and tenurial rights. But during the year, slum demolition activities became the most sought after or favoured solutions by the policymakers in the name of urban renewal programme. The singular motive has been to grab urban poor settlements in the name of development and beautification.101

“Urban Renewal” is a concept of American origin in the post-World War–II era, initially referred to slum clearance and housing but has gradually evolved into a multi-dimensional concept. Unfortunately, it is increasingly being considered as the only answer to the multi-faceted urban crisis102.

Ms Medha Patkar, national coordinator of the National Alliance of Peoples Movements (NAPM), criticised the urban renewal scheme much before it was officially launched. She said that it was a well-planned conspiracy to privatise basic amenities and that the programme would lead to more commercialisation and privatisation and an accentuated nexus among the rich, builders, contractors, MNCs, multilateral agencies, and the government. She stressed that this would change the overall social, cultural and economic character of the cities to the disadvantage of the large section of marginalised and exploited population103. Former Prime Minister VP Singh called it anti-poor and the Communist Party of India (Marxist) criticised the mission for paving way for privatisation of urban services.

The national media and the business circles also created hype over the scheme but for ordinary citizens the news had no excitement. The media, unfortunately, created a general impression that the mission had been welcomed by all sections of society since it promised to bring much-needed investment in the urban infrastructure. But time and experience will show that merely throwing away money at a problem is not a feasible solution. Due to easy access to funds, many states are blindly accepting the proposal in major cities (such as the metro rail project in Bangalore and urban development projects elsewhere in Karnataka, Kerala and Uttarakhand), which the union government has included under the JNNURM. These states have “automatically” accepted conditionalities without bothering even to discuss them in the state legislatures or among the general public.

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102. Mission for Application of Technology to Urban Renewal and Engineering (MATURE), International workshop on urban renewal February 17-19, 2004 at New Delhi

103. National consultation on urban development planning and space for the poor, held in Mumbai on October 15-16, 2005
Imposed conditionality
The entire national programme seeks to impose coercive conditionalities of a uniform policy and discourages diversity of development in small and major Indian cities. Under the JNNURM, an entirely new process is being set in motion that will supplant or supersede the current, often legislatively enacted, processes.

The mission guidelines contain strict conditionalities for urban governance, which will result in the adoption of anti-poor policies and non-participatory approaches especially keeping at distance with civil society organisations and social movements in the country.

The first major mandatory amendment is to draw public-private partnership (PPP) models for development, management and financing of urban infrastructure. This means that the affluent business sections will be the major stakeholders over the renewal programme in the sixty-three cities.

The PPP

Though past experience shows that the public-private partnerships were utter failures in providing adequate housing and basic services to the urban poor. The in-situ experimentation and cross subsidy or land-sharing schemes have benefited the private partners but the poor have been squeezed into lesser urban space, which has created a deterioration in the living standards of millions of urban poor communities.

One of the major failures in major cities is of large-scale in-situ upgradation without tenure and consideration of extremely high density of population in the targeted area. For example, Indore city’s Slum Networking Project was considered to be a dream project for making Indore a slum-free city. The DFID had invested (US $14 million) on in-situ upgradations, but immediately after its completion, the next endeavour was to scrap the infrastructure and settlements through riverfront development project. These upgradations, however failed in their mission to create a conducive and sustainable environment in the slums of Indore city. Despite their failures at the ground level, they received international acclaims and recognition as global best practices. The Slum Networking Project bagged International Habitat Award in 1994 and Aga Khan Award for architecture in 1997, though none of the 174 upgraded settlements are in any way a model in the country.

Urban land ceiling
The major move is to discard the Urban Land (Ceiling & Regulation) Act, which is bound to create many negative ramifications such as the hoarding of urban land by the speculators and large developers (private partners). The primary intention of the Urban Land (Ceiling & Regulation) Act, 1976 was to impose a ceiling on vacant urban holdings in order to prevent the concentration of wealth into a few and to facilitate acquisition of land to serve ‘the common good’. But implementation of the Act was counter-productive. Over 14,000 hectares were vested with the state governments, but physical possession of only 3852 ha was achieved and a mere 621 ha was actually developed for housing. The modest contribution to equity was more than offset by long-drawn litigations and administrative delays, which effectively withdrew over 100,000 hectares from the market, enabling those exempt from the law to charge exorbitant prices and further intensifying land price inflation. Resulting into land monopoly and syndication by the powerful few. This would automatically further lead to large-scale displacement of the urban poor and increase socio-economic inequality between the rich and poor, thereby reducing accessibility of land for the middle class as well. To repeal the Act is, therefore, pro-rich, pro-business and anti-common man act. In fact, many powerful business corporates are waiting for the ULCRA to be repealed in many states so that they can buy-off large chunks of lands on the peripheral areas of the big cities with the obvious intention of profiteering and speculation.

The major reason why low-income groups have no access to housing is because large portions of city space are kept vacant by speculators and developers resulting in artificial and unreasonable inflation of prices. It is often

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104. Poverty and Vulnerability in Indore, report contains a detailed analysis on the poverty and vulnerability in Indore including the mapping of all urban poor settlements
found that the developers manage to acquire lands from the government at throwaway prices and sell them off at exorbitant rates. Thus, the present JNNURM programmes will result in decreasing the availability of land for low-income inhabitants. To counter these trends, one of the major interventions that must be used is to address this problem within the legal framework and increase availability of land near the work place of the urban poor slums in major cities and towns.

There are two regulatory systems created — the JNNURM, a seven-year city development plan vision; and the City Master Plan of 20 years. Both are providing a contradictory guiding law for physical development of the city. The City Master Plan earmarks sufficient land for all city inhabitants within the planning framework, but such residential spaces are either locked up or diverted for vested monetary gains by projects like the JNNURM. Therefore, throwing open land development and housing construction to the private sector and even to foreign direct investments (FDI) will certainly deprive the urban poor.

The third mandatory implementation of the system is to privatise drinking water supply. The Delhi Municipal Corporation (Amendment) Bill, 2005 has adopted the USAID sponsored Model Municipal Law that all major decisions would be through executive decisions and notifications, even where the central government and its agencies have statutory jurisdiction! The spirit of this Model Law, even more than the letter has also been enthusiastically adopted in the moves to privatise water supply and make it commercially viable by moving towards “full cost recovery”.¹⁰⁶

Genesis of the JNNURM

Genesis of the NURM took place during the pervious National Democratic Alliance (NDA) regime. The only new thing the UPA government did was that all the earlier inputs have been incorporated into the present mission. Attempts are being made to lull the entire political spectrum into complacency over the mission.

During the erstwhile NDA government, it was the Rs 500-crore Urban Reform Incentive Fund (URIF) which undertook seven conditions: Repeal Urban Land Ceiling & Regulation Act; reform of rent control laws and rationalisation of stamp duty to five percent.¹⁰⁷ The present programme focuses on service delivery mechanisms, community participation, efficiency in urban infrastructure and accountability of the urban local bodies (ULBs) towards citizens.

When the Congress leader, Jairam Ramesh, drafted the common minimum programme, he stated that “reforms will be executed with a human face”, but no one knew that there would be a beast hiding behind this human face. In the CMP draft the statement sounds pro-poor… “The UPA government commits itself to a comprehensive programme of urban renewal and to a massive expansion of social housing in towns and cities, paying particular attention to the needs of slum dwellers… “ (CMP, p 12, May 2004).

The programme was subsequently expanded to cover the whole range of urban infrastructure and services, in particular to promote private sector participation and to draw private funds into urban development. Over the years, there were a number of studies and consultancy projects taken up which closely co-ordinated the same neo-liberal policies of other agencies such as the World Bank, Asian Development Bank, DFID-UK, and UNDP, etc.¹⁰⁸

During the BJP-led NDA regime, an urban reforms initiative fund was launched with much the same objectives as outlined in the JNNURM. Pursuing its “India Shining” ambitions, these funds were used to conduct research on the good urban governance campaign, the national urban transport policy, national slum policy, national hawkers policy, etc.¹⁰⁹

The national executive meeting of the BJP, in January 2004, endorsed the “urban sector reforms…, implementation of the model municipal laws… complete scrapping of urban land ceiling laws… and introduction of user charges for maintenance of public utilities through public-private partnership.”¹¹⁰ The same year the government accepted further World Bank assistance based on its Country Assistance Strategy 2004-07. The mid-term appraisal (MTA) of the Tenth Five-Year Plan states that the government will implement the urban reforms agenda and the NURM’s conditionalities.

¹⁰⁶ Remarks by George Deikun, Mission Director, USAID India at the National Media Conclave “Globalising Indian cities: Partnership for change.
¹⁰⁷ Down To Earth, Missionary zeal, urban renewal critical analysis by S V Suresh Babu, January 2006
¹⁰⁸ India’s pro-investor plan for urban renewal by Jake Skeers, March 25, 2006 World Socialist Web
¹⁰⁹ India Together, For the people, by Diktat, Sept 5, 2005, Vinay Bindur, programme coordinator for the CIVIC Bangalore
¹¹⁰ Urban Renewal Mission: Whose Agenda? (Raju) People’s Democracy (Weekly organ of Communist Party of India (Marxist) Vol XXIX No 49, December 4, 2005
Conclusion
The background history of urban renewal reveals a contrary picture in major cities of India. The pattern of mass-scale evictions against the urban poor is just the tip of the iceberg of the JNNURM's larger agenda. Thus the most sought after solution is to eliminate slum settlements to make urban space a better living place catering to one section of society. The present urban chaos is aggravated due to the absence of rational planning and general contradiction between the unorganised poor community and the well-organised private entrepreneurs. The private enterprises see urban planning not beyond their own profit motives. Though the role of the State is to see urban planning as the means of land development for various interest groups. A critical appraisal of the JNNURM's agenda brings to light that there are many imposed conditionalities, which are anti-poor. After reviewing the programme, it is not clear what services the urban poor are entitled to? The government is least interested in evolving urban communities to develop and specify performance indicators. The hidden agenda is clear, stop all subsidies and explore market-funding options.

But before introducing the national programme, there should have been a thorough discussion in the media, Parliament, state legislatures and through a notified public hearing process. Such a large-scale programme, if taken up, should not be implemented as an executive programme. Public support must be the prerequisite for its implementation. To tackle a complex issue like slum development and improvement in the habitat conditions, visionary leadership and a holistic view are required.
The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) is basically an incentive scheme for providing assistance to the state governments and urban local bodies (ULBs) in selected 63 cities. With rupees one lakh crore at stake for a period of seven years, the mission is the single largest initiative of the central government in the urban sector.

Even a cursory glance at the national urban renewal mission makes it clear that it is 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 the Urban Land Ceiling & Regulation Act (ULCRA) gives a free hand to the builder lobby to acquire vast tracts of land in the cities thus driving the poor out of their places. Similarly, property title certification and computerisation of land and property strike at the very root in which the poor stake their claim on the city ie de-facto occupation of land for residential and occupational purposes through a variety of informal networks created through the workings of electoral democracy in India. Already the government has permitted hundred percent FDI in the real estate sector and introduced freehold property rights.

These combined with the reforms proposed under the JNNURM will strengthen privatisation and corporatisation of land and civic amenities. 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 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 on 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 designed that the so-called community participation is going to be restricted to the involvement of the bodies of the middle class ‘citizens’, 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 the state governments and ULBs that the Bretton Woods 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 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 delink economic policies from democratic politics, thus making the role of the only weapon the poor have in the given system ie their vote, redundant. It

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is no wonder that the mission has been widely greeted with applause by the corporate media, the real estate lobby, foreign investors, national and international finance capitals, international bodies like the WB, ADB, and middle class citizens’ groups like the Bangalore Action Task Force (BATF), Janaagraha, Mumbai First and so on, so forth.

**The politics of globalisation**

Needless to reiterate, the ‘reform’ agenda of the JNNURM is in line with the policies of liberalisation, privatisation and globalisation initiated in early Nineties. The politics of globalisation depends, among other things, on refashioning and ‘reforming’ 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 the 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 deployment, 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 take place in the form of a series of spectacles.

Pressures have brought about the change in the governmental and administrative priorities 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 captive vote banks 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 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 middle classes around the vision of a ‘Clean and Green City’ creates a social force necessary for further delegitimisation 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. 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 neo-liberal project of international finance.
One of the major reasons for deteriorating habitat conditions in India is the non-implementation and flouting of the Master Plan rules. A city’s Master Plan is a regulatory statement that provides a guiding law for physical development of the city. The plan provides sufficient space for human settlements to all inhabitants within the city, foreseeing the future growth and integrating the physical, social, economic and political frameworks. Thus the plan is the arch regulatory guideline for improving the quality of human settlement and its working environment.

For last three decades, the Master Plans of all major cities had made sufficient regulatory provisions for residential land, keeping in view the present inadequacies and future population growth till the stipulated planning period. However, the population projection has not been higher than what has been projected during the plan period. Even there were sufficient lands made available to all inhabitants, but these lands were systematically been locked-up or diverted for commercial and individual monetary gains by the powerful business interest groups.

Paradoxically, slumming in urban cities is not the result of socio-economic conditions, but primarily due to inequitable access to land and misuse of residential zones, which was legally earmarked in the major cities’ Master Plans, thus the working class communities are deprived and denied legal tenurial rights.

In fact, it is the nexus of politicians, bureaucrats and private builders that has been directly involved in illegally encroaching prime lands, which was once reserved for weaker sections in the city. Poor are thus pushed to live in blighted pockets, which are highly dense.

The Constitution of India has given specific directions to all the states for the fulfilment of minimum basic rights of its citizens including habitat, health and primary education. It is obligatory for all the Indian states to pay specific attention towards the poor and ensure their access to sustainable human development programmes. It is on these directives that the Centre, state and urban local bodies (ULBs) have framed laws, policies and regulations.

The evolution of the Town Planning Act in India started to improve the living conditions of the urban poor. The Improvement Trust was set up in 1898 after an outbreak of the bubonic plague occurred in Mumbai. The main objective of the Act was to redevelop slum blighted areas, especially those, which were inhabited by economically weaker sections of the community. Later, Improvement Trusts followed in other major cities like: Mysore (1905), Kolkata (1911), Nagpur (1936), Bangalore (1945) and Delhi (1957).

Subsequently, the Bombay Town Planning Act, 1915 and the Madras Town Planning Act, 1920 marked the beginning of comprehensive town planning legislation. These two Acts enabled local authorities “to undertake town planning schemes for areas in course of development”.

These urban development authority acts of India have to be viewed in the overall context of town and country planning legislation in India. They can be classified into three categories of jurisdiction – national, state and local. The Town Planning Act comes under the state acts. The
Urban Land Ceiling & Regulation Act is a central Act, while building byelaws and zoning regulation come under the local legal instruments.

The Town Planning Act
The Town Planning Act governs the preparation and implementation of the Master Plan in a city. This is a blueprint for developing the entire city. It stipulates that detailed planning will be done to optimise land use with provisions for housing, specifically for the weaker sections, transportation, public/semi-public purposes, education, health, parks, play grounds and other public utilities.

The Town Plans (TPs) are the most important documents that directly affect the life of the people in the city. Once this document is legally approved, all development activities in the cities: construction, displacement, etc., are governed by the TP. Hence, it is important that the impact of the TP on poor of the city be taken into consideration, before and during its formulation. A timely pro-poor intervention will ensure a comfortable space for the present and future needs of the poor in the city.

Provisions for filing objections and suggestions
Master Plan formulation passes through four major stages. The citizens are invited to file their objections and suggestions regarding the Master Plan.

- The existing land use preparation stage
- The Master Plan formulation stage
- The zonal plan formulation stage
- The scheme formulation stage

Master Plans have designated a portion of the residential land for the economically weaker sections. They have provided planning inputs in the improvement of certain existing slum areas and have designated resettlement zones within the planning area. The Master Plans have not only allocated resettlement zones for present demands but also for future housing needs of the urban poor. This is in evidence in the existing Master Plan of Indore city in Madhya Pradesh.

Implementation of the Master Plan
The Master Plans, which were prepared in the 1960s and 1970s, kept in focus the housing demands of the weaker sections. But the Master Plans prepared in late 1990s and the beginning of the 21st century have been influenced by the business interest groups that have direct or indirect links with the land mafia.

In India, the bureaucrats are mainly responsible for implementing the Master Plan of a city. Unfortunately, they have blocked the flow of large number of tenable lands in the city, which should be allotted to working class at an affordable price. Eventually, due to bureaucratic hurdles the land and housing shortage has led to the proliferation of the slums in mega cities.

Therefore, radical reforms are needed through innovative ideas for integrating housing for poor inhabitants. Access to housing for poor is only possible when housing is brought into overall development plans and implementation strategies.

City slums are not the result of socio-economic conditions, but primarily due to inequitable access to land supply and misuse of residential zones

Following steps must be taken
- Mapping of urban poor locations using satellite image
- Marking of residential units that come on the proposed roads
- Alternative land should be provided in residential land use within the livelihood catchments
- The plans should be area-based ward can be the unit of planning
- Identifying proposed road
- Identifying areas for improvement
- Identifying areas for clearance and rehabilitation
- In Master Plan, rehabilitation sites for the resettlement of slums and jhuggies should be clearly earmarked
- Need for communicable and verifiable information base
- Exercise should be ward-wise
- With wider participation including the ward committees, citizens groups and NGOs
- Use of available technological tools such as the satellite imageries, GIS packages, etc. (It is likely that Mumbai being a coastal city, access is difficult on account of defence restrictions this applies to several other places)

Multiple factors of urban population growth
- Natural growth of existing population
- Incorporation of nearby villages in city boundaries
- Migration from other towns and villages
- Identifying proposed city boundary

Residential land for future needs
Due to rapid population growth in the cities, the city Master Plan periodically includes the periphery villages in the planning area. The land use of these villages is changed because of the interest of the urban dwellers. In majority
cases, these villages turn into slum localities of the city. There is need to demarcate the city boundaries.

**Prioritised areas**
- Allocate appropriate budget for housing the urban poor
- Implement pro-poor legislations
- Acquisition of urban lands for residential purpose (present and future needs) that caters to all economic sections specifically the poor and vulnerable sections
- Make mandatory sites, services and basic amenities available to all urban poor

The civil society organisations have a critical role to check policies and programmes of the government. They must become proactive in ensuring whether the government's housing programmes and information systems are appropriate or not and also collect useful information on housing shortage and number of families inadequately housed and homeless population including site services and basic amenities.

One of the core strategies in every major city is to start mapping inadequately housed settlements including the homeless population and places threatened for evictions in a form which is communicable and verifiable. The civil society groups through active participation from local communities to collect urban poor database should initiate this process. In Indore city, such mapping exercise has already been done through active support from community-based organisations.

**Conclusion**
Finally, the planning of the city should look beyond the interest of private developers whose only intension is to exploit the urban land for commercial purpose. To counter this dangerous trend, the role of the civil society groups is to protect the interest of the poor inhabitants, which include housing, schools and hospital land and infrastructure facilities of the economically weaker sections, sustainable living. The focus of housing campaign is to bring 'housing for the poor' agenda into the overall city development framework and implementation strategies. These challenges can be met through concerted efforts by consolidating and networking for a long-term sustainable housing security.

Trends indicate that new economic policies are working against the interest of the weaker sections. Creation of slums in India is not a problem by itself, but a manifestation of a larger problem of unjust and inequitable land holdings; the majority of urban poor lives in less than one-tenth of the city space and that too in pockets that are blighted and extremely marginal.

Developing nations need radical reforms on access to residential land at affordable levels to meet the international obligations and constitutional commitments by the State. The community themselves should also collect empirical data on informal settlements through community initiative programmes. They should have easy access and control over these information systems. This will empower the community and establish direct dialogue among policymakers and urban local bodies for evolving right housing solutions. This challenge can only be met if the middle class sections and civil society groups join hands in bringing about habitational justice to the poor.
section four

the court judgments

judicial activism and
the judgments on rights of the urban poor
Right to shelter: Diversified view of judiciary

In the various cases, the Supreme Court has enlarged the meaning of life under Article 21 of the Constitution to include within its ambit, the right to shelter. In some of the cases upholding the right to shelter, the court looked at differentiating between a mere animal-like existence and a decent human existence, thereby bringing out the need for a respectable life.

1. Upholding the importance of the right to a decent environment and a reasonable accommodation, in Shantistar Builders vs Narayan Khimalal Totame (1990) 1 SCC 520: AIR 1990 SC 630 the Court held that:

“The right to life would take within its sweep the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in. The difference between the need of an animal and a human being for shelter has to be kept in view. For the animal, it is the bare protection of the body, for a human being it has to be a suitable accommodation, which would allow him to grow in every aspect – physical, mental and intellectual. The Constitution aims at ensuring fuller development of every child. That would be possible only if the child is in a proper home. It is not necessary that every citizen must be ensured of living in a well-built comfortable house but a reasonable home particularly for people in India can even be mud-built thatched house or a mud-built fireproof accommodation.”

2. In Chameli Singh vs State of UP [(1996) 2 SCC 549] a Bench of three judges of Supreme Court had considered and held that the right to shelter is a fundamental right available to every citizen and it was read into Article 21 of the Constitution of India as encompassing within its ambit, the right to shelter to make the right to life more meaningful. In para 8 it has been held thus: (SCC pp. 555-56):

“In any organised society, right to live as a human being is not ensured by meeting only the animal need of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions, which inhibit his growth. All human rights are designed to achieve this object. Right to live guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilised society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights.”

Emphasising further on the right to shelter, the court in this case held that:

“Shelter for a human being, therefore, is not a mere protection of his life and limb. It is however where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore,
includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads, etc., so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as a human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right.

“As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultural being. Want of decent residence, therefore, frustrate the very object of the constitutional animation of right to equity, economic justice, fundamental right to residence, dignity of person and right to live itself.”

3. In **PC Gupta vs State of Gujarat and Ors**, in 1994, the Court went further holding that the Right to shelter in Article 19(1) (g) read with Articles 19(1) (c) and 21, included the right to residence and settlement. Protection of life guaranteed by Article 21 encompasses within its ambit the right to shelter to enjoy the meaningful right to life. The right to residence and settlement was seen as a fundamental right under Article 19(1) (c) and as a facet of inseparable meaningful right to life as available under Article 21.

4. In the case of **Ahmedabad Municipal Nagarpalika vs Nawab Khan Ghulab Khan**, reported in (1997) 11 SCC 121, the Hon’ble Apex Court has observed as under:

“...Article 19 (1) (e) accords right to residence and settlement in any part of India as a Fundamental Right. Right to life has been assured as a basic human right under Article 21 of the Constitution of India. Article 25 (1) of the Universal Declaration of Human Rights declares that everyone has the right to a standard of living adequate for the health and well-being of himself and his family; it includes food, clothing, housing, medical care and necessary social services. Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights lays down that State Parties to the Covenant recognise that everyone has the right to standard of living for himself and his family including food, clothing, housing and to the continuous improvement of living conditions.”

5. In the case of **Olga Tellis and Ors vs Bombay Municipal Corporation** reported in (1985) 3 Supreme Court Cases 545 the Apex Court has concluded as under:

“...To summarise, we hold that no person has the right to encroach, by erecting a structure or otherwise, on footpaths, pavements or any other place reserved or earmarked for a public purpose, like, for example, a garden or a playground; that the provision contained in Section 314 of the Bombay Municipal Corporation Act is not unreasonable in the circumstances of the
case; and that, the Kamraj Nagar Basti is situated on an accessory road leading to the Western Express Highway. We have referred to the assurances given by the state government in its pleadings here which, we repeat, must be made good. Stated briefly, pavement dwellers who were censused or who happened to be censused in 1976 should be given, though not as a condition precedent to their removal, alternate pitches at Malavani or, at such other convenient place as the government considers reasonable but not farther away in terms of distance; slum dwellers who were given identity cards and whose dwellings were numbered in the 1976 census must be given alternate sites for their resettlement; slums which have been in existence for a long time, say for twenty years or more, and which have been improved and developed will not be removed unless the land on which they stand or the appurtenant land, is required for a public purpose, in which case, alternate sites or accommodation will be provided to them; the Low income Scheme Shelter Programme, which is proposed to be undertaken with the aid of the World Bank will be pursued earnestly; and, the Slum Upgradation Programme (SUP), under which basic amenities are to be given to slum dwellers will be implemented without delay in order to minimise the hardships involved in any eviction, we direct that the slums, wherever situated, will not be removed until one month after the end of the current monsoon season…...”

6. While interpreting various provisions contained in the Slum Areas (Improvement and Clearance) Act, 1956 the Supreme Court in the case of Punnu Ram & ors vs Chiranjitlal Gupta and ors, reported in (1999)-3-SCC-273, the Supreme Court held:

“...Further, clause (b) of section 19 (4) provides that before granting such permission, the competent authority should be satisfied whether the eviction is in the interest of improvement and clearance of the slum areas and if it is in the interest of improvement and clearance of the slum areas, then permission for eviction can be granted. In such cases also, a tenant would not be put to any hardship if he were evicted. The reason is, if there is a scheme of clearance of the slum area framed by the competent authority, then the policy of the enactment suggests that the slum-dwellers should not be evicted unless alternative accommodation could be obtained for him, that if the buildings or the entire area is to be ordered to be demolished, in that event, the dwellers could, of course, have to vacate, but it was presumed that alternative accommodation would necessarily have to be provided before any such order is made. It is true that for some time alternative accommodation may not be provided to the tenant but it is required to be provided within a reasonable time. Eviction process and improvement or reconstruction process is required to be carried out in an orderly fashion if the purpose of the Act is to be fulfilled...”

7. Maharashtra Ekta Hawkers Union vs Municipal Corporation, Greater Mumbai, reported in (2004) 1 SCC 625, the Supreme Court has held:

“...The above authorities make it clear that the hawkers have a right under Article 19 (1) (g) of the Constitution of India. This right, however, is subject to reasonable restrictions under Article 19 (6). Thus, hawking may not be permitted where eg due to narrowness of road, free flow of traffic or movement of pedestrians is hindered or where for security reasons an area is required to be kept free or near hospitals, places of worship, etc. There is no Fundamental Right under Article 21 to carry on any hawking business. There is also no right to do hawking at any particular place.”

Justifications by authorities in support of forced eviction

1. In most of the cases the general stand almost consistently taken by and on behalf of the public authorities, ie, the municipal corporations, revenue authorities of the state, urban development authorities and housing boards, etc., is that the hutment dwellers are occupying lands, such as reserved for proposed roads under the housing schemes, on the banks of rainwater channel, on public roads and other objectionable sites. They cannot be allowed to remain there, to the detriment of the general interest and convenience of other members of the society, who expect proper development of urban areas to ensure uncongested and unpolluted environment.

2. That planned development of cities for inhabitants is the need of the society. Individual or collective rights of hutment dwellers will have to be sacrificed for planned urban development, which is in general public interest.

3. That the hutment dwellers were duly served with notices reasonably in advance to give them time and period to vacate the encroached lands with their families and belongings. It is only when after such notices, the hutment
dwellers refused to vacate or leave the encroached lands, that minimum required physical force is used, to evict them.

4. That each and every encroacher of the land, where the encroachment is comparatively of recent origin, cannot be provided with alternative site to live, as it is not within the financial resources and capacity of the public bodies.

5. That no law or the Constitution recognises any Fundamental Right to live by committing encroachment on public properties.

6. That the public authorities have taken action permissible under the relevant laws, such as, the Bombay Provincial Municipal Corporation Act, the Gujarat Town Planning and Urban Development Act and the Bombay Land Revenue Code and that under the provisions of the State enactments, the public authorities are empowered to remove encroachments on public land, for the purpose of fulfilling the objects of those enactments, namely, to regulate the municipal administration in the cities, to make planned and systematic development of urban areas and to protect the public properties and lands for public use.

7. That the Constitution Bench decisions of Supreme Court in Olga Tellis and others vs Bombay Municipal Corporation and others (AIR 1986 Sc 180) And Ahmedabad Municipal Corporation vs Nawab Khan Ghulab Khan and others (AIR 1977 SC 152), permit the civic authorities to adopt the procedure followed in these cases for restoring possession of properties for public use.

Judgements distinguished

While analysing and distinguishing various judgments of the Supreme Court on the issue of Right to Shelter, the division bench of the Gujarat High Court in the case of Peoples Union for Civil Liberties vs State of Gujarat has made following observations:

"...We are aware that law is heartless and, therefore, it requires medium of mercy to implement it. We do not think that in balancing rights of individuals and society, we would be less kind and merciful towards the section, which justly deserves it.

* At the same time as observed by the Supreme Court in the case of Nawab Khan Ghulab Khan (supra), the needs of the general society of urban area cannot be disregarded while protecting the alleged violation of human rights of hutment and slum dweller. The following observations in Nawab Khan Ghulab Khan’s case do not appear to us to be in any manner in conflict with the law laid down by the Constitution Bench in the case of Olga Tellis' case (supra):

"It is true that in all cases it may not be necessary, as a condition for ejectment of the encroacher, that he should be provided with an alternative accommodation at the expenses of the State which is given due credence, is likely to result in abuse of the Judicial process. But no absolute principle of universal application would be laid in this behalf. Each case is required to be examined on the given set of facts and appropriate direction or remedy be evolved by the court suitable to the facts of the case. Normally, the court may not, as a rule, direct that the encroacher should be provided with an alternative accommodation before ejectment when they encroached public properties, but, as stated earlier, each case requires examination and suitable direction appropriate to the facts requires modulation. Considered from this perspective, the apprehensions of the appellant are without force”.

* In the latest decision of the Supreme Court in Almitra H Patel and another vs Union of India and others (2000) 2 SCC 679 dealing with disposal of solid waste for cleaning up Delhi to protect environment from pollution on large-scale slum colonies coming up in cities like Delhi, the following observations keeping in view the societal needs came to made:

"Establishment or creating of slums, it seems appears to be good business and is well organised. The number of slum has multiplied in the last few years by geometrical proportion. Large areas of public land, in this way, are usurped for private use free of cost. It is difficult to believe that this can happen in the capital of the country without passive or active connivance of the land-owning agencies and/or the municipal authorities. The promise of free land, at the taxpayer's cost, in place of a jhuggie, is a proposal, which attracts more land-grabbers. Rewarding an encroacher on public land with a free alternative site is like giving a reward to a pickpocket. The department of slum clearance does not seem to have cleared any slum despite it being in existence for decades. In fact, more and more slums are coming into existence.

"Instead of 'slum clearance' there is 'slum creation' in Delhi. This is 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. The authorities must realise that there is a limit to which the population of a city can be increased, without enlarging its size. In
other words the density of population per square kilometre cannot be allowed to increase beyond the sustainable limit. Creation of slums resulting in increase in density has to be prevented. What the slum clearance department has to show, however, does not seem to be visible. It is the garbage and solid waste generated by these slums which require to be dealt with most expeditiously and on the basis of priority.”

* In granting, therefore, relief to homeless in cities and those compelled by circumstances and poverty to encroach on land for living in huts, a word of caution given by the Supreme Court in the case of Nawab Khan Ghulab Khan (Supra, an Almitra (Supra) have to be taken note of, lest such recognition of right of hutment dwellers to live would indirectly encourage encroachments by land grabbers who are part of land mafia operating in cities in the name of poor and needy.

* The Apex Court, in Oga Tellis case, pointed out in paragraph 28 as under:

"Encroachment of public property undoubtedly obstructs and upsets planned development, ecology and sanitation. Public property needs to be preserved and protected. It is but the duty of the State and local bodies to ensure the same.”

* In the case of Olga Tellis, the Apex Court has pointed out that no one has a right to encroach upon public footpaths, pavements on roads, State/ Municipal Corporation has constitutional as well as statutory duty to provide residential accommodation to the poor and indigent weaker sections of the society by utilising the excess urban vacant land available under the Urban Land Ceiling and Regulation Act. The Apex Court further held that in all cases of ejectment of the encroachers, it is not obligatory on the part of the State/ Corporation to provide alternative accommodation, no absolute principle can be laid down in this regard and it would depend upon facts of each case.

* In the case of Indra Sawhney vs Union of India reported in 1992 SUPP (3) SCC 217, the Apex Court has clarified that the expression "weaker sections" of the people is wider than the expression "backward class" of citizens, which is only a part of the weaker sections. Backward classes comprise only those, which are socially or economically backward. The term weaker sections do not necessarily refer to a group or a class. It connotes all sections of society, which are rendered weaker due to various causes, eg poverty, natural calamity or physical handicap. The State has other duties in view of this provision. One thing is certain; so far as right to work, to education and to public assistance in cases of unemployment are concerned, Article 41 refers to limits of its economic capacity. Therefore, while securing right to work, to education and to public assistance, economic capacity is required to be considered.

* It is also necessary to refer to paragraph 9 of the Apex Court's judgment in the case of Nawab Khan (supra), which reads as under:

"The Constitution does not put an absolute embargo on the deprivation of life or personal liberty but such a deprivation must be according to the procedure, in the given circumstances, fair and reasonable inflexible rule of hearing and due application of mind can be insisted upon in every or all cases. Each case depends upon its own backdrop. The removal of encroachment needs urgent action. Sooner the encroachment is removed when sighted, better would be the facilities or convenience for passing or re-passing of the pedestrians on the pavements or footpaths facilitating free flow of regulated traffic on the road or use of public places. “On the contrary, the longer the delay, the greater will be the danger of permitting the encroachers claiming semblance of right to obstruct removal of the encroachment. If the encroachment is of a recent origin, the need to follow the procedure of principle of natural justice could be obviated in that on one has a right to encroach upon the public property an claim the procedure of opportunity of bearing which would be a tedious and time-consuming process leading to putting a premium for high-handed and unauthorised acts of encroachment and unlawful squatting.

"On the other hand, if the corporation allows settlement of encroachers for a long time for reasons best known to them, and reasons are not far to see, then necessarily a modicum of reasonable notice for removal, say two weeks or ten days, and personal service on the encroachers on substitute service by fixing notice on the property is necessary. If the encroachment is not removed within the specified time, the competent authority would be at liberty to have it removed. That would meet the fairness of procedure, a principle of giving opportunity to remove the encroachment voluntarily by the encroacher. On their resistance, necessarily appropriate and reasonable force can be used to have the encroachment
Thus considered, we hold that the action taken by the appellant-corporation is not violative of the principal of natural justice."

Before expressing opinion in paragraph 9, the Apex Court pointed out in paragraph 7 as under:

"It is for the court to decide in exercise of its constitutional power of judicial review whether the deprivation of life or personal liberty in a given case is by procedure which is reasonable, fair and just or it is otherwise. Footpath, street or pavements are public property, which are intended to serve the convenience of general public. They are not laid for private use indeed, their use for a private purpose frustrates the very object for which they carved out from portions of public roads..."

"No one has a right to make use of a public property for the private purpose without the requisite authorisation from the competent authority. It would, therefore, be the duty of the competent authority to remove encroachments on the pavement or footpath of the public street obstructing free flow of traffic or passing or re-passing by the pedestrians."

Thus, it is clear that no one has a right to make use of public property for private purposes.

**Latest view of the Supreme Court**

Sending a shock wave to the slum dwellers, the bench of the Supreme Court comprising Justices Ruma Pal and Markanday Katju made it loud and clear that encroachers have no right whatsoever on public land, nor even for a minute. Allowing demolition of slum clusters of Nagli Machi near Pragati Maidan in New Delhi, the bench turned down the poverty plea. "Desperation does not mean they can do something illegal by encroaching public land," said the bench. (As reported in the Times of India, Ahmedabad edition dated 10-5-2006)

**Religious structures – Encroachment**

Following the recent incident of demolition of Dargah by the civic authorities in Vadodara city, the division bench of the Gujarat High Court, based on the report published in "The Times of India", initiated *suo-motu* writ petition and made following observations in its order:

"...Encroachment made on the public road by any one cannot be permitted or tolerated even for a minute as it causes lot of traffic problems as well as other problems for the public at large. Only few handful anti-social elements with the money and muscles power put up religious structures overnight on public space and then start minting money by putting public to a great inconvenience. It is unfortunate that the officers of the Corporation or Ahmedabad Urban Development Authority (for short “AUDA”) contribute to it by remaining as silent spectators. They failed to discharge their duties in not removing such structures for a long time or preventing such structures coming up on public space overnight. Such persons causing great inconvenience to the public at large should be strictly dealt with by the authorities by demolishing such structures put on by them on public space at the earliest. Wherever there is encroachment causing traffic problems and other serious problems to the public at large, it should be removed zone-wise or phase-wise.

"From the incident, which took place yesterday at Vadodara while carrying out demolition drive, all the authorities have to learn lessons. There should be full coordination between all the authorities including police before carrying out such demolition drive. They must see to it that while carrying out such demolition drive public peace is not disturbed by some handful anti-social elements, who are against the development and progress of the state of Gujarat. If required, they may be even booked before carrying out such demolition drive, as they are simply land grabbers".

**The slum Policy of the State**

The urban development and urban housing department of the government of Gujarat has framed a draft of Gujarat state urban slum policy and this policy is under consideration of the government. The policy contemplates as under:

* In-situ upgradation will be preferred to relocation. All efforts will be made by the ULBs to upgrade the slums at the same sites

* Layout Planning: Where in-situ upgradation projects are taken up, proper layout planning including plot realignment and equalisation of land may be undertaken as necessary in consultation with local residents

* All relocation processes will be carried out in consultation with the affected slum dwellers, keeping in mind the distance from workplace and other livelihood facilities and after the state government considers such relocation as unavoidable

* Relocation will be carried out, wherever necessary, when in-situ upgradation is not possible for a few
hutments which need to be removed from their present locations because of widening of internal streets or making provision for community hall and community open space

* Relocation may also be considered in rare situations where slums are situated on expensive plots that could be commercially developed to raise finance. In such cases, the slum dwellers will be relocated to the interior areas so that the frontage is available for commercial development

* Where slums are ineligible for upgradation at the existing location the ULB may consider relocating the slum dwellers from the existing ineligible sites in consultation with slum dwellers

* Where slum dwellers are to be relocated, they will be given shifting assistance of Rs 1,000 and alternate site within two km from their original site and their choker.”

**Resolve of Ahmedabad Municipal Corporation**

While passing the budget for the year 2004-05, the Congress as well as BJP corporators of the Ahmedabad Municipal Corporation unanimously passed the following resolution:

“Resolved that vide Municipal Corporation Resolution number-26 dated February 9, 1976 and Municipal Corporation Resolution number-544 dated August 17, 1976, it was decided that the hutments situated within the limits of Ahmedabad Municipal Corporation of which survey was carried out prior to 1976 and were registered, such hutments should not be demolished without providing alternative facility. By Standing Committee Resolution number-1274 dated February 7, 2005 of the Budget Resolution number-4 for the year 2005-06 it is decided that the hutments dwellers for the period up to December 1995 shall not be evicted without providing alternative accommodation and survey of the hutments for the period up to December 2001 shall be carried out...”

The resolution has been strongly opposed by the municipal commissioner vide his letter dated January 5, 2006 addressed to the government of Gujarat on the grounds that (1) implementation of the resolution would invite additional financial burden; (2) more land will be required for making allotment to the slum dwellers; (3) it would encourage illegal encroachers; and (4) allotment of land to the private Parties would be hampered.

**Conclusions**

1. The slums are as much a result of the flawed economic policies of the State as they are of the social structure of the Indian society. It is also of the inequitable distribution of urban lands. The policy of slum evictions needs to be stopped and more viable and constitution-friendly solution need to be envisaged.

2. All forcible evictions and demolitions of the homes of slum dwellers are the worst violation of the human rights as per all the international human rights commitments. It is not only a violation of right to shelter but also violation of all the rights – right to food, right to livelihood, right to health, right to education and above all the right to human dignity.

3. The notion of any cut-off date is ultra-vires to the Constitution of India.
The Indian cases initially developed the right to life definition to include a right to housing by identifying component socio-economic rights. The rights are found in the Directive Principles of the Constitution.

**Chameli Singh vs State of UP**

(Before K Ramaswamy, Faizan Uddin and BN Kirpal, JJ)

a. Chameli Singh and Others ... Appellants

Versus

State of UP and Another .... Respondents

Civil Appeals No 12122 of 1995 with No 12123 of 1995 Decided on December 15, 1995

The Judgment of the Court was delivered by K Ramaswamy, J — Leave granted

CA No 12122 of 1995@SLP © No. 4896 of 1993

(Section 4 para c) Article 25(1) of the Universal Declaration of Human Rights declares 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”. Article 11(1) of the International Covenant of Economic, Social and Cultural Rights, 1966 laid down that State Parties to the Covenant recognise “the right to everyone to an adequate standard of living for himself and for his family including food, clothing, housing and to the continuous improvement of living conditions”. The State parties will take appropriate steps to ensure realisation of this right.

(Section 7 para d) To make the right meaningful to the poor, the State has to provide facilities and opportunity to build houses. Acquisition of the land to provide house sites to the poor houseless is a public purpose as it is the constitutional duty of the State to provide house sites to the poor.

(Section 8 para e) All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights. Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc., so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one’s head but right to all the infrastructure necessary to enable them to live and develop as a human being.

(Section 15 para e) Housing conditions of dalits all over the country continue to be miserable even till date and is a fact of which courts are bound to take judicial notice.

(Section 17 para b) Providing house site to the dalits, tribes and the poor itself is a national problem and a constitutional obligation. So long as the problem is not solved and the need is not fulfilled, the urgency continues to subsist.
Ahmedabad Municipal Corporation vs Nawab Khan Ghulab Khan

(1997) 11 Supreme Court Cases 121
(Before K Ramaswamy and GB Pattanaik, JJ)

a. Ahmedabad Municipal Corporation .... Appellant
    Versus
Nawab Khan Ghulab Khan and Others.... Respondents

Civil Appeal No 12992 of 1996, decided on October 11, 1996

The Judgment of the Court was delivered by K Ramaswamy, J — Leave granted.

(3 para e) The High Court granted interim stay of removal of the encroachment. By the impugned judgment, the High Court directed the municipal corporation not to remove their huts until suitable accommodation was provided to them. The High Court also further held that before removing the unauthorised encroachments the procedure of hearing, consistent with the principles of natural justice should be followed.

(4 para b) “We think that the municipal corporation should frame a scheme to accommodate them at the alternative places so that the hutmen can shift their residence to the places of accommodation provided by the Corporation to have permanent residence, corporation is accordingly directed to frame a scheme and place before this court within two months today.”

(7 para d) The questions for consideration are: (1) Whether the respondents are liable to ejectment from the encroachments of pavements of the roads and whether the principle of natural justice, viz, audi alteram partem requires to be followed and, if so, what is its scope and content? (2) Whether the appellant is under an obligation to provide permanent residence to the hutment-dwellers and, if so, what would be the parameters in that behalf?

(10 para f) On the other hand, if the corporation allows settlement of encroachers for a long time for reasons best known to them, and reasons are not far to seek, then necessarily a modicum of reasonable notice for removal, say two weeks or 10 days, and personal service on the encroachers or substituted service by fixing notice on the property is necessary.

(11 para a) It is not in dispute that Rakhial Road is one of the important main roads in the city of the appellant-Corporation and it needs removal of encroachment for free passing and repassing of the pedestrians on the pavements/footpaths. But the question is whether the respondents are entitled to alternative settlement before their ejectment?

(12 para b) The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being. Want to decent residence, therefore, frustrates the very object of the constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself.”

(13 para a) Judges had considered the mandate of human right to shelter and read it into Article 19(1)(e) and Article 21 of the Constitution and the Universal Declaration of Human Rights and the Convention of Civic, Economic and Cultural Rights and had held that it is the duty of the State to construct houses at reasonable cost and make them easily accessible to the poor.

(15 para a) The appellant-corporation has stated that in its Resolution No 544 dated 17-8-1976 it was resolved that no payment-dwellers/hut-dwellers existing as on 1-5-1976 would be removed by the corporation without providing alternative accommodation. This cut-off date was introduced for the reason that they had conducted a detailed survey of slum-dwellers residing in the city and had identified 81,255 hutments/pavements comprising 415,000 slum-dwellers. They were photographed and identity cards were given to them so that they could get the protection from removal until alternative accommodations were provided to them. Out of 81,155 hutments, 1864 are pavement dwelling units. In furtherance thereof, they evolved several schemes.

(19 para c) As per the sheme, the following are the benefits provided in the slum areas for the hutment dwellers:

(i) House-to-house water supply
(ii) House-to-house drainage connections
(iii) Full pavement of internal street
(iv) Individual toilet
(v) Provision of storm water drain
(vi) Solid waste management services
(vii) Street light, etc.
Beside the physical services, a package of community development services is also offered which includes:

(i) Primary education
(ii) Primary health care
(iii) Income-generating activities, etc.

(19 para g) With a view to provide these services in the slums and chawls situated on private lands, an amendment has also been proposed to the State government in the BPMC Act to enable the corporations to provide all essential services in the slums situated on the private lands without prejudice to the right, title and interest of the owner of the land and without affecting their rights to remove such huts by following due process of law.

(28 para c) As a facet thereof, housing accommodation also would be evolved and from that respective budget allocation the amount needed for housing accommodation for them should also be earmarked separately and implemented as an ongoing process of providing facilities and opportunities including housing accommodation to the rural or urban poor and other backward classes of people.

(30 para e) Therefore, the mere fact that the encroachers have approached the court would be no ground to dismiss their cases. The contention of the appellant-corporation that the intervention of the court would give impetus to the encroachers to abuse the judicial process is untenable.

(30 para f) But if they allow the encroachers to remain in settled possession sufficiently for a long time, which would be a fact to be established in an appropriate case, necessarily suitable procedure would be required to be adopted to meet the fact-situation procedure would be required to be adopted to meet the fact-situation and that, therefore, it would be for the respondent concerned and also for the petitioner to establish the respective claims and it is for the court to consider as to what would be the appropriate procedure required to be adopted in the given facts and circumstances.

PG Gupta vs State of Gujarat

1995 Supp (2) Supreme Court Cases 182
(Before K Ramaswamy, S Mohan and N Venkatachala, JJ)

M/s Shantistar Builders vs Narayan Khimal Totame and Others

(1990) 1 Supreme Court Cases 520
(Before Ranganath Misra, PB Sawant and K Ramaswamy, JJ)

Basic needs of man have traditionally been accepted to be three-food, clothing and shelter. The right to life is guaranteed in any civilised society. That would take within its sweep the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in. The difference between the need of an animal and a human being for shelter has to be kept in view. For the animal it is the bare protection of the body; for a human being it has to be a suitable accommodation, which would allow him to grow in every aspect—physical, mental and intellectual. The Constitution aims at ensuring fuller development of every child. That would be possible only if the child is in a proper home. It is not necessary...
that every citizen must be ensured of living in a well-built comfortable house but a reasonable home particularly for people in India can even be mud-built thatched house or a mud-built fire-proof accommodation.

(10) With the increase of population and the shift of the rural masses to urban areas over the decades the ratio of poor people without houses in the urban areas has rapidly increased. This is a feature which has become more perceptible after Independence. Apart from the fact that people in search of work move to urban agglomerations, availability of amenities and living conveniences also attract people to move from rural areas to cities. Industrialisation is equally responsible for concentration of population around industries. These are features, which are mainly responsible for increase in the homeless urban population. Millions of people today live on the pavements of different cities of India and a greater number live animal-like existence in jhuggies.

(11) The Planning Commission took note of this situation and was struck by the fact that there was no corresponding rise in accommodation with the growth of population and the shift of the rural people to the cities. The growing realisation of this disparity led to the passing of the Act and acquisition of vacant sites for purposes of housing. Considerable attention has been given in recent years to increasing accommodation though whatever has been done is not at all adequate. The quick growth of urban population overshadows all attempts of increasing accommodation. Sections 20 and 21 of the Act vest power in the State governments to exempt vacant sites from vesting under the Act for purposes of being taken over if housing schemes are undertaken by owners of vacant urban lands. Section 21 specifically emphasises upon weaker sections of the people. That term finds place in Article 46 of the Constitution and Section 21 uses the same language. ‘Weaker sections’ have, however, not been defined either in the Constitution or in the Act itself. An attempt was made in the Constituent Assembly to provide a definition but was given up. Attempts have thereafter been made from time to time to provide such definition but on account of controversies, which arise once the exercise is undertaken, there has been no success. A suggestion for introducing economic criterion for explaining the term was made in the approach to the Seventh Five Year Plan (1985-1990) brought out by the Planning Commission and approved by the National Development Council and the union Government. A lot of controversy was raised in Parliament and the attempt was dropped. In the absence of a definition perhaps a proper guideline could be indicated but no serious attention has been devoted to this aspect.

(13) In recent years on account of erosion of the value of the rupee, rampant prevalence of black money and dearth of urban land, the value of such land has give up sky-high. It has become impossible for any member of the weaker sections to have residential accommodation anywhere and much less in urban areas. Since a reasonable residence is an indispensable necessity for fulfilling the constitutional goal in the matter of development of man and should be taken as included in ‘life’ in Article 21, greater social control is called for and exemptions granted under Sections 20 and 21 should have to be appropriately monitored to have the fullest benefit of the beneficial legislation. We, therefore, commend to the central government to prescribe appropriate guidelines laying down the true scope of the term ‘weaker sections of the society’ so that everyone charged with administering the statute would find it convenient to implement the same.

* From the Judgment and Order dated December 12, 1988 of the Bombay High Court in WP No 4837 of 1987
section five

housing legislations

acts, regulations, policies and amendments
The Constitution of India has given specific directions to all the states for the fulfilment of the minimum basic rights of its citizens including habitat, health and primary education. Making it obligatory for all the Indian states to pay specific attention towards the poor and ensure their preference for a sustainable human development programmes. It is on these directives the Centre, state and urban local bodies (ULBs) have framed laws policies and regulations. This section deals with laws, policies, Acts and regulations focusing on habitat needs. There are also anti-poor laws, which have its negative ramifications, though the constitution has provided specific directions to all the states for the fulfilment of minimum basic rights including habitat, health and primary education. Thus, it is obligatory for all the Indian states to pay specific attention towards the poor and ensure their preference for a sustainable human development programmes.

The Land Acquisition Act, 1894
The Land Acquisition Act was introduced in 1894. This is an Act for the acquisition of the land for public purpose and for companies. The Act with several amendments made later is still the law in force. The most important deficiency of this Act is that it was enacted during the colonial regime that firmly believed in the doctrine of eminent domain defined as the power of the government to take private property for public use regardless of the owners' views on this matter. This doctrine was followed even after Independence.

There were a number of protests against the acquisition of lands under this Act before and after Independence. The process of land acquisition accelerated after the formulation and implementation of the First Five-Year Plan in 1951. Large tracts of land were acquired for irrigation, hydro-electricity dams, iron, steel and other projects in the public sector. All this was done in the name of national development. The involuntarily displaced persons were given meagre compensation and left to find out ways for their rehabilitation. Most of these project-affected people are now living in slums of urban cities.

The Housing and Urban Land (Ceiling & Regulation) Act, 1976
After Independence, land reform laws were enacted in various states in India. With increasing influx of urban population, the importance of urban land became prime. Rise in urban land prices and lack of affordability by the majority became quite common. Few people held large parcels of urban land, invariably kept vacant for speculation. It was in this context that the government of India felt urgent need to impose social control on land and bring about legislation. Thus was enacted the Urban Land (Ceiling & Regulation) Act of 1976.

The purpose of this Act was to make land available for housing to the poor. Section 20 of the Act also had provisions for the owners of excess land to construct houses for the poor and sell them at affordable rates. The owners could also use the land to construct hospitals, schools, etc., for the welfare of the public in general.

The Repeal of the Urban Land Ceiling Act, 1998
It was the former minister of urban development, Ram Jethmalani, who spearheaded a vicious drive to repeal the Urban Land (Ceiling & Regulation) Act, 1976. A
false impression was created that the repeal would release large tracts of land for the housing sector. But this was a mischievous ploy backed by the PBiGs and landlords. As a result, the sale of land in the open market resulted in denying housing access to the city’s poor inhabitants.

In June 1998, the ULCRA was completely scrapped. The ostensible reason given was that the Act had led to distortions in the land market. More specifically various reports have suggested that the main “distortion” was the freezing of large parcels of land in legal disputes.

To tackle this problem, there was a need to plug all those loopholes in the laws, which were being used by landlords to stall its implementation.

In fact, the 1996-97 report of the ministry of urban affairs and employment stated that a committee had been constituted to “expedite the process of finalisations of proposals for amending the Act”. But before the committee could make any decisions, the government repealed the Act as part of its wholesale marketisation crusade. The ULCRA thus stands repealed in the union territories as well as in most of the states in India.

Consequently, large sections of the urban poor and middle classes are being deprived of access to urban property. Urban lands for parking black wealth and for speculative gains have now become even more attractive.

The negative consequences appear quite serious. With the repeal, there will be no bar on the amount of urban vacant land a person can hold. This would obviously lead to a situation where the rich and powerful will start purchasing large chunks of land on the periphery of cities. The stated objective of bringing about an equitable distribution of land, a unique asset and wealth creator, has instead led to more speculation.

Prima facie, the provisions of this Act appeared to be in favour of the urban poor. However, in practice, the Act has failed in achieving the objective for which it had been enacted. Any area can be declared as a slum area by the competent authority. Once the declaration is done, the competent authority has the power to carry out repairs. Authority may restrict any kind of building activity in the area and may permit the same if the owner seeks permission.

The Minimum Wages Act, 1948
(i) In respect of housing, the rent corresponding to the minimum area provided for under government’s industrial housing scheme should be taken into consideration in fixing the minimum wage.

(ii) Fuel, lighting and other 'miscellaneous' items of expenditure should constitute 20 percent of the total minimum wage.

Keeping in view the socio-economic aspect of the wage structure, the Supreme Court observed that it was necessary to add the following additional component as a guide for fixing the minimum wage in the industry: "(vi) Children’s education, medical requirement, minimum recreation including festivals/ ceremonies and provision for old age, marriages, etc., should further constitute 25 percent of the total minimum wage.”

Fair wages: Upward revision, when necessary
"Fixation of a wage structure is always a delicate task because
a balance has to be struck between the demands of social justice which requires that the workmen should receive their proper share of the national income which they help to produce with a view to improving their standard of living and the depletion which every increase in wages makes in the profits as this tends to divert capital from industry into other channels thought to be more profitable.

"It sets the lowest limit below which wages cannot be allowed to sink. The second principle is that wages must be fair, that is to say, sufficiently high to provide a standard family with food, shelter, clothing, medical care and education of children appropriate to the workman but not at a rate exceeding his wage earning capacity in the class of establishment to which he belongs.

"Fair wage' is not 'living wage' by which is meant a wage, which is sufficient to provide not only the essentials above-mentioned but also a fair measure of frugal comfort with an ability to provide for old age and evil days. Fair wage lies between the minimum wage, which must be paid in any event, and the living wage, which is the goal.

"The Supreme Court further observed that “the wage structure, which approximately answers the above six components is nothing more than a minimum wage at subsistence level. The employees are entitled to the minimum wage at all times and under all circumstances. An employer who cannot pay the minimum wage has no right to engage labour and no justification to run the industry.”

The National Housing and Habitat Policy
The first National Housing Policy draft was introduced in January 1987. Though this advocacy was blatantly anti-working class, it mentioned housing for the poor in a token manner.

The second National Housing and Habitat Policy (NHHP) was formulated in 1998. The Policy was laid before Parliament on July 29, 1998. The Government’s national agenda had declared ‘Housing for All’ as a priority area and had decided to focus on the housing needs of all citizens in general, especially, the lower income groups and the deprived. It was observed that 'the objectives of the policy would be carried out through time bound initiatives at all levels of government.'

The government had set a target of constructing two million houses every year in rural and urban centres out of which 0.7 million houses were supposed to be constructed in the urban centres. But these targets are still only on paper.

The Draft National Slum Policy
The draft National Slum Policy envisages cities without slums. Towards fulfilment of this vision, the policy adopts an approach of in-situ upgradation and improvement. It recommends clearance only in exceptional circumstances. It, therefore, talks of urban growth with equity and justice and makes a plea for greater participation of communities and the civil society in all areas of planning, capacity building and development. Correspondingly, it proposes a series of interventions with regard to definitions, tenure, planning, economic empowerment, governance, management, shelter upgradation, etc.

The governing principles of the Draft National Slum Policy are as follows:

- The endorsement of an upgrading and improvement approach in all slums and the acceptance of the necessity of slum clearance in the defined circumstances.
- Recognition that households in all urban informal settlements should have access to certain basic minimum services irrespective of land tenure or occupancy status.
- The goal that planning in all cities should have the objective of creating cities without slums.
- The objective of ensuring that urban growth takes place with equity and distributive justice.
- The intention that urban local bodies should work in collaboration with all other stakeholders to enhance the impact of slum development through building the capacities of the poor and empowering them to improve their own living conditions.
- The adoption of a more enabling approach to the delivery of basic social services to the poor as a result of more effective mobilisation of community resources and skills to complement public resource allocation.
- A greater participation of communities and civil society in all areas of planning, capacity building and development.

The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971
The Government of Maharashtra amended the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 to provide for the creation of Slum Rehabilitation Authority (SRA) with a

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The SRA was created by the government notification dated December 16, 1995 to function with effect from December 25, 1995. The chief minister of Maharashtra is the chairperson of the SRA and a super time scale IAS officer is full time chief executive officer of the authority. The fourteen other members include ministers, elected members of the state legislature, secretaries of the concerned departments of the state government and some non-official members who are experts in the field of building construction, planning, architecture and social services, etc.

All slum dwellers residing on the plot prior to January 1, 2005 and in use of the structure are eligible for rehabilitation. At least 70 percent of the slum dwellers in a slum unit are to be brought under a slum dwellers cooperative housing society. The share capital of rupees 50 per member and rupee one as entrance fee is to be collected from them. This is then to be deposited in the name of the proposed housing society in the Mumbai District Central Co-operative/ Maharashtra State Co-operative Bank Limited. The documents regarding the title of the land are to be collected by the society. A suitable developer is to be appointed by the society by a general body resolution. The developer will appoint professionals like architect, licenced surveyor, structural engineer, etc. The developer will enter into individual agreements with all the slum dwellers agreeing to participate in the scheme.

Apart from this, there are three types of slum rehabilitation schemes, which are as per the provisions of different sections of Development Control Regulations.

Under provisions of the Development Control Regulations number-33 (10), which is also called in-situ scheme, the slums are rehabilitated on the same site.

Under the provisions of the Development Control Regulations number-33 (11), which are also called the PAP scheme, an owner of the vacant unencumbered land can use it for construction of the PAP tenements for which he is compensated by the TDR for land and for construction.

Under provisions of the Development Control Regulation number-33 (14), which are also called transit scheme, the landowner is allowed to consume the existing

The TDRs mechanism to acquire land to resettle the displaced persons

The concept of Transfer of Development Rights (TDRs) was introduced in the 1991 Development Control Rules of the Bombay Municipal Corporation to permit the cash-starved administration to acquire private land reserved for the public purposes such as roads, playgrounds, parks and slum rehabilitation.

According to the MUTP R&R Policy, land may be acquired in two ways. Under provision 8 (a), the government may acquire land and compensate landowners and lessees in accordance with the Land Acquisition Act, which provides for normal compensation or the issuance of the TDRs. Alternatively, under provision 8 (b), the TDRs are also available to developers who build and hand over free of cost dwelling units for R&R. Thus, the two groups to whom the TDRs are mainly available are (1) landowners and lessees who receive them as compensation for acquiring land for the project under the Land Acquisition Act 320; and (2) developers who agree to build and handover free of cost dwelling units for the R&R.

The TDRs and density restrictions are measured and allocated on the basis of “Floor Space Index” (FSI). The permissible FSI defines the development rights for parcels of land in Mumbai. The amount of the FSI allocated in the form of the TDRs is greater for “lands reserved for resettlement” than for lands in “residential zones.” In “lands reserved for resettlement” the landowner secures the TDRs equivalent to the “Floor Space Index” of the area constructed multiplied by a factor of 2.5. Thus, he or she may develop 100 square metres of floor space as housing for resettled people, thereby generating 250 square metres of the TDRs. In residential zones, the additional TDRs beyond current restrictions of up to 1.5 FSI are permitted, as long as one-half of the additional area developed for housing is allocated to resettled populations free of charge.

The TDRs may be used in several ways: 1) to develop the additional FSI on the same site beyond the density level otherwise allowed by current land use restrictions; 2) to develop such real estate at levels that would otherwise be disallowed by applicable land use restrictions; or 3) to sell to another landowner who wishes to use them to develop the land at levels of density that would otherwise not be permissible.

The bank management sees this approach of financing resettlement sites through creation of the TDRs is as an “innovative” system. However, the use of the TDRs in the MUTP has also been criticised. The Requesters and other PAPs allege that the TDR approach provides a vehicle for corruption. Other voices claim that these “slum TDRs” on the market deflate the value of the TDRs.

Source: MUTP – Inspection Panel Report, p 96
FSI potential of the land owned by him. The additional potential of 1.5 for suburbs, 1.66 for difficult area and 1.00 for island city (only for government or public sector plots) are granted under this scheme.

The Madhya Pradesh Housing Policy
The Housing Policy proposed by the central government keeps a target of twenty lakh houses to be built each year for the weaker sections all over the country. In the new housing policy, it is proposed that in the main cities the government land, which is not being used, will be utilised for the commercial purposes.

As things presently stand, most of these lands are occupied by the slum dwellers. Under the scheme of the new MP housing policy, pucca houses will be built for the slum dwellers on a small portion of occupied land near the high-rise buildings. The builders for constructing commercial complexes will use the lands freed during this process. To promote private builders, this policy is going to make provisions for relaxation in rules so as to allow builders to generate optimal profits.

Based on the above model, a scheme has been proposed by the Indore Development Authority in scheme number 114. Here 600 families with permanent pattas have been residing for several years. According to the development authority, this scheme will serve as a model scheme for initiating such schemes elsewhere.

Effect on the vulnerability of the established slums due to this policy.

* These kinds of high-rise structures with small housing units do not suit the life and occupation of a slum dweller. Further scarcity of water, electricity and such basic amenities will add to the problems.

* This scheme will reduce the availability of land to the urban poor as a whole. Presently, 50 percent of the population living in the slums possesses less than five percent of the land used as shelters.

* In Indore, such schemes are being proposed in established slums where residents have a tenure right.

The Patta Act and corresponding rules and regulations (Madhya Pradesh)
The town plans in Madhya Pradesh were first formulated in mid-1970s. One of the prime objectives of these Master Plans was to provide affordable lands for housing the weaker sections. But for decades, these provisions have not been effectively implemented resulting in the proliferation of slums in the major cities of the state.

In 1984, the then Madhya Pradesh Chief Minister Arjun Singh announced that the landless families occupying government land for residential purpose on or before April 10, 1984 were entitled to leasehold rights at their places of residence. Some of them that were shifted were provided equal area of land at the relocated site. A strict law was imposed in the state to deter those who attempted to violate or displace urban poor by making them liable for imprisonment of up to two years. Thus, Madhya Pradesh was the first state to implement pro-poor town planning regulations effectively.

On June 10, 1998, Chief Minister Digvijay Singh amended the 1984 Patta Act and extended the cut-off date to May 31, 1998 for providing leasehold rights to the landless persons holding government land for residential purpose on the said date. The amendment also provided rules for providing joint land certificates in the name of both women and men. The residents’ committees were also formed under these rules but the powers of the bureaucrats to evict the dwellings of even the permanent leaseholders were substantially increased.

The policy on urban land development
The monopoly of the development authority over urban land development in Delhi was abolished by a notification dated June 20, 1998. The effect was not limited to Delhi alone but to all urban centres. Over the past few decades, the Delhi Development Authority model of administration had been replicated with minor modifications all over the country. The central government’s decision to deprive the development authority of its key role in land development means that in the years to come the central government may bring about a complete change in the process of urban development in the country.

In effect, the government has virtually handed over the task of urban development throughout the country to the real estate lobby. Also, 'farm house' owners, generally rich businessmen who had acquired agricultural land near big cities for speculative purposes with their illegal income, can now make huge profits.

The contention of the housing rights groups is that just because the development authorities had not been functioning effectively it does not mean that all regulation of public land and urban development should be jettisoned. The main problem is that they have failed to provide sufficient land to the urban poor and the needy due to their misplaced priorities. Instead of concentrating on land development, which by its very nature is a job
suited to the public sector alone, the DDA was over extending itself by constructing and maintaining houses and commercial buildings. The result was that the pace of land development and release was too slow, pushing up the price of urban land. Millions of urban poor are therefore living in blighted areas and are unable to afford land for their residential needs. Thus, it has forced thousands of poor people to live on pavements and streets in Indian cities.

**Foreign investment**

Any foreign company owned by the non-residential Indians (NRI) or persons of Indian origin (PIO) would in future have the right to acquire and develop urban land, engage in construction and sale of residential and commercial buildings and even enter housing finance activities.

The poor and the middle class will be deprived of even the limited access they have to the urban land and hence witness an increase in their vulnerability. Competitive speculators and the land mafia will push up the prices of a fixed entity like land. These foreign investments if invited, will try to optimise their profits by creating artificial scarcity in the housing and land market. Further, the entire process of town planning is likely to break down completely under the pressure of rival real estate lobbies.

**The 74th amendment to the Constitution**

The amendment gives urban local self-government a constitutional status as the third tier in the federal system of governance. It strengthens the municipalities so that they have the institutional capability to deal with problems of urbanisation.

Three types of bodies have been provided in the 74th Amendment – the nagar panchayats, municipal councils and municipal corporations. It is the decision of the state concerned to decide which area will have what kind of municipal body. Moreover, when a municipal area has a population of less than three lakhs, then the municipal council will be constituted by wards, which in turn will be supervised by ward committees. An important provision of the amendment is the grant of a five-year term to the municipalities with the opportunity to be heard first if they are to be dissolved or superseded.

The 74th Amendment Act mandates major structural changes in local governance in order to restore the rightful place of municipalities as democratic units in the present system of governance and empower people at the grassroots by enabling their participation in the decision-making.

Unfortunately, the 74th amendment is silent on the possible change in institutional design, especially as to whether there will be a strong mayoral system or a more people oriented form of local governance. Further, in mega cities such as Mumbai, which also happen to be the showcase cities for the state governments, in many matters related to lands and infrastructure investments, it is the state government that takes the decision. Hence, it was the chief minister of Maharashtra who willed and pursued the massive demolition drive and not the mayor of the city. The municipal commissioner who is the state government's representative in the municipal corporation carried out the demolitions. In all these, there was no voice heard of the city mayor. In essence, there is limited decentralisation in case of such mega cities. Nonetheless, a ward level structure of governance has been created in the Mumbai city, which can be used for preparing local area plans, that is ward level plans, for including slum dwellers into the planning processes.
the international instruments

international instruments, housing rights case laws, united nations housing rights programmes, guidelines on development-based evictions and displacement
The right to adequate housing is enshrined in several international human rights instruments. Indeed, housing rights are not a new development within the human rights field, but rather have been long-regarded as essential to ensuring the well-being and dignity of the human being.

Housing rights are integral to the whole of human rights in general and have been included in the most authoritative international statements regarding human rights including the Universal Declaration of Human Rights (1948).

Housing rights are also enshrined and protected within other international human rights instruments, including:

- The International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- The Convention on the Elimination of All Forms of Discrimination Against Women (1979)
- The Convention Relating to the Status of Refugees (1959), and

India became a State Party to the International Covenant on Economic, Social and Cultural Rights (hereafter ICESCR) on July 10, 1979. Although Articles 16 and 17 of the ICESCR require State Parties to submit periodic reports on “the measures they have adopted and the progress made in achieving the observance of the rights recognised” in the Covenant, India is now three reports overdue in submitting to the Committee on Economic, Social and Cultural Rights (hereafter the Committee). This despite the instructions in Article 51 of the Constitution of India, which the Supreme Court of India asserts is a requirement for legislative and executive conformity to the principles established in international covenants.

UN Treaties and Guidelines

UN treaties and guidelines that can apply to India (re.: Right to Housing and its accompanying entitlements w/ in the Right to Life; These provisions are relevant also if the right to adequate housing and alternative arrangements are denied / unfair eviction occurs and procedural rights are breached in the process)


A. 25(1): 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* and medical care and necessary social services…

B. A 3: Everyone has the *right to life*, liberty and security of person.

C. A 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, w/o distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

D. A 5: No one shall be subjected to torture or to cruel, *inhuman or degrading* treatment or punishment.

E. A 6: Everyone has the *right to recognition* everywhere as a person before the law.

F. A 7: All are equal before the law and are entitled w/o any discrimination to equal protection of the law.
All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

G. A 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

H. A 9: No one shall be subjected to arbitrary arrest, detention, or exile.

I. A 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against them.

J. A 11 (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for this defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

[e.g. so no retroactive, ex post facto, nullem crimen sine lege application of the law]

K. A 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

L. A 13 (1): Everyone has the right to freedom of movement and residence within the borders of each state.

M. A 17 (2): No shall be arbitrarily deprived of his property.

[eg if someone/a family had paid a deposit beforehand to secure a space in the slum for the purpose of residing there]

N. A 20(1): Everyone has the right to freedom of peaceful assembly and association.

O. A 21(2): Everyone has the right of equal access to public service in his country.

P. A 22: Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his society.

[eg as supported by Art 21 case law and applicable to the Articles and examples below]

Q. A. 23

(1) Everyone has the right to work, free choice of employment, to just and favourable conditions of work and to protection against unemployment.

[eg if someone is evicted and relocates which requires him/her to lose the current job, or, have higher transport costs to go to work or find something at a lower pay]

R. A 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and 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.

[e.g. forced eviction]

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

[eg children as victims of forced eviction have a special status in their own right; also see the Convention on the Rights of the Child]

S. A 26 (1): Everyone has the right to education…

[eg a schoolchild who is forced to relocate will have to change schools if possible. See Eviction Watch example p. 37 where the children could not afford to go their original school because relocation meant that the parents had to take lower paying jobs]

T. A 29 (2): In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

U. A 30: Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.
A. A 11: State Parties to the present Covenant recognise the obligation to provide for the right to an adequate standard of living and should implement that obligation subject to Article 2. India theoretically recognises adequate housing as a part of the right to an adequate standard of living and should implement that obligation subject to Article 2.

B. A 2 (1): Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.


India ratified the ICESCR on April 10, 1979 without making any reservations to Article 11. This means that India theoretically recognises adequate housing as a part of the right to an adequate standard of living and should implement that obligation subject to Article 2.

A. A 11: 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. State Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent.

Note that the Committee on Economic, Social and Cultural Rights (CESCR) has issued a series of General Comments re. States’ obligations. CESCR General Comment 3: The Nature of State Parties’ Obligations (Art 2, para 1 of the Covenant) (1990), the right to adequate housing, CESCR General Comment 4: The Right to Adequate Housing (Art 11(1) of the Covenant (1991), and the specific issue of forced evictions, CESCR General Comment 7: The Right to Adequate Housing (Art 11.1 of the Covenant): Forced Evictions (1997). I have reproduced the comments in full after citing the relevant Articles. This is followed by the Yale-Lowenstein comments on the CESR Reports have been identified as [Yale: ...]

B. A 2 (1): Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

[So there is a sort of ‘reasonable limit’ clause depending on the state’s “maximum available resources.”]

[Yale: 1. Non-retrogression in realisation of rights]

In its General Comment 3, the CESCR found that even with the qualifications of “progressive realisation” and maximum available resources, State Parties have two key obligations that are significant for our purposes. First, states have the obligation not to adopt “deliberately retrogressive measures” that would run counter to “progressive realisation” of recognised rights. Because the Covenant requires the States “to move...towards that goal [of full realisation], the CESCR finds that “any deliberately retrogressive measures...would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of available resources.” Therefore, any step that moves away from full realisation of the right to adequate housing can only be justified in reference to the other rights provided for in the Covenant and not by other state purposes, and then only if no other resources are available to avoid this result.

2. Minimum core obligation to provide essential rights

Second, according to the CESCR, states have a “minimum core obligation” to “ensure the satisfaction of...minimum essential levels of each of the rights.” Any state party “in which any significant number of individuals is deprived of basic shelter and housing, or of the most basic forms of education” is considered to be “prima facie, failing to discharge its obligations under the Covenant.” The committee notes that if the ICESCR is read “not to establish such a minimum core obligation” the result would “deprive [it] of its raison d’etre.” While determining the extent of this obligation can “take account of resource constraints applying within the country concerned” (emphasis added), a state that “attribute[s] its failure to meet...its minimum core obligations to a lack of available resources must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.”

From this perspective, States’ Parties obligations under Art 2.1 are not merely aspirational. A state where a significant number of persons are deprived of basic shelter is violating its obligations under the ICESCR unless the state can show that it has made, as a priority, every effort, using all available resources within the country, to satisfy the right to adequate
housing. Moreover, any deliberate state action that increases this deprivation violates the ICESCR unless it is justified in terms of the other rights recognised by the Covenant. A state’s lack of resources within a particular political subdivision (such as the VMC), or its purposes or priorities outside those of fulfilling its obligations under the Covenant (such as improving transportation) cannot possibly justify denial of basic housing. Since the travel by roadway is not a right recognised by the ICESCR (except perhaps indirectly as necessary to the exercise of Art.5’s recognition of the Right to Work), one might be able to argue that neither the VMC’s purpose for its eviction, nor the claim that it lacks alternative land for housing can justify denial of shelter.

A 11: 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. State Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent.

The right to adequate housing (Art11 (1)): 13/12/91

CECSR General comment 4 (General Comments) [The important principles in the CESR Report have been bolded. Note that the first sentence of para 7 is probably the best-known statement wrt interpreting A 11. The committee’s viewpoint here is referred to often in other UN Reports]

Convention Abbreviation: CESCR

General comment 4

The right to adequate housing
(Art 11 (1) of the Covenant) (Sixth session, 1991)*

1. Pursuant to Article 11 (1) of the Covenant, State Parties “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”. The human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights.

2. The committee has been able to accumulate a large amount of information pertaining to this right. Since 1979, the committee and its predecessors have examined 75 reports dealing with the right to adequate housing. The committee has also devoted a day of general discussion to the issue at each of its third (see E/1989/22, para 312) and fourth sessions (E/1990/23, paras 281-285). In addition, the committee has taken careful note of information generated by the International Year of Shelter for the Homeless (1987) including the Global Strategy for Shelter to the Year 2000 adopted by the General Assembly in its resolution 42/191 of 11 December 1987 . The committee has also reviewed relevant reports and other documentation of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

3. Although a wide variety of international instruments address the different dimensions of the right to adequate housing Article 11 (1) of the Covenant is the most comprehensive and perhaps the most important of the relevant provisions.

4. Despite the fact that the international community has frequently reaffirmed the importance of full respect for the right to adequate housing, there remains a disturbingly large gap between the standards set in Article 11 (1) of the Covenant and the situation prevailing in many parts of the world. While the problems are often particularly acute in some developing countries, which confront major resource and other constraints, the committee observes that significant problems of homelessness and inadequate housing also exist in some of the most economically developed societies. The United Nations estimates that there are over 100 million persons homeless worldwide and over one billion inadequately housed . There is no indication that this number is decreasing. It seems clear that no State party is free of significant problems of one kind or another in relation to the right to housing.

5. In some instances, the reports of State Parties examined by the committee have acknowledged and described difficulties in ensuring the right to adequate housing. For the most part, however, the information provided has been insufficient to enable the
Committee to obtain an adequate picture of the situation prevailing in the State concerned. This General Comment thus aims to identify some of the principal issues, which the Committee considers to be important in relation to this right.

6. The right to adequate housing applies to everyone. While the reference to “himself and his family” reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of “family” must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with Article 2 (2) of the Covenant, not be subject to any form of discrimination.

7. In the Committee’s view, the right to housing should not be interpreted in a narrow or restrictive sense, which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity. This is appropriate for at least two reasons. In the first place, the right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant is premised. This “the inherent dignity of the human person” from which the rights in the Covenant are said to derive requires that the term “housing” be interpreted so as to take account of a variety of other considerations, most importantly that the right to housing should be ensured to all persons irrespective of income or access to economic resources. Secondly, the reference in Article 11 (1) must be read as referring not just to housing but also to adequate housing. As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated: “Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost”.

8. Thus the concept of adequacy is particularly significant in relation to the right to housing since it serves to underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute “adequate housing” for the purposes of the Covenant. While adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors, the Committee believes that it is nevertheless possible to identify certain aspects of the right that must be taken into account for this purpose in any particular context. They include the following:

(a) **Legal security of tenure:** Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure, which guarantees legal protection against forced eviction, harassment and other threats. **State Parties** should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.

(b) **Availability of services, materials, facilities and infrastructure:** An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.

(c) **Affordability:** Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by State Parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. State Parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance, which adequately reflect housing needs. In accordance with the principle of affordability, tenants should be protected by appropriate means against
unreasonable rent levels or rent increases. In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by State Parties to ensure the availability of such materials.

(d) **Habitability**: Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well. The committee encourages State Parties to comprehensively apply the *Health Principles of Housing* prepared by the WHO, which view housing as the environmental factor most frequently associated with conditions for disease in epidemiological analyses; i.e., inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates.

(e) **Accessibility**: Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere. Both housing law and policy should take fully into account the special housing needs of these groups. Within many State Parties increasing access to land by landless or impoverished segments of the society should constitute a central policy goal. Discernible governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land as an entitlement.

(f) **Location**: Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants.

(g) **Cultural adequacy**: The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernisation in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed, and that, *inter alia*, modern technological facilities, as appropriate are also ensured.

9. As noted above, the right to adequate housing cannot be viewed in isolation from other human rights contained in the two International Covenants and other applicable international instruments. Reference has already been made in this regard to the concept of human dignity and the principle of non-discrimination. In addition, 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 and the right to participate in public decision-making - is indispensable if the right to adequate housing 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 right to adequate housing.

10. **Regardless of the state of development of any country**, there are certain steps, which must be taken immediately. As recognised in the Global Strategy for Shelter and in other international analyses, many of the measures required to promote the right to housing would only require the abstention by the Government from certain practices and a commitment to facilitating “self-help” by affected groups. To the extent that any such steps are considered to be beyond the maximum resources available to a State party, it is appropriate that a request be made as soon as possible for international cooperation in accordance with Articles 11 (1), 22 and 23 of the Covenant, and that the Committee be informed thereof.
11. State Parties must give due priority to those social groups living in unfavourable conditions by giving them particular consideration. Policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others. The committee is aware that external factors can affect the right to a continuous improvement of living conditions, and that in many State Parties overall living conditions declined during the 1980s. However, as noted by the Committee in its General Comment 2 (1990) (E/1990/23, annex III), despite externally caused problems, the obligations under the Covenant continue to apply and are perhaps even more pertinent during times of economic contraction. It would thus appear to the Committee that a general decline in living and housing conditions, directly attributable to policy and legislative decisions by State Parties, and in the absence of accompanying compensatory measures, would be inconsistent with the obligations under the Covenant.

12. While the most appropriate means of achieving the full realisation of the right to adequate housing will inevitably vary significantly from one State Party to another, the Covenant clearly requires that each State Party take whatever steps are necessary for that purpose. This will almost invariably require the adoption of a national housing strategy which, as stated in paragraph 32 of the Global Strategy for Shelter, "defines the objectives for the development of shelter conditions, identifies the resources available to meet these goals and the most cost-effective way of using them and sets out the responsibilities and time-frame for the implementation of the necessary measures". Both for reasons of relevance and effectiveness, as well as in order to ensure respect for other human rights, such a strategy should reflect extensive genuine consultation with, and participation by, all of those affected, including the homeless, the inadequately housed and their representatives. Furthermore, steps should be taken to ensure coordination between ministries and regional and local authorities in order to reconcile related policies (economics, agriculture, environment, energy, etc.) with the obligations under Article 11 of the Covenant.

13. Effective monitoring of the situation with respect to housing is another obligation of immediate effect. For a State Party to satisfy its obligations under Article 11 (1) it must demonstrate, inter alia, that it has taken whatever steps are necessary, either alone or on the basis of international cooperation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction. In this regard, the revised general guidelines regarding the form and contents of reports adopted by the committee (E/C12/1991/1) emphasise the need to "provide detailed information about those groups within ... society that are vulnerable and disadvantaged with regard to housing". They include, in particular, homeless persons and families, those inadequately housed and without ready access to basic amenities, those living in "illegal" settlements, those subject to forced evictions and low-income groups.

14. Measures designed to satisfy a State Party's obligations in respect of the right to adequate housing may reflect whatever mix of public and private sector measures considered appropriate. While in some States public financing of housing might most usefully be spent on direct construction of new housing, in most cases, experience has shown the inability of governments to fully satisfy housing deficits with publicly built housing. The promotion by State Parties of "enabling strategies", combined with a full commitment to obligations under the right to adequate housing, should thus be encouraged. In essence, the obligation is to demonstrate that, in aggregate, the measures being taken are sufficient to realise the right for every individual in the shortest possible time in accordance with the maximum of available resources.

15. Many of the measures that will be required will involve resource allocations and policy initiatives of a general kind. Nevertheless, the role of formal legislative and administrative measures should not be underestimated in this context. The Global Strategy for Shelter (paras 66-67) has drawn attention
to the types of measures that might be taken in this regard and to their importance.

16. In some States, the right to adequate housing is constitutionally entrenched. In such cases the committee is particularly interested in learning of the legal and practical significance of such an approach. The details of specific cases and of other ways in which entrenchment has proved helpful should thus be provided.

17. The committee views many component elements of the right to adequate housing as being at least consistent with the provision of the domestic legal remedies. Depending on the legal system, such areas might include, but are not limited to: (a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; (b) legal procedures seeking compensation following an illegal eviction; (c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination; (d) allegations of any form of discrimination in the allocation and availability of access to housing; and (e) complaints against landlords concerning unhealthy or inadequate housing conditions. In some legal systems it would also be appropriate to explore the possibility of facilitating class action suits in situations involving significantly increased levels of homelessness.

18. In this regard, the committee considers that instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.

19. Finally, Article 11 (1) concludes with the obligation of State Parties to recognise “the essential importance of international cooperation based on free consent”. Traditionally, less than five percent of all international assistance has been directed towards housing or human settlements, and often the manner by which such funding is provided does little to address the housing needs of disadvantaged groups. State Parties, both recipients and providers, should ensure that a substantial proportion of financing is devoted to creating conditions leading to a higher number of persons being adequately housed. The international financial institutions promoting measures of structural adjustment should ensure that such measures do not compromise the enjoyment of the right to adequate housing. State Parties should, when contemplating international financial cooperation, seek to indicate areas relevant to the right to adequate housing where external financing would have the most effect. Such requests should take full account of the needs and views of the affected groups.

[Yale: 1. Forced evictions are unjustified except in ‘exceptional circumstances’

Similarly, the CESCR General Comment 4: The Right to Adequate Housing concludes that “instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances and in accordance with relevant principles of international law.” This suggests that state policies or programmes which employ forced eviction as a regular practice or that violate other international human rights standards, most certainly constitute violations of the ICESCR. And while General Comment 4 does not define what “exceptional circumstances” would justify forced eviction, the UN Office of the High Commissioner for Human Rights (OHCHR) has identified such situations as including the following cases: “discriminatory statements, attacks or treatment by one tenant … against a neighbour;” “unjustifiable destruction of rental property;” “persistent non-payment of rent despite…ability to pay;” “persistent antisocial behaviour which threatens neighbours…;” “manifestly criminal behaviour;” and “illegal occupation of property which is inhabited at the time of occupation.” The OHCHR specifically distinguishes such legitimate grounds for eviction from “cases of possession or squatting of land or housing by persons…unable to have legal access to housing resources” where states seek to justify eviction as a “necessary price for progress or development.” The OHCHR warns that, “in such cases, the governments
must exercise caution in accordance with respect for their existing obligations relating to the right to adequate housing.” The instant case clearly seems to fall w/in the latter category and not the former.

2. Forced evictions cannot benefit the already advantaged at expense of the less favoured. The policies resulting in the forced evictions also cannot be designed for the benefit of those who are better off than those who are to be displaced. General Comment 4 states that State Parties’ “policies and legislation should...not be designed to benefit already advantaged social groups at the expense of others” and must “give due priority to those social groups living in unfavourable conditions.” To the extent that eviction for road widening provides most of its benefits to those better situated than the evictees, evicting less-favored persons for this purpose therefore violates the ICESCR.

3. Persons displaced by the forced eviction must be ensured secure shelter

General Comment 4 also makes clear that the right to adequate housing under the Covenant encompasses situations where persons occupy land without legal title. Among the “aspects of the right [to housing] that must be taken into account...in any context” is that of “[l]egal security of tenure.” “Tenure” is defined in the comment as “taking a variety of forms...including emergency housing and informal settlements, including occupation of land or property.” The General Comment states that “[n]otwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction,” and that “[s]tates Parties should...take immediate measures aimed at conferring legal security upon those persons and households lacking such protection, in genuine consultation with the affected persons and groups.” Therefore, while the ICESCR does not dictate which form of legally secure tenure should be afforded, it does direct states to provide some form of tenure to those who currently lack it, even if they are dwelling upon occupied land. Moreover, this also would suggest that those who are evicted from such land must be given some legally secure place to live.

CESCR General Comment 7: Forced Evictions
The right to adequate housing (Art 11.1): forced evictions: 20/05/97

CESCR General comment 7 (General Comments)

Convention abbreviation: CESC

General comment 7
The right to adequate housing (Art 11.1 of the Covenant): forced evictions (Sixteenth session, 1997)

1. In its General Comment 4 (1991), the committee observed that all persons should possess a degree of security of tenure, which guarantees legal protection against forced eviction, harassment and other threats. It concluded that forced evictions are prima facie incompatible with the requirements of the Covenant. Having considered a significant number of reports of forced evictions in recent years, including instances in which it has determined that the obligations of State Parties were being violated, the committee is now in a position to seek to provide further clarification as to the implications of such practices in terms of the obligations contained in the Covenant.

2. The international community has long recognised that the issue of forced evictions is a serious one. In 1976, the United Nations Conference on Human Settlements noted that special attention should be paid to “undertaking major clearance operations should take place only when conservation and rehabilitation are not feasible and relocation measures are made”. In 1988, in the Global Strategy for Shelter to the Year 2000, adopted by the General Assembly in its resolution 43/181, the “fundamental obligation [of governments] to protect and improve houses and neighbourhoods, rather than damage or destroy them” was recognised.
“People should be protected by law against unfair eviction from their homes or land”. In the Habitat Agenda the governments committed themselves to “protecting all people from, and providing legal protection and redress for, forced evictions that are contrary to the law, taking human rights into consideration; [and] when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided”. The Commission on Human Rights has also indicated, “the forced evictions are a gross violation of human rights”. However, although these statements are important, they leave open one of the most critical issues, namely that of determining the circumstances under which forced evictions are permissible and of spelling out the types of protection required to ensure respect for the relevant provisions of the Covenant.

3. The use of the term “forced evictions” is, in some respects, problematic. This expression seeks to convey a sense of arbitrariness and of illegality. To many observers, however, the reference to “forced evictions” is a tautology; while others have criticised the expression “illegal evictions” on the ground that it assumes that the relevant law provides adequate protection of the right to housing and conforms with the Covenant, which is by no means always the case. Similarly, it has been suggested that the term “unfair evictions” is even more subjective by virtue of its failure to refer to any legal framework at all. The international community, especially in the context of the Commission on Human Rights, has opted to refer to “forced evictions”, primarily since all suggested alternatives also suffer from many such defects. The term “forced evictions” as used throughout this general comment is defined 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. The prohibition on the forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.

4. The practice of forced evictions is widespread and affects persons in both developed and developing countries. Owing to the interrelationship and interdependency, which exist among all human rights, forced evictions frequently violate other human rights. Thus, while manifestly breaching the rights enshrined in the Covenant, the practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.

5. Although the practice of forced evictions might appear to occur primarily in heavily populated urban areas, it also takes place in connection with forced population transfers, internal displacement, forced relocations in the context of armed conflict, mass exoduses and refugee movements. In all of these contexts, the right to adequate housing and not to be subjected to forced eviction may be violated through a wide range of Acts or omissions attributable to State Parties. Even in situations where it may be necessary to impose limitations on such a right, full compliance with Article 4 of the Covenant is required so that any limitations imposed must be “determined by law only insofar as this may be compatible with the nature of these [ie economic, social and cultural] rights and solely for the purpose of promoting the general welfare in a democratic society”.

Notes
* Contained in document E/1992/23
4/ See footnote 1/
6. Many instances of forced eviction are associated with violence, such as evictions resulting from international armed conflicts, internal strife and communal or ethnic violence.

7. Other instances of forced eviction occur in the name of development. Evictions may be carried out in connection with conflict over land rights, development and infrastructure projects, such as the construction of dams or other large-scale energy projects, with land acquisition measures associated with urban renewal, housing renovation, city beautification programmes, the clearing of land for agricultural purposes, unbridled speculation in land, or the holding of major sporting events like the Olympic Games.

8. In essence, the obligations of State Parties to the Covenant in relation to forced evictions are based on Article 11.1, read in conjunction with other relevant provisions. In particular, Article 2.1 obliges States to use “all appropriate means” to promote the right to adequate housing. However, in view of the nature of the practice of forced evictions, the reference in Article 2.1 to progressive achievement based on the availability of resources will rarely be relevant. The State itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions (as defined in paragraph 3 above). Moreover, this approach is reinforced by Article 17.1 of the International Covenant on Civil and Political Rights, which complement the right not to be forcefully evicted without adequate protection. That provision recognises, inter alia, the right to be protected against “arbitrary or unlawful interference” with one’s home. It is to be noted that the State’s obligation to ensure respect for that right is not qualified by considerations relating to its available resources.

9. Article 2.1 of the Covenant requires State Parties to use “all appropriate means”, including the adoption of legislative measures, to promote all the rights protected under the Covenant. Although the Committee has indicated in its General Comment 3 (1990) that such measures may not be indispensable in relation to all rights, it is clear that legislation against forced evictions is an essential basis upon which to build a system of effective protection. Such legislation should include measures which (a) provide the greatest possible security of tenure to occupants of houses and land, (b) conform to the Covenant and (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply to all agents acting under the authority of the State or who are accountable to it. Moreover, in view of the increasing trend in some States towards the government greatly reducing its responsibilities in the housing sector, State Parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies. State Parties should therefore review relevant legislation and policies to ensure that they are compatible with the obligations arising from the right to adequate housing and repeal or amend any legislation or policies that are inconsistent with the requirements of the Covenant.

10. Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction. Women in all groups are especially vulnerable given the extent of statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation, and their particular vulnerability to Acts of violence and sexual abuse when they are rendered homeless. The non-discrimination provisions of Articles 2.2 and 3 of the Covenant impose an additional obligation upon Governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no form of discrimination is involved.

11. Whereas some evictions may be justifiable, such as in the case of persistent non-payment of rent or of damage to rented property without any reasonable cause, it is incumbent upon the relevant authorities to ensure that they are carried out in a manner warranted by a law which is compatible with the Covenant and that all the legal recourses and remedies are available to those affected.

12. Forced eviction and house demolition as a punitive measure are also inconsistent with the norms of the Covenant. Likewise, the committee takes note of the obligations enshrined in the Geneva Conventions of 1949 and Protocols thereto of 1977 concerning prohibitions on the displacement of the civilian population and the destruction of private property as these relate to the practice of forced eviction.
13. State Parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimising, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. State Parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. In this respect, it is pertinent to recall Article 2.3 of the International Covenant on Civil and Political Rights, which requires State Parties to ensure “an effective remedy” for persons whose rights have been violated and the obligation upon the “competent authorities (to) enforce such remedies when granted”.

14. In cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality. In this regard, it is especially pertinent to recall General Comment 16 of the Human Rights Committee, relating to Article 17 of the International Covenant on Civil and Political Rights, which states that interference with a person’s home can only take place “in cases envisaged by the law”. The committee observed that the law “should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances”. The committee also indicated, “relevant legislation must specify in detail the precise circumstances in which such interferences may be permitted”.

15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognised in both the International Covenants on Human Rights. The committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, 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; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

17. The committee is aware that various development projects financed by international agencies within the territories of State Parties have resulted in forced evictions. In this regard, the committee recalls its General Comment 2 (1990) which states, inter alia, “international agencies should scrupulously avoid involvement in projects which, for example ... promote or reinforce discrimination against individuals or groups contrary to the provisions of the Covenant, or involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation. Every effort should be made, at each phase of a development project, to ensure that the rights contained in the Covenant are duly taken into account”.

18. Some institutions, such as the World Bank and the Organisation for Economic Cooperation and
Development (OECD) have adopted guidelines on relocation and/or resettlement with a view to limiting the scale of and human suffering associated with the forced evictions. Such practices often accompany large-scale development projects, such as dam building and other major energy projects. Full respect for such guidelines, insofar as they reflect the obligations contained in the Covenant, is essential on the part of both the agencies themselves and State Parties to the Covenant. The Committee recalls in this respect the statement in the Vienna Declaration and Programme of Action to the effect that “while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognised human rights” (Part I, para 10).

19. In accordance with the guidelines for reporting adopted by the committee, State Parties are requested to provide various types of information pertaining directly to the practice of forced evictions. This includes information relating to (a) the “number of persons evicted within the last five years and the number of persons currently lacking legal protection against arbitrary eviction or any other kind of eviction”, (b) “legislation concerning the rights of tenants to security of tenure, to protection from eviction” and (c) “legislation prohibiting any form of eviction”.

20. Information is also sought as to “measures taken during, inter alia, urban renewal programmes, redevelopment projects, site upgrading, preparation for international events (Olympics and other sporting competitions, exhibitions, conferences, etc.) ‘beautiful city’ campaigns, etc. which guarantee protection from eviction or guarantee rehousing based on mutual consent, by any persons living on or near to affected sites”. However, few State Parties have included the requisite information in their reports to the committee. The committee, therefore, wishes to emphasise the importance it attaches to the receipt of such information.

21. Some State Parties have indicated that information of this nature is not available. The committee recalls that effective monitoring of the right to adequate housing, either by the Government concerned or by the committee, is not possible in the absence of the collection of appropriate data and would request all State Parties to ensure that the necessary data is collected and is reflected in the reports submitted by them under the Covenant.

[Yale-Lowenstein:]

1. Forced evictions must be in conformity with domestic and international law

The CESCR addressed the issue of forced eviction in greater depth in its General Comment 7: The Right to Adequate Housing (Art 1.1.1 of the Covenant): Forced Evictions, CESCR, sixteenth session 1997, contained in the UN Doc E/1998/22, Annex 4 General Comment 7 provides a definition of “forced evictions” as “the permanent or temporary removal against their will of individuals…from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.” This definition of “forced eviction” is very important because the General Comment makes clear that State Parties to the ICESCR “must refrain from forced evictions and ensure that the law is enforced against its agents…who carry out forced evictions (as defined in paragraph 3 above)... This is an “immediate obligation” of member States which, “regardless of the state of development of any country…must be taken immediately.” However, the committee notes that “[t]he prohibition on forced evictions...does not apply if carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.” This qualification indicates that the permissibility of evictions turns on their legality under both domestic statute and international law. Evictions not conducted in accordance with domestic and international law are flatly prohibited then, unless the evictees are provided or given access to some form of protection—which may be “legal or other”—by the State Party.

2. Forced evictions require prior consultation, right to compensation, alternative housing for displaced

Even where those evictions are legally sanctioned, State Parties still have several significant obligations to those affected. First, General Comment 7 instructs that “State Parties shall ensure, prior to carrying out any evictions, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimising, the need to use force.” This indicates that states have an absolute obligation to consult with evictees prior to evictions, since even if there is no alternative to removal, there must be consultation regarding the means by which it is to be achieved. Second, in such cases, “[S]tates
Parties shall see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real which is affected.” Therefore, all evictees have a right to be compensated for housing materials and personal possessions, which may be damaged, destroyed or lost during the eviction. Lastly, “where those affected [by evictions] are unable to provide for themselves, the State Party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.” It is the obligation of the State Party to use its resources to ensure the availability of some kind of dwelling space for those displaced, whether these take the form of housing at, resettlement in, or use of, another location. In sum, even when persons are legally evicted, states still have an obligation to 1) consult with them prior to eviction, 2) ensure their right to compensation for loss of possessions, and 3) use its available resources to ensure somewhere else for them to stay. Failure to do any one of these things constitutes a violation of the ICESCR.

4. International Declarations & Recommendations

Vancouver Declaration on Human Settlements (1976), adopted by the United Nations Conference on Human Settlements in 1976. Section I (8) and Chapter II (A. 3) state, respectively:

“Adequate shelter and services are a basic human right which places an obligation on governments to ensure their attainment by all people, beginning with direct assistance to the least advantaged through guided programmes of self-help and community action. Governments should endeavour to remove all impediments, hindering attainment of these goals. Of special importance is the elimination of social and racial segregation, inter alia, through the creation of better balanced communities, which blend different social groups, occupations, housing and amenities.”

“The ideologies of States are reflected in their human settlement policies. These being powerful instruments for change, they must not be used to dispossess people from their homes or lands to entrench privilege and exploitation. The human settlement policies must be in conformity with the declaration of principles and the Universal Declaration of Human Rights.”

Declaration on the Right to Development (1986), adopted by General Assembly resolution 41/128 on 4 December 1986. Article 8.1 states:

“States should undertake, at the national level, all necessary measures for the realisation of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.”

5. United Nations Resolutions

General Assembly resolution 41/146, entitled “The realisation of the right to adequate housing”, adopted on 4 December 1986, states in part: “The General Assembly expresses its deep concern that millions of people do not enjoy the right to adequate housing.”

General Assembly resolution 42/146, entitled “The realisation of the right to adequate housing”, adopted on 7 December 1987, states in part: “The General Assembly reiterates the need to take, at the national and international levels, measures to promote the right of all persons to an adequate standard of living for themselves and their families, including adequate housing; and calls upon all States and international organisations concerned to pay special attention...
to the realisation of the right to adequate housing in carrying out measures to develop national shelter strategies and settlement improvement programmes within the framework of the Global Strategy for Shelter to the Year 2000.”

Economic and Social Council resolution 1987/62, entitled “The realisation of the right to adequate housing”, adopted on 29 May 1987, states in part: “Recognising that the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights provide that all persons have the right to an adequate standard of living for themselves and their families, including adequate housing, and that States should take appropriate steps to ensure the realisation of that right.”

Commission on Human Rights resolution 1986/36, entitled “The realisation of the right to adequate housing”, adopted on 12 March 1986, states in part: “The Commission on Human Rights reiterates the right of all persons to an adequate standard of living for themselves and their families, including adequate housing.”

Commission on Human Rights resolution 1987/22, entitled “The realisation of the right to adequate housing”, adopted on 10 March 1987, states in part: “The Commission on Human Rights reiterates the need to take appropriate measures, at the national and international levels, for promoting the right of all persons to an adequate standard of living for themselves and their families, including adequate housing.”


Commission on Human Rights resolution 1993/77, entitled “Forced evictions”, adopted on 10 March 1993, states in part: “The Commission on Human Rights . . . affirms that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing:

“. . . . urges governments to undertake immediate measures, at all levels, aimed at eliminating the practice of forced evictions...

to confer legal security of tenure on all persons currently threatened with forced evictions;

“. . . recommends that all Governments provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land . . . to persons or communities that have been forcibly evicted;

“. . . . requests the Secretary-General to compile an analytical report on the practice of forced evictions, based on an analysis of international law and jurisprudence and information submitted [by] Governments, relevant United Nations bodies... regional intergovernmental and
non-governmental organisations and community-based organisations.”

The Commission on Human Settlements resolution 14/6, entitled “The human right to adequate housing”, adopted on May 5, 1993, states in part: “The Commission on Human Settlements urges all States to cease any practices which could or do result in the infringements of the human right to adequate housing, in particular the practice of forced, mass evictions and any form of racial or other discrimination in the housing sphere; “Invites all States to repeal, reform or amend any existing legislation, policies, programmes or projects which in any manner negatively affect the realisation of the right to adequate housing; “Urges all States to comply with existing international agreements concerning the right to adequate housing, and to this end, to establish... appropriate monitoring mechanisms to provide, for national and international consideration, accurate data and indicators on the extent of homelessness, inadequate housing conditions, persons without security of tenure, and other issues arising from the right to adequate housing and providing insights into policy, structural and other impediments to the efficient operation of the shelter sector.”

The Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1991/12, entitled “forced evictions” adopted on August 28, 1991, states in part: “The Sub-Commission, “Recognising that the practice of forced eviction involves the involuntary removal of persons, families and groups from their homes and communities, resulting in the destruction of the lives and identities of people throughout the world, as well as increasing homelessness, ...

“The fact that the practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing; (c) The need for immediate measures to be undertaken at all levels aimed at eliminating the practice of forced eviction; ...

“The State recognises the communal forms of land ownership and the Community of the Atlantic Coast.”

Nicaragua has breached Articles 2, 21, and 25 of the American Convention.

Article 2:

[where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, State Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other
measures as may be necessary to give effect to those rights or freedoms.

**Article 21:**
1. Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.

2. No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law.

**Article 25:**
1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognised by the constitution or laws […] or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.

2. **State Parties undertake**
   a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the State;
   
   b. to develop the possibilities of judicial remedy; and
   
   c. to ensure that the competent authorities shall enforce such remedies when granted.

**Inter-American Court of Human Rights**
**Case of Moiwana village vs Suriname**
**Judgment of June 15, 2005**

**FACTS:** The State’s acts or omissions form a failure to exercise due diligence by not protecting the applicants rights under Articles 21 and 22.

The Applicant community claimed that in 1986 Suriname — while attempting to locate rebel guerillas during its civil war — had subjected it to extrajudicial killings and forceful eviction from its ancestral lands, and up to 18 years later not made any effort “to assist or facilitate [their] return” to the area. As a result, they also claim breach of their Articles 8 and 25 rights.

The Court found in favour of the applicants. It ordered Suriname to hold an enquiry to identify and prosecute the killers; pay almost $3 million in compensation to the 130 survivors ($13,000 per individual for material and moral damages with legal costs); and establish a $1.2 million development fund for health, housing and educational programmes for the Moiwana residents.

Article 22 of the American Convention (Freedom of Movement and Residence) in relation with Article 1 (1) (Obligation to respect rights)

109. Article 22 of the American Convention establishes:

1. Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law.

2. Every person has the right to leave any country freely, including his own.

3. The exercise of the foregoing rights may be restricted only pursuant to a law to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights or freedoms of others.

4. The exercise of the rights recognised in paragraph 1 may also be restricted by law in designated zones for reasons of public interest.

5. No one can be expelled from the territory of the State of which he is a national or be deprived of the right to enter it.

**Arguments of the representatives**

104. Although the representatives did not expressly allege the violation of the right established in Article 22 of the American Convention, they argued the following:

   a) the alleged victims have been deprived of their customary means of subsistence due to their forcible expulsion from their traditional territory and their continuing inability to return; as a result, they live in poverty; and

   b) forcible eviction or involuntary resettlement is prohibited under international law because it does grave and disastrous harm to the basic civil, political, economic, social and cultural rights of both individuals and collectivities. In the case of tribal
peoples, forcible eviction completely severs their various relationships with their ancestral lands.

The Court’s assessment

110. This Court has held that liberty of movement is an indispensable condition for the free development of a person. Furthermore, the Tribunal shares the views of the United Nations Human Rights Committee as set out in its General Comment 27, which states that the right to freedom of movement and residence consists, \textit{inter alia}, in the following: a) the right of all those lawfully within a State to move freely in that State, and to choose his or her place of residence; and b) the right of a person to enter his or her country and the right to remain in one's country. In addition, the enjoyment of this right must not be made dependent on any particular purpose or reason for the person wanting to move or to stay in a place.\textsuperscript{111}

111. Of particular relevance to the present case, the UN Secretary-General’s Special Representative on Internally Displaced Persons issued Guiding Principles in 1998,\textsuperscript{112} which are based upon existing international humanitarian law and human rights standards. The Court considers that many of these guidelines illuminate the reach and content of Article 22 of the Convention in the context of forced displacement. For the purposes of the instant case, then, the Tribunal emphasises the following Principles:

1 (1). Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

5. All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

8. Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

9. States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

14 (1). Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.

28 (1). Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.

118. In sum, only when justice is obtained for the events of November 29, 1986 may the Moiwana community members: 1) appease the angry spirits of their deceased family members and purify their traditional land; and 2) no longer fear that further hostilities will be directed toward their community. Those two elements, in turn, are indispensable for their permanent return to Moiwana Village, which many – if not all – of the community members wish to accomplish (supra paragraph 86(43)).

119. The Court observes that Suriname has disputed that the Moiwana survivors suffer restrictions upon their travels or residence; in that regard, the State asserts that they may indeed move freely throughout the country. Regardless of whether a legal disposition


\textsuperscript{112} Cf Case of Ricardo Canese, supra note 65, para 115; UN, Human Rights Committee, General Comment 27, November 2, 1999, paras 1, 4, 5 and 19

actually exists in Suriname that establishes such a right – upon which the Tribunal deems it unnecessary to rule – in this case the Moiwana survivors’ freedom of movement and residence is circumscribed by a very precise, de facto restriction, originating from their well-founded fears described above, which excludes them only from their ancestral territory.

120. **Thus, the State has failed to both establish conditions, as well as provide the means, that would allow the Moiwana community members to return voluntarily, in safety and with dignity, to their traditional lands, in relation to which they have a special dependency and attachment – as there is objectively no guarantee that their human rights, particularly their rights to life and to personal integrity, will be secure.** By not providing such elements – including, foremost, an **effective criminal investigation** to end the reigning impunity for the 1986 attack – Suriname has failed to ensure the rights of the Moiwana survivors to move freely within the State and to choose their place of residence. Furthermore, the State has effectively deprived those community members still exiled in French Guiana of their rights to enter their country and to remain there.

121. For the foregoing reasons, the Court declares that Suriname violated Article 22 of the American Convention, in relation to Article 1(1) of that treaty, to the detriment of the Moiwana community members.

**XI**

**Article 21 of the American Convention**

(Right to Property) in relation to Article 1(1)

(Obligation to Respect Rights)

127. **Article 21 of the American Convention provides**

1. Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.

2. No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law.

**Arguments of the representatives**

122. The representatives argued that the State violated the right to property established in Article 21 of the American Convention based on the following considerations:

a) while the initial alleged violation – forcible expulsion of the community from its traditional lands and territory – took place on November 29, 1986, prior to Suriname’s accession to the Convention and acceptance of the Court’s jurisdiction, as a matter of fact and law, the violation of Article 21 is of a continuing nature;

b) continuing violations are particularly common in cases where indigenous and tribal peoples have been forcibly removed from their traditional lands;

d) the alleged victims continue to be deprived of their property rights by the following acts and omissions of the State: i) the denial of justice, which in itself deters the alleged victims from reestablishing their community on their traditional lands; and ii) the failure of Suriname to establish legislative or administrative mechanisms for the alleged victims to assert and secure their rights of tenure in accordance with N’djuka customary law, values and usage;

e) the alleged victims’ property rights are guaranteed and protected under Article 21 of the Convention, which has an autonomous meaning and is not restricted to property as defined by domestic legal regimes; the provision also protects the rights to property of “members of […] indigenous communities within the framework of communal property”;

f) the alleged victims have been deprived of their customary means of subsistence due to their forcible expulsion from their traditional territory and their continuing inability to return; as a result, they live in poverty; and

g) forcible eviction or involuntary resettlement is prohibited under international law because it does grave and disastrous harm to the basic civil, political, economic, social and cultural rights of both individuals and collectivities. In the case of tribal peoples, forcible eviction completely severs their various relationships with their ancestral lands.

**The Court’s Assessment**

128. In the preceding chapter regarding Article 22 of the Convention, the Court held that the State’s failure to carry out an effective investigation into the events of November 29, 1986, leading to the clarification of the facts and punishment of the responsible parties, has directly prevented the Moiwana community members from voluntarily returning to live in their traditional lands. Thus, Suriname has failed to both
establish the conditions, as well as provide the means, that would allow the community members to live once again in safety and in peace in their ancestral territory; in consequence, Moiwana Village has been abandoned since the 1986 attack.

129. In order to determine whether such circumstances constitute the deprivation of a right to the use and enjoyment of property, naturally, this Court must first assess whether Moiwana Village belongs to the community members, bearing in mind the broad concept of property developed in the Tribunal’s jurisprudence.

130. The parties to the instant case are in agreement that the Moiwana community members do not possess formal legal title – neither collectively nor individually – to their traditional lands in and surrounding Moiwana Village. According to submissions from the representatives and Suriname, the territory formally belongs to the State in default, as no private individual or collectivity owns official title to the land.

131. Nevertheless, this Court has held that, in the case of indigenous communities who have occupied their ancestral lands in accordance with customary practices – yet who lack real title to the property – mere possession of the land should suffice to obtain official recognition of their communal ownership. That conclusion was reached upon considering the unique and enduring ties that bind indigenous communities to their ancestral territory. The relationship of an indigenous community with its land must be fully integrated and enjoyed by the community, so that it may preserve its cultural legacy and pass it on to future generations.116

133. In this way, the Moiwana community members, a N’djuka tribal people, possess an “all-encompassing relationship” to their traditional lands, and their concept of ownership regarding that territory is not centered on the individual, but rather on the community as a whole.117 Thus, this Court’s holding with regard to indigenous communities and their communal rights to property under Article 21 of the Convention must also apply to the tribal Moiwana community members: their traditional occupancy of Moiwana Village and its surrounding lands – which has been recognised and respected by neighboring N’djuka clans and indigenous communities over the years (supra paragraph 86(4)) – should suffice to obtain State recognition of their ownership. The precise boundaries of that territory, however, may only be determined after due consultation with said neighboring communities (infra paragraph 210).

134. Based on the foregoing, the Moiwana community members may be considered the legitimate owners of their traditional lands; as a consequence, they have the right to the use and enjoyment of that territory. The facts demonstrate, nevertheless, that they have been deprived of this right to the present day as a result of the events of November 1986 and the State’s subsequent failure to investigate those occurrences adequately.

135. In view of the preceding discussion, then, the Court concludes that Suriname violated the right of the Moiwana community members to the communal use and enjoyment of their traditional property. In consequence, the Tribunal holds that the State violated Article 21 of the American Convention, in relation to Article 1(1) of that treaty, to the detriment of the Moiwana community members.

114. Cf Case of the Mayagna (Sumo) Awas Tingni Community. Judgment of August 31, 2001. Series C No. 79, para 151
115. Cf Case of the Mayagna (Sumo) Awas Tingni Community, supra note 71, para 149
116. Cf. Case of the Mayagna (Sumo) Awas Tingni Community, supra note 71, para 149
117. Cf Case of the Mayagna (Sumo) Awas Tingni Community, supra note 71, para 149
139. **Article 8 (1) of the American Convention establishes**

Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.

140. **Article 25 of the Convention provides**

1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognised by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.

1. **State Parties undertake**

   a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state;
   
   b. to develop the possibilities of judicial remedy; and
   
   c. to ensure that the competent authorities shall enforce such remedies when granted.

142. The Court has affirmed that, under the American Convention, State Parties have an obligation to provide effective judicial remedies to victims of human rights violations [Article 25] – remedies that must be substantiated in accordance with the rules of due process of law (Article 8 (1)) – all in keeping with the general obligation of such States to guarantee the free and full exercise of the rights recognised by the Convention to all persons subject to their jurisdiction.118

143. In similar cases, this Court has established that “in order to clarify whether the State has violated its international obligations owing to the acts of its judicial organs, the Court may have to examine the respective domestic proceedings.”119

Adhering to precedent, then, the Tribunal will consider the entirety of the relevant national proceedings in the instant case, in order to make an informed determination as to whether the Convention’s abovementioned provisions regarding judicial protection and due process have been violated.120

The Court’s assessment will involve a discussion of the following elements:

a) the appropriate legal remedy under the circumstances of the present case;

b) the effectiveness of said remedy;

and c) the reasonableness of the length of proceedings.

163. In consideration of the many facets analysed above, the Court holds that Suriname’s seriously deficient investigation into the 1986 attack upon Moiwana Village, its violent obstruction of justice, and the extended period of time that has transpired without the clarification of the facts and the punishment of the responsible parties have defied the standards for access to justice and due process established in the American Convention.

164. As a result, the Tribunal declares that the State violated Articles 8(1) and 25 of the American Convention, in relation to Article 1(1) of that treaty, to the detriment of the Moiwana community members.

166. In this regard, the Court finds it necessary to reiterate its holding above: in response to the extrajudicial...
killings that occurred on November 29, 1986, the foremost remedy to be provided by the State is an effective, swift investigation and judicial process, leading to the clarification of the facts, punishment of the responsible parties, and appropriate compensation of the victims.

2. European Committee on Social Rights


**Article 16 - The right of the family to social, legal and economic protection**

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and other appropriate means.

ERRC (European Roma Rights Centre vs Greece), Judgment of June 8, 2005

Constitution of Greece, Art 21(4): “The acquisition of a home by the homeless or those inadequately sheltered shall constitute an object of special State care.”

The applicants allege that Greek authorities forcefully evict Roma gypsies from settlements and either don’t provide alternative housing, or, resettle them in substandard living arrangements.

**Para 57:** The State’s housing policies violate Art 16 because

3. They allowed the forced eviction of Roma from sites or dwellings unlawfully occupied by them

2. There are an insufficient number of dwellings of an acceptable quality to meet the needs of settled Roma.

3. There are an insufficient number of stopping places for Roma who choose to follow an itinerant lifestyle or who are forced to do so.

**Para 58:** The European Committee of Social Rights said that it would ask the Committee of Ministers to recommend that Greece pay the complainant organisation a sum of 2000 euros as compensation for expenses incurred by the procedure.

3. European Court of Human Rights


**Article 3 – Prohibition of torture**

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

**Article 8 – Right to respect for private and family life**

1 Everyone has the right to respect for his private and family life, his home and his correspondence.

2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
Housing rights case laws

**Republic of South Africa vs Grootboom**
Case No CCT 11/00, 2000 (11) BCLR 1169 and Minister of Health vs Treatment Action Campaign Case No CCT 8/02

**Background**
Mrs Irene Grootboom, the petitioner, was part of a group of 390 adults and 510 children living in appalling circumstances in an informal settlement in the Cape Metropolitan area. Their homes were bulldozed, burnt and their possessions destroyed. Many of the residents could not even salvage their personal belongings.  

After these people were rendered homeless from there, they approached the government but the officials’ answer was that the homeless should put their names on the waiting list for housing. The waiting list was more than ten years long.

In view of this, Mrs Grootboom and others asked the court to order the State to provide them with basic shelter, as they had literally nowhere to live. The court also found that the eviction was done prematurely and inhumanely: reminiscent of apartheid-era evictions. The court said that it was unreasonable for the government to fail in making any emergency provision for people who are in a desperate situation. The people could not be left literally homeless for ten to twenty years. The implication of the judgment was that the programmeme must give top priority attention to people who are in a desperate situation. The programmeme must cater for short, medium and long term needs. It must not exclude a significant segment of society.

**The facts**
The petitioners received a court order requiring the government to immediately provide them with adequate basic housing and not to wait for their turn in the formal housing queue. However, the government failed to comply with the court order. The petitioners subsequently built themselves temporary structures on a public sports field and again brought an action against the municipal government in court in order to obtain access to the promised adequate housing.

The petitioners based their claim on Section 26 of the South African Constitution (which guarantees the right of access to adequate housing), and on Section 28 (which mandates special protections, including shelter, for children). In its decision for the petitioners, the Constitutional Court interpreted the relevant provisions of the South African Constitution (including the relationship between the right to housing in Section 26, the right to social security in Section 27, the rights of the child in Section 28, and others) and the applicable international covenants and norms to which South Africa is a party. It found that “[t]he State must create the conditions for access to adequate housing for people at all economic levels of our society.”

The South Africa’s commitment to addressing the housing crisis is reflected within its legal framework. The Constitution protects a right of access to adequate housing in section 26 (Act No 108 of 1996). It also endorses the right to equality. Non-racialism and non-sexism are among the foundational values of the Constitution (s 1(b)). Section 9(1) of the Constitution recognises that everyone is equal before the law and has the right to equal protection and benefit of the law. Section 9(2) expressly recognises that equality includes the full and equal enjoyment of all rights and freedoms. In addition to section 9(3) prohibiting unfair discrimination on a host of grounds which include sex and gender, section 9(2) specifically recognises that special measures may be adopted to promote the achievement of equality amongst previously disadvantaged groups.

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121. Id, at 9, 10
122. Id, at 29, 35
In the groundbreaking decision of government of Republic of South Africa and Others vs Grootboom and Others 2000 (11) BCLR 1169 (CC) (hereafter Grootboom), the Constitutional Court sought to give effect to housing rights as provided for in section 26. In doing so, it pronounced on key principles. These principles specifically relate to people “who have no access to land, no roof over their heads, for people who are living in intolerable conditions and for people who are in crisis because of natural disasters such as floods and fires, or because their homes are under threat of demolition” (para 52).

The judgment

In its judgment (Government of the Republic of South Africa vs Grootboom 2000 (11) BCLR 1169), the Constitutional Court distinguished between the negative obligation to refrain from impairing the right to housing and the positive obligation to take measures to provide access to housing. This case tested the latter part of the right of access to housing, namely the measures that the State had taken. The court made it clear that it was not for the judiciary to enquire whether better measures could have been adopted but rather to determine whether or not the State had violated the right of access to housing of the people concerned. It sought to do this by asking the following question: Were the measures taken by the State reasonable? The ‘measures’ called for by section 26(2) involve more than legislation alone and have to be supported by appropriate policies, programmeme and budgetary support. In determining the ‘reasonableness’ of the measures taken by the State, the resources it has at its disposal are an important factor.

The Constitution does not expect more than the State can afford. The court examined the State housing programmeme and concluded that what had been done so far was a major achievement. The programmeme at national, provincial and local level represents a systematic response to a pressing social need. Considerable thought, energy and resources have been devoted to housing delivery and the overall programmeme is aimed at realising access to housing for all. Its long- and medium-term objectives could not be criticised. However, the court found that the State had neglected the short-term aspect. It was clear that no real policy existed which could be applied to people in need of housing in crisis situations. Apart from the normal channels, namely application for low-cost housing, which normally takes years, there was no relief for Mrs Grootboom, her children and her peers.

There was no provision in any policy, whether national, provincial or local, that applied to her desperate situation. The court said that in order for a policy to be reasonable, it cannot ignore those whose needs are most urgent. A policy aimed at providing access to housing cannot be aimed at long-term statistical progress only. Those in desperate need must not be ignored. Their immediate need can be met by ‘second-best’ facilities, which might fall short of acceptable housing standards, but which, nevertheless, provide a basic form of shelter. The court also stressed that its judgment must not be seen as an approval of land invasion in order to ‘jump the queue’.

The court order

In the order, the court declared that the comprehensive housing programmeme, called for by section 26(2) of the Constitution, must include measures ‘to provide relief for people who have no access to land, no roof over their heads, and who are living in intolerable conditions or crisis situations’. The State housing programmeme that applied in the area of the Cape Metropolitan Council at the time of the launch of the application fell short of this obligation.

“In any challenge based on section 26 in which it is argued that the State has failed to meet the positive obligations imposed upon it by section 26(2), the question will be whether the legislative and other measures taken by the State are reasonable.”123 The court then explained: “To determine whether the nationwide housing programmeme as applied in the Cape Metro [municipal area] is reasonable within the meaning of the section, one must consider whether the absence of a component catering for those in desperate need is reasonable under the circumstances.”124 The Court then concluded that given the long-term and large-scale nature of the housing shortage, the government’s housing policy “fell short of the requirements of section 26(2) in that no provision was made for relief to the categories of people in desperate need.”125

The State had an obligation to ensure, at the very least, that the eviction was humanely executed. However, the eviction was reminiscent of the past and inconsistent with the values of the Constitution. The respondents were evicted a day early and to make matters worse, their possessions and building materials were not merely removed, but destroyed and burnt. The court already said that the provisions of section 26(1) of the Constitution burdened the State with

123. Id, at 33, 41
124. Id, at 52, 63 (emphasis added)
125. Id, at 55, 69
at least a negative obligation in relation to housing. The manner in which the eviction was carried out resulted in a breach of this obligation.\textsuperscript{126}

The court subsequently ordered that the municipal government amend its housing policy to make reasonable provision for those in desperate need (including the petitioners in the Grootboom case) and order the South African Human Rights Commission to monitor and report on the government's compliance with the court's order.

**Comparison**

Among African countries, the Republic of South Africa boasts of the most progressive housing law and policy. There are three reasons why South Africa provides an excellent developing-country comparison for the petitioners in the Chikkoowadi, Baroda case. First, South Africa faces an enormous challenge of housing shortages. In 2001, fully 36 percent of its approximately 45 million people lived in various types of informal housing, and with 48.5,\textsuperscript{127} and with 48.5 percent of the population living below the national poverty line,\textsuperscript{128} the government's ability to address the housing problem is severely constrained by its resources. Second, despite the country's resource limitations, the South African Constitution guarantees the right to housing for all.\textsuperscript{129}

Third, the right to housing has been challenged before the Constitutional court of South Africa in a case substantially similar to the case of the Chikkoowadi, Baroda petitioners in HRLN's present case. The South African case is known as the *Grootboom* case,\textsuperscript{130} and its particulars are outlined below.

**Comments**

The court placed the onus on the national government to ensure that the appropriate legislative and budgetary framework is in place for the implementation of the right to housing. The court affirmed that the responsibility for implementation is generally given to the provinces. However, the court also said that ‘[a]ll levels of government must ensure that the housing programme is reasonably and appropriately implemented... [e]very step at every level of government must be consistent with the constitutional obligation to take reasonable measures to provide adequate housing.’

This judgment is also important with regard to other socio-economic rights where local government is even more closely involved, such as the provision of water. The provision of potable water is clearly one of a municipality's critical competencies. The *Grootboom* case makes it clear that when local governments deal with issues such as the provision of water or basic municipal health care, they cannot ignore the needs of the people in desperate situations simply to achieve a better statistical result in the long term. Short-term needs of the most disadvantaged cannot be ignored. If they are, local governments will be at risk of violating the Bill of Rights.

In fact, the Constitution's Bill of Rights incorporates most of the rights contained in both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. With respect to housing, the Constitution States:\textsuperscript{131}

(1) Everyone has the right to have access to adequate housing

(2) The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right

(3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions

The Constitutional Court also recognised the close relationship between the right to equality and socio-economic rights, including housing rights. It noted that the realisation of socio-economic rights is key to the advancement of equality and the development of a society in which both men and women are equally able to fulfill their potential (Para 23).

\textit{Sources:} Local Government Law Bulletin, Jaap de Visser Local Government Project Community Law Centre, UWC (Volume 3 No. 1) (http://www.sn.apc.org/users/clc/localgovt/bulletin/01(1)frc1b.htm)

\textsuperscript{126} Id. at 63, 88

\textsuperscript{127} South Africa Human Development Report (SAHD), Chapter 2, 24/02/2004, page 34, Table 2.16, hereinafter SAHD-chap02. Available online at: http://hdr.undp.org/reports/view_reports.cfm?year=0&country=C199&region=0&type=0&theme=0

\textsuperscript{128} Id. at 41, Table 2.20. Percentage cited is for 2002


\textsuperscript{130} Government of the Republic of South Africa and Others v. Irene Grootboom and Others, Constitutional Court of South Africa CCT 11/00, decided 11 May 2000, available online at: http://www.constitutionalcourt.org.za/Archimages/2798.PDF

\textsuperscript{131} SA Constitution, Chapter 2, Section 26
**Slovakia**

**Keywords:** Housing rights – Roma

**Facts:** The case concerned a resolution adopted by the Dobšiná municipal council, under pressure from right wing anti Roma groups, to cancel a previous resolution in which the council had approved a plan to construct low cost social housing for Roma inhabitants living in very poor conditions. The petitioners contended, *inter alia*, that the State party had failed to safeguard their right to adequate housing, thereby violating Article 5(e)(iii) of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD).

**Decision:** The Committee ruled that, taken together, the council resolutions in question – which consisted of an important practical and policy step towards realisation of the right to adequate housing, followed by its revocation and replacement with a weaker measure – amounted to an impairment of the recognition, or exercise on an equal basis, of the human right to housing. This right is protected by Article 5(e)(iii) of ICERD and Article 11 of the International Covenant on Economic, Social and Cultural Rights. The Committee also found that the State Party was in breach of its obligation to guarantee the right of everyone to equality before the law in the enjoyment of the right to housing, contrary to Article 5(e)(iii) of CERD. The Committee ruled that Slovakia should, *inter alia*, take measures to ensure that the petitioners be restored to the position that they were in upon adoption of the initial resolution by the municipal council.

**Hijirizi et al vs Yugoslavia**

**Keywords:** Housing rights and forced evictions – non-state actors – civil and political rights

**Facts:** A non-Roma mob set fire to a Roma settlement, destroying it completely. Police amongst the mob made no effort to halt the violence even though they were forewarned by the victims. Investigations into the incident were discontinued due to “lack of evidence” and Yugoslavia failed to provide redress and compensation to the Roma community who are now living in dire poverty elsewhere.

**Decision:** The Committee found that the “burning and destruction of houses constitutes, in the circumstances, acts of cruel, inhuman or degrading treatment of punishment.” Other aggravating factors in this case were the presence of older residents within the buildings and the racial motivation behind the acts. Consequently, the Committee held that the failure of the state to provide protection, as well as redress and compensation, to the victims violated Article 16 of the Convention Against Torture, which obliges States Parties to prevent acts of cruel, inhuman or degrading treatment that do not amount to torture and are instigated by or with the consent or acquiescence of a person acting in an official capacity. In a separate opinion two Committee members considered that the acts amount to “torture” due to the manner and severity of the destruction and the resulting penury of the complainants. The resulting (inadequate) investigation and failure to prosecute those responsible also constituted violations of Articles 12 and 13.

**African Commission on Human and Peoples’ Rights**

**SERAC and CESR vs Nigeria**


**Keywords:** Food Rights – housing rights – health rights – obligation to respect – obligation to protect – obligation to fulfil – transnational corporations

**Facts:** The communication alleged that the military government of Nigeria was guilty of, *inter alia*, violations of the right to health, the right to dispose of wealth and natural resources, the right to a clean environment and family rights due to its condoning and facilitating the operations of oil corporations in Ogoniland.

**Decision:** The commission ruled that the Ogoni had suffered violations of their right to health (Article 16) and right to a clean environment (Article 24) due to the government’s failure to prevent pollution and ecological degradation. It held further that the failure to monitor...
oil activities and involve local communities in decisions violated the State’s duty to protect its citizens from exploitation and despoliation of their wealth and natural resources (Article 21). The Commission suggested that a failure to provide material benefits for the Ogoni people was also a violation.

The commission also held that the implied right to housing (including protection from forced eviction), which is derived from the express rights to property, health and family, was violated by the destruction of housing and harassment of residents who returned to rebuild their homes. Finally, destruction and contamination of crops by government and non-state actors violated the duty to respect and protect the implied right to food.

The commission issued orders to cease attacks on the Ogoni people, to investigate and prosecute those responsible for attacks, to provide compensation to victims, to prepare environmental and social impact assessment in the future and to provide information on health and environmental risks.

Full text of decision: http://cesr.org/Nigeria

South Africa

Port Elizabeth Municipality vs Various Occupiers

Constitutional Court, 2004 (12) BCLR 1268 (CC)

Keywords: housing rights – evictions – right to alternative land or accommodation

Facts: The occupiers resided on privately-owned land within the Municipality which was zoned for residential purposes. Most of the occupiers had come there after being evicted from other land. They had not applied to the Municipality for housing. Responding to a neighbourhood petition, whose signatories included the owners of the property, the municipality sought an eviction order in the High Court. The occupiers indicated they were willing to leave the property if they were given reasonable notice and provided with suitable alternative land on to which they could move. They refused the Municipality’s offer that they move to another area, stating that that area was crime-ridden, unsavoury and overcrowded. Furthermore, they feared they would have no security of occupation there and find themselves liable to yet further eviction.

The municipality contended, inter alia, that if alternative land was made available to the occupiers, they would effectively be ‘queue-jumping’, disrupting the established housing programme and forcing the municipality to grant them preferential treatment.

Decision: The court stated that Section 26(3) of the South African Constitution expressly acknowledges that eviction of people living in informal settlements may take place, even if it results in loss of a home. However, in making its decision whether or not to grant an eviction order in terms of Section 6 of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (‘PIE’)132 (which provides that a court may grant such an order “if it is just and equitable to do so”) a court must take account of all relevant circumstances, including (a) the manner in which occupation was effected,133 (b) its duration,134 and (c) the availability of suitable alternative accommodation or land.135

With regard to (a), the court referred expressly to ‘queue-jumpers’ stating that “persons occupying land with at least a plausible belief that they have permission to be there can be looked at with far greater sympathy than those who deliberately invade land with a view to disrupting the organised housing programme and placing themselves at the front of the queue.” The Court stated that, on the facts, the occupiers were not ‘queue jumpers’. In considering (b) the court stated that a court will be far more cautious in evicting well-settled families with strong local ties, than persons who have recently moved on to land and erected their shelters there. With regard to (c), the court stated that there is no unqualified constitutional duty on local authorities to ensure that in no circumstances should a home be destroyed unless alternative accommodation or land is made available: “In general terms, however, a court should be reluctant to grant an eviction against relatively settled occupiers unless it is satisfied that a reasonable alternative is available, even if only as an interim measure pending ultimate access to housing in the formal housing programme.”

The court stated further that while the existence of a programme that is designed to house the maximum number of homeless people over the shortest period of time in the most cost effective way would go a long way towards establishing a context that would ensure that a proposed

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132 S.6 PIE provides for circumstances in which a municipality may apply to evict unlawful occupiers
133 Section 6(3)(a) PIE
134 Section 6(3)(b) PIE
135 Section 6(3)(c) PIE
Eviction would be just and equitable, it falls short of being determinative of whether, and under what conditions, an actual eviction order should be made in a particular case.

Given the special nature of the competing interests involved in eviction proceedings launched under section 6 of PIE, the court said that, absent special circumstances, it would not ordinarily be just and equitable to order eviction if proper discussions, and where appropriate, mediation, have not been attempted. In appropriate circumstances the courts should themselves order that mediation be tried.

The court concluded that, in light of the circumstances of this case, it was not just and equitable to order the eviction of the occupiers.

**Prinsloo & Anor vs Ndebele-Ndzundza Community & Ors**

**Keywords:** Restitution – dispossession – compensation – land rights

**Facts:** The matter at issue was whether the claimants had established that they were entitled to restitution of a right in land – in this case, portions of a Transvaal farm – as contemplated by Sect 2 of the Restitution of Land Rights Act 22 of 1994. The action was an appeal against a decision by the Land Claims Court (LCC) in favour of the claimants, members of the Ndebele-Ndzundza tribe, whose ancestral lands had been seized in 1883 and distributed to white farmers. The tribe was then scattered by the enforcement of a system of indentured labour on white farms. In the late 19th century, one of the claimants’ predecessors (CPs) and some of his followers settled on some of this ancestral land, including the farm at issue.

**Decision:** The court held that, on the facts, the CPs constituted a group of people who had lived on and worked the farm continuously for 50 years until they were relocated to another farm in the late 1930s. Although their settlement at the new farm was initially intended to be temporary, it ended up being near-permanent. Although the CPs were not the legal owners of the land at issue, they had held it exclusively, as a group and in common with each other, in accordance with the customs and traditions of the Ndebele-Ndzundza people. The court held that the claimants had rights in the land in terms of the Act in (at least) the form of a customary law interest and the rights of labour tenants and sharecroppers. The Court also held that “the fact that registered title exists neither necessarily extinguishes the rights in land that the statute contemplates, nor prevents them from arising.” With regard to whether the claimants were a ‘community’ within the Act, the Court held that the CPs constituted a group, or part of a group, whose rights in land were derived from shared rules determining access to and use and enjoyment of land they held in common. In the court’s view, the fact that there had been no physically forced removal did not mean that there was no ‘dispossession’. In this case, the residents had not been given any real choice: they had had to relocate to a different area, and work and live in changed circumstances, or remain on the farm under conditions that were significantly changed. They no longer had control or use of the land over which, for many decades, they had enjoyed unrestricted access and control.

The court then dealt with whether Sect. 2(2) of the Act applied. Sect 2(2) provides that no one shall be entitled to restitution of a right in land if just and equitable compensation calculated at the time of dispossession was received in respect of such dispossession. The ‘compensation’ at issue was the farm to which the community had been relocated. The court remanded the issue of the application of Sect. 2(2) to the Land Claims Court on the basis that, unlike the LCC, it did not consider that compensation originally intended as temporary can never be included in the calculation of just and equitable compensation. Nor could the fact that the compensation was provided as part of a manifestly discriminatory process necessarily invalidate it for statutory purposes.

**President of the Republic of South Africa & Anor vs Modderklip Boerdery & Ors**
Constitutional Court of South Africa, Case CCT 20/04, 13 May 2005

**Keywords:** Eviction - compensation – housing rights – right to a remedy

**Facts:** This judgment dealt with two related matters. The first was an application for leave to appeal an eviction order granted under the Prevention of Illegal Eviction and Unlawful Occupation of Land Act (PIE) by the High Court against 40 000 illegal occupiers of a farm owned by Modderklip Boerdery. The second matter involved an attempt on the part of the landowner to get the State to enforce the eviction order.

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136. Ibid at para 36
**Decision:** While the Supreme Court of Appeal had largely based its decision on the illegal occupiers’ constitutional right of access to adequate housing and the need for the state to provide alternative land for them, the Constitutional Court primarily focused on Modderklip’s constitutional right “to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or another independent, impartial tribunal of forum.” The court held that the obligation on the State goes further than mere provision of a legislative framework, mechanisms and institutions such as the courts and an infrastructure to facilitate the execution of court orders. The State is also obliged to take reasonable steps to ensure that “large-scale disruptions in the social fabric do not occur in the wake of the execution of court orders, thus undermining the rule of law.” The court stated further that it is unreasonable for a private entity to be forced to bear the burden, which should be borne by the State, of providing the occupiers with accommodation. The circumstances of this case were extraordinary in that it was not possible to rely on mechanisms normally employed to execute evictions. The court stated that to execute the eviction order granted in this case and evict tens of thousands of people would cause social chaos, misery and disruption, “[i]n the circumstances of this case, it would also not be consistent with the rule of law.” The State was constitutionally obliged to take reasonable steps to ensure that Modderklip was provided with effective relief. It could have done so by expropriating the property in question or by providing other land. It had not done so and thus violated Modderklip’s right to an effective remedy. The Court upheld the award of compensation to Modderklip made by the Supreme Court of Appeal (who had held that the State had violated the landowner’s rights to equality and property) as “appropriate relief” for violation of its constitutional rights. Such compensation would be offset against any compensation to be given were the State to expropriate the land.

**Jaftha & Anor vs Van Rooyen & Anor**
Constitutional Court of South Africa, Case No CCT74/03, 8 October 2004

**Keywords:** Housing rights – obligation to respect

**Facts:** The plaintiffs alleged that legislation which allowed for debtors’ homes to be attached and sold to satisfy petty debts, even where this might result in homelessness, violated the negative aspect of the constitutional right to have access to adequate housing (Section 26).

**Decision:** When considering what constitutes, “adequate housing,” the Court referred to international law, including the ICESR and jurisprudence of the CESCR. The Court emphasised that the need for the protection of security of tenure in Section 26 must be viewed in light of past forced removals from land and evictions.

The Court found that any measure, which permits a person to be deprived of existing access to adequate housing, limits the constitutional right to housing. The court proceeded to consider whether such a measure is “reasonable and justifiable in an open and democratic society based on human dignity equality and freedom.” The court held the legislation to be unconstitutional to the extent that it allowed execution against the homes of indigent debtors where they lose their security of tenure. The legislation was unjustifiable and could not be saved to the extent that it allowed for such executions where no countervailing considerations in favour of the creditor justify the sales in execution.

The court ordered the provision of judicial oversight over sales in execution against the immovable property, enabling a court to determine whether an execution order against immovable property is justifiable in the circumstances of the case.


**Daniels vs Campbell NO and Ors**
Constitutional Court of South Africa, CCT40/03, 11 March 2004

**Keywords:** Inheritance rights – property rights – women’s rights – equality

**Facts:** At the time of the applicant’s marriage she was the tenant of a council dwelling. After her marriage, the City of Cape Town transferred the tenancy of the property into her husband’s name. The property was subsequently purchased in Mr Daniels’ name, Mrs Daniels having contributed to the purchase price. Mr Daniels died intestate. The applicant was that told she could not inherit from the estate because she did not qualify as a ‘surviving spouse,’ as her marriage had not been formally solemnised in accordance with the Marriage Act.

She argued that the protection afforded to spouses under the Intestate Succession Act and the Maintenance of Surviving Spouses Act should extend to her, as a spouse in a de facto monogamous union married according to Muslim rites.
**Decision:** The Constitutional Court held that the Acts as interpreted were unconstitutional. The court stated that the constitutional values of equality, tolerance and respect pointed strongly in favour of giving the word ‘spouse’ a broad and inclusive construction, the more so when it corresponds with the ordinary meaning of the word. Saying that the value of non-sexism “is foundational to our constitution,” Justice Sachs pointed out that the objective of the Acts was to ensure that widows received at least a child’s share instead of being precariously dependent on family benevolence. The purpose of the Acts would be frustrated if widows were to be excluded from the protection the Acts offer, just because the legal form of their marriage happened to accord with Muslim tradition and not the Marriage Act.

The applicant was, therefore, a ‘spouse’ and a ‘survivor’ for the purpose of the Acts.


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**European Court of Housing Rights**

**Chapman vs United Kingdom**

European Court of Human Rights (2001) 33 EHRR 399

**Keywords:** Equality and non-discrimination – housing rights and forced eviction – land and property rights – race and ethnicity

**Facts:** The applicant, a Gypsy woman, purchased land in 1985 with the intention of living on it in a caravan after a history of continual eviction and harassment. She was refused planning permission to reside on the land and was given 15 months to vacate the land. She claimed that, *inter alia*, her right to respect for her home, family and private life (Article 8) and her right to non-discrimination (Article 14) had been violated.

**Decision:** The Court held that there had been an ‘interference’ with the enjoyment of a home, as well as private and family life since what was in issue was a traditional way of life. Article 8 also implied positive obligations to facilitate the gypsy way of life by giving special consideration to gypsies’ needs and different lifestyle. The court, however, applied the exception in Article 8(2) that such interference was “necessary in a democratic society.” The land was the subject of environmental protection and a wide margin of discretion was to be accorded to planning issues. The court also noted that the emerging consensus among Contracting states of the Council of Europe on the special needs of minorities and an obligation to protect their security, identity and lifestyle was not sufficiently concrete for the court to derive any guidance as to the conduct or standards for treatment of minorities, which Contracting States consider desirable in any particular situation. The right to non-discrimination was likewise not violated since any differences in treatment were a legitimate aim for environmental protection and any discrimination was proportionate to those aims. It should be noted that the minority registered a strong dissent.

**López Ostra vs Spain**

European Court of Human Rights, Series A, No 303-C; (1995) 20 EHHR 277

**Keywords:** Environmental rights – housing rights – positive obligations

**Facts:** The national authorities’ failed to regulate a privately-owned polluting tannery plant that produced air pollution, which made local residents’ living conditions unbearable and caused them serious health problems. The applicant alleged that there had been a violation by a public authority of her right to respect for her home that made her private and family life impossible (Article 8). She also claimed that she was the victim also of degrading treatment (Article 3). It was not proven incontrovertibly

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137 While the term ‘gypsy’ has often been used and experienced as a derogatory term, that is not the intention here. In the UK, in the context of planning and local authority law, the term ‘gypsy’ has the specific meaning of anyone – regardless of race or origin – who is of a nomadic habit of life and travels around for economic reasons (Source: Your rights - Liberty’s online guide to human rights law for England and Wales).
that there was a causal link between the health damage suffered and the pollutants released from the plant.

**Decision:** The court stated that severe environmental pollution may affect individuals’ well-being and prevent them from enjoying their homes in such a way as to affect their private and family life adversely without, however, seriously endangering their health.

The court held that the State failed to succeed in striking a fair balance between the interest of the town’s economic well-being in having a waste-treatment plant, and the applicant’s effective enjoyment of her individual right to respect for her home and her private and family life. Consequently, it held that there had been a violation of Article 8 of the Convention and awarded compensation.

The court held further that the conditions in which the applicant and her family had lived did not amount to degrading treatment within the meaning of Article 3.

**Selçuk and Asker vs Turkey**
European Court of Human Rights, (1998) 26 EHRR 477

**Keywords:** Housing rights – property rights – forced evictions – inhuman treatment

**Facts:** The applicants argued that the destruction of their homes by Turkish military forces was, *inter alia*, a violation of their rights to respect for the home and peaceful enjoyment of their property. They also claimed that the circumstances of the destruction of their homes and their eviction from their village constituted a breach of Article 3 of the Convention, which states that no one shall be subject to torture or to inhuman or degrading treatment or punishment.

**Decision:** The court held that there had been a violation of the applicants’ rights to peaceful enjoyment of their property and right to respect for their homes. Furthermore, the court held that, bearing in mind the manner in which the applicants’ homes were destroyed and their personal circumstances, they had been subject to inhuman treatment in violation of Article 3. Due to the absolute nature of Article 3, any such violation is unjustifiable, even in times of national emergency.

**Connors vs United Kingdom**
European Court of Human Rights, Application No 66746/01 (27 May 2004).

**Keywords:** Forced Eviction – Roma – Article 8

**Facts:** Several gypsy persons were evicted by local authorities from a halting site. The local authorities relied on a law that allowed them to obtain an eviction order based solely on the fact that the local authority could show that it had withdrawn permission to occupy the land and had issued a notice to quit.

**Decision:** The European Court held that an interference with the home in the context of Article 8 of the European Convention will be considered “necessary in a democratic society” for a legitimate aim if it answers a “pressing social need” and, in particular, if it is proportionate to the legitimate aim pursued. In this regard there is a “margin of appreciation” left to the national authorities who are better placed than an international court to evaluate local needs and conditions. The court stated that “this margin will vary considerably according to the nature of the Convention rights at issue, its importance for the individual and the nature of the activities restricted, as well as the nature of the aim pursued by the restrictions. The margin will tend to be narrower where the right at stake is crucial to the individual's effective enjoyment of intimate or key rights. The court went on to state that Article 8 concerns rights of central importance to the individual's identity, self-determination, physical and moral integrity, maintenance of relationships with others and a settled and secure place in the community. The serious interference with the applicant’s rights under Article 8 requires, in the courts opinion, particularly weighty reasons of public interest by way of justification, and the margin of appreciation to be afforded to the national authorities must be regarded as correspondingly narrowed.

The procedural safeguards available to the individual will be especially important in determining whether a State has remained within its margin of appreciation.

The European Court held that the mere fact that “anti-social behaviour” occurs on local authority gypsy sites cannot, in itself, justify a summary power of eviction. The existence of procedural safeguards is a crucial consideration in the Court's assessment of the proportionality of the interference. Finding a violation of Article 8, the Court held that the eviction of the applicant was not attended by the requisite procedural safeguards, namely the requirement to establish proper justification for the serious interference with his rights. Consequently, it could not be regarded as justified by “pressing social need” or proportionate to the legitimate aim being pursued.
Romania

Moldovan and others vs Romania

European Court of Human Rights, Application Nos. 41138/98 and 64320/01 (12 July 2005).

Keywords: Forced Evictions – Roma – Article 8

Facts: The applicants lived in Hâdãreni, in the district of Mureș (Romania) where they were agricultural workers. In September 1993, a row broke out between three Roma men and a non-Roma villager in Hâdãreni that led to the villager’s son, who had tried to intervene, being stabbed in the chest by one of the Roma men. The three Roma men fled to a nearby house. A large, angry crowd gathered outside, including the local police commander and several officers. The house was set on fire. Two of the Roma men managed to escape from the house, but were chased by the crowd and beaten to death. The third was prevented from leaving the building and burnt to death. The applicants alleged that the police had encouraged the crowd to destroy more Roma property in the village. By the following day, 13 Roma houses had been completely destroyed including the homes of all seven applicants. Much of the applicants’ personal property was also destroyed.

Decision: The court noted that it could not examine the applicants’ complaints about the destruction of their houses and possessions or their expulsion from the village, because those events took place in September 1993, before the ratification of the Convention by Romania in June 1994. However, it was clear from the evidence submitted by the applicants and the civil court judgments, that police officers were involved in the burning of the Roma houses and tried to cover up the incident. Having been hounded from their village and homes, the applicants were then obliged to live, and some of them still live, in crowded and unsuitable conditions – cellars, hen-houses, stables, etc. - and frequently changed address, moving in with friends or family in extremely overcrowded conditions. Having regard to the direct repercussions of the acts of State agents on the applicants’ rights, the court considered that the government’s responsibility was engaged regarding the applicants’ subsequent living conditions.

There was no doubt that the question of the applicants’ living conditions fell within the scope of their right to respect for family and private life, as well as their homes. Article 8 was thus clearly applicable to those complaints.

Considering whether the national authorities took adequate steps to put a stop to breaches of the applicants’ rights, the court noted that:

• despite the involvement of State agents in the burning of the applicants’ houses, the Public Prosecutors’ Office failed to institute criminal proceedings against them, preventing the domestic courts from establishing the responsibility of those officials and punishing them

• the domestic courts refused for many years to award pecuniary damages for the destruction of the applicants’ belongings and furniture

• it was only ten years after the events that compensation was awarded for the destroyed houses, although not for the loss of belongings

• in the judgment in the criminal case against the accused villagers, discriminatory remarks about the applicants’ Roma origin were made

• the applicants’ requests for non-pecuniary damages were also rejected at first instance, the civil courts considering that the events - the burning of their houses and the killing of some of their family members - were not of a nature to create any moral damage
• when dealing with a request from one of the Applicants for a maintenance allowance for her minor child, whose father was burnt alive during the incident, the regional court awarded an amount equivalent to a quarter of the statutory minimum wage, and decided to halve that amount on the ground that the deceased victims had provoked the crimes
• three houses were not rebuilt and the houses rebuilt by the authorities were uninhabitable; and
• most of the applicants did not return to their village, and lived scattered throughout Romania and Europe.

In the court’s view, those elements taken together indicated a general attitude on the part of the Romanian authorities which perpetuated the applicants’ feelings of insecurity after June 1994 and affected their rights to respect for their private and family life and their homes. The court concluded that that attitude, and the repeated failure of the authorities to put a stop to breaches of the applicants’ rights, amounted to a serious violation of Article 8 of the European Convention of Human Rights.

**European Roma Rights Centre vs Greece**

**Complaint No 15/2003, 8 December 2004**

**Housing rights – eviction – Roma – equality**

**Facts:** This collective complaint, made by the European Roma Rights Centre (ERRC), alleged that Roma in Greece were denied an effective right to housing. The Committee focused on three aspects of the claims made in the complaint:

(i) the insufficient number of permanent dwellings of an acceptable quality to meet the needs of settled Roma

(ii) the insufficient number of stopping places for Roma who choose to follow an itinerant lifestyle or who are forced to do so; and

(iii) the systematic eviction of Roma from sites or dwellings considered to be unlawfully occupied by them. The complainants alleged that these facts constituted a violation of Article 16 of the Charter or Article 16 in light of the Preamble of the European Social Charter.

**Decision:** The European Committee of Social Rights noted that the right to housing permits the exercise of many other rights (civil and political as well as economic, social and cultural) and is of central importance to the family. The committee recalled its previous case law to the effect that, in order to satisfy Article 16, States must promote the provision of an adequate supply of housing for families, take the needs of families into account in housing policies and ensure that existing housing is of an adequate standard and includes essential services. In addition, ‘adequate housing’ requires a dwelling of suitable size. Furthermore, the obligation to promote and provide housing extends to security from unlawful eviction.

The committee held that the implementation of Article 16 with regard to nomadic groups, including itinerant Roma, implies that adequate stopping places should be provided. The committee stated that, in this respect, Article 16 contains similar obligations to Article 8 of the European Convention of Human Rights.

Regarding the first aspect of the complaint, (i), the committee found that Greece had failed to take sufficient measures to improve the living conditions of Roma and that those measures taken had not yet achieved what is required by the Charter (notably, because there were insufficient means for constraining or sanctioning local authorities). On the evidence submitted, the committee found that a significant number of Roma were living in conditions that failed to meet minimum standards. Therefore, the situation was in breach of the obligation to promote the right of families to adequate housing laid down in Article 16. In light of the excessive numbers of Roma living in substandard housing conditions, “even taking into account that Article 16 imposes obligations of conduct and not always of results and noting [that] the overarching aim of the Charter is to achieve social inclusion”, the committee held that the situation was in violation of Article 16 of the Charter.

In relation to the second aspect of the complaint, (ii), the committee noted that the law set out extremely strict conditions for temporary encampment and amenities and that, due to the local authorities’ lack of diligence in selecting appropriate sites, as well as their reluctance to carry out the necessary works to provide the appropriate infrastructure, Roma had an insufficient supply of appropriate camping sites. This situation constituted a violation of Article 16 of the Charter. With regard to the
third aspect, (iii), the committee stated that illegal occupation of a site or dwelling may justify the eviction of the illegal occupants. However, the criteria of illegal occupation must not be unduly wide, the eviction should take place in accordance with the applicable rules of procedure and these should be sufficiently protective of the rights of the persons concerned. The committee considered that the situation at issue was not satisfactory on these three grounds.

The Council of Europe Committee of Ministers subsequently adopted a resolution\(^{142}\) in which they noted, \textit{inter alia}, the extension and revision of the housing loans programme for Greek Roma and the fact that a commission for the social integration of Greek Roma had been established. The committee therefore decided not to accede to the request for reimbursement of costs incurred by the ERRC in preparing the complaint, which had been transmitted to it by the European Committee of Social Rights.

\textbf{Inter-American Court of Human Rights}

**Comunidad Mayagna (Sumo) Awas Tingni vs Nicaragua**

Judgment of August 31, 2001, Inter-Am Ct HR, (Ser C) No 79 (2001)

**Keywords:** Indigenous peoples – land and property rights – obligation to protect – compensation

**Facts:** The complainants requested a ruling from the court requiring that Nicaragua compensate the Awas Tingni Indians for the encroachment on their land caused by the government's approval of destructive logging concessions on indigenous communal lands, without consultation with or agreement from the affected communities. It was alleged that Nicaragua had failed to carry out its legal duty to demarcate and legally secure indigenous lands.

**Decision:** The court held that Article 21 of the American Convention on Human Rights protects the right to property in a sense, which includes the rights of members of the indigenous communities within the framework of communal property. It stated that the government had breached Article 21 of the Convention by failing to demarcate the indigenous lands of the community and by not taking other effective measures to ensure the property rights of the community to its ancestral lands and natural resources. The Court granted monetary compensation to the Awas Tingni community and ordered the State to adopt the measures necessary to create an effective mechanism for delimitation, demarcation and titling of the property of indigenous communities within 15 months. Furthermore, until the delimitation, demarcation and titling of the lands have been carried out, the State was required to abstain from acts which might lead State agents or third parties acting with its acquiescence to affect the existence, value, use or enjoyment of the lands in question.

More generally, the court ruled under Article 1(1) of the American Convention State Parties have a “fundamental duty to respect and guarantee the rights recognised in the Convention” and that either acts or omissions of any public authority constitute an act imputable to the State.

Full text of decision: [http://www1.umn.edu/humanrts/iachr/AwasTingni.html](http://www1.umn.edu/humanrts/iachr/AwasTingni.html)

**Yanomami Indians vs Brazil**

Inter-American Commission on Human Rights, Case 7615 (1984)

**Keywords:** Indigenous peoples – health rights – cultural rights – land and property rights- positive obligations

**Facts:** As a result of the Brazilian government's sanctioning of the exploitation of the Amazonias by means of a road-building programme, the Yanomami Indians were displaced from their ancestral land and were exposed to epidemics including influenza, tuberculosis, measles and others. They argued that the government had not taken adequate action to address these health crises.

**Decision:** The failure of the Brazilian government to fulfil their positive obligations to provide the Yanomami Indians with a park for the protection of their heritage or to protect them from disease and ill-health amounted to, \textit{inter alia}, a violation of their right to residence and movement and the right to the preservation of health and to wellbeing as recognised in Articles VIII and XI of the American Declaration of the Rights and Duties of Man. The commission recommended that, among other things, “the government of Brazil continue to take preventive and curative health measures to protect the lives and health of Indians exposed to infectious or contagious diseases.”


\(^{142}\) Resolution ResChS(2005)11, 8 June 2004
Australia

Balaiya vs Northern Territory Government

Keywords: Social housing – discrimination

Facts: The complainant, an elderly indigenous man, brought a complaint under Sections 22 and 24 of the Anti-Discrimination Act (NT) 1996. He alleged that an offer of public housing by the Provincial Government, consisting of a one-bedroom unit, amounted to unreasonable indirect discrimination on the grounds of his race in the provision of accommodation, and a failure to accommodate his special needs in the provision of accommodation on the grounds of his race, in particular by preventing him from engaging in cultural practices essential to his race as an indigenous person.

Decision: The Anti-Discrimination Commission declared the complaint admissible. The parties subsequently entered into a confidential settlement of the proceedings.

Bangladesh

ASK vs Government of Bangladesh
Supreme Court of Bangladesh Writ No 3034 of 1999

Keywords: Housing rights and forced evictions – directive principles – negative obligations – right to livelihood

Facts: The inhabitants of a large number of basties (informal settlements) in Dhaka City were evicted without notice and bulldozers demolished their homes. Two inhabitants and three NGOs lodged a complaint.

Decision: Referring to Olga Tellis v BMC (Supreme Court of India decision, see below), the Supreme Court found that the right to livelihood could be derived from constitutional fundamental rights, including the rights to life, respect for dignity and equal protection of the law. The Court noted that the right to livelihood of the inhabitants had been severely impacted by the evictions.

The Court held that the State must direct its policy towards ensuring the provision of the basic necessities of life including shelter, a directive principle enshrined in the Constitution (Article 15). While such directive principles are not judicially enforceable, the Court held that the right to life included the right not to be deprived of a livelihood and shelter. The Court ordered the government to develop master guidelines, or pilot projects for the resettlement of the slum dwellers. Any such plan to evict slum dwellers should provide for evictions to occur in phases and according to a person’s ability to find alternative accommodation. The Court directed that reasonable time should be provided before the eviction.

Canada

Kearney & Ors vs Bramlea Ltd & Ors
Ontario Board of Inquiry, (No 2) (1998), 34 CHRR D/1

Keywords: Equality and non-discrimination – women’s rights – housing rights and forced evictions – race and discrimination

Facts: The applications of three different women to rent apartments were rejected by corporate landlords. Each landlord used minimum-income criteria to vet applications (eg, rental payments should not exceed a percentage of income, for example 30 percent). Since landlords had fixed rents, this requirement resulted in excluding low-income persons being rejected.

Decision: The Board of Inquiry found that the minimum income criteria constituted indirect discrimination. The rule adversely affected women, racial minorities, younger people and those receiving social security. These groups were more likely to be poor and therefore disadvantaged by the rule. Arguments that the rule was necessary for business profitability were dismissed – there was no evidence that those paying in excess of 30 percent of income on rent would be more likely to default on their rental payments.

United Kingdom

South Bucks District Council & Anor vs Porter (FC)
United Kingdom House of Lords, 1 July 2004

Keywords: Housing rights – illegal occupation – gypsies

Facts: The appellant was a gypsy who, having bought a site located in the ‘Green Belt’ in 1985 had lived there with her husband in breach of planning control. A planning inspector had granted planning permission for the retention of a mobile home and outbuildings on the site, reversing previous rejections of the appellant’s application for planning permission. This appeal sought to reverse the decision of a lower court quashing the Inspector’s decision. The Council alleged, inter alia, that the inspector had failed to have regard to the unlawfulness of the appellant’s occupation of the land.

Decision: The House of Lords considered whether the prior unlawful use of the site was a material consideration militating against the grant of planning permission.
permission. It found that, where an occupier seeks to rely upon the very fact of his continuing use of land, the unlawfulness of that use must be recognised as a consideration operating to weaken his claim. Where such a claim was made, it would seem to raise issues closely analogous to those arising on an Article 8 ECHR claim. It would therefore require substantially the same approach to the lawfulness or otherwise of the period of occupation as the ECtHR adopted in Chapman vs UK. On the facts of this case, however, the unlawfulness of the prior occupation was of little if any materiality.

United States of America

Callahan vs Carey
Supreme Court of New York, Cot 18, 1979, No 79-42582

Keywords: Housing rights – homelessness persons

Facts: The case was a class-action suit on behalf of homeless men in Manhattan requesting the city to provide shelter to any man who asked for it. The action was based on provisions of the New York Constitution and other state and municipal laws, particularly Article XVII, §1 of the State Constitution, which provides that “the aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine.”

Decisio: A decision was reached through negotiations. The plaintiffs and defendants entered into a consent decree requiring New York City to furnish sufficient beds to meet the needs of every homeless man applying for shelter.

Sources: Centre on Housing Rights and Evictions (COHRE), January 2006
United Nations Housing Rights Programme


The objective of the UNHRP is to assist States and other stakeholders with the implementation of their commitments in the Habitat Agenda to ensure full and progressive realisation of the right to adequate housing as provided for in the international instruments. This substantive focus is grounded in the Habitat Agenda, in particular paragraph 61, which states, “Within the overall context of an enabling approach, the governments should take appropriate action in order to promote, protect and ensure full and progressive realisation of the right to adequate housing”. The UNHRP is based on the mandates of both UN-HABITAT and OHCHR, and operates as a fundamental tool for the Global Campaign for Secure Tenure. The UNHRP is implemented in close consultation with the Special Rapporteur on adequate housing and relevant United Nations treaty bodies, such as the Committee on Economic, Social and Cultural Rights.

The civil society and non-governmental organisations, women’s organisations, national human rights institutions, research and academic institutions and associations of relevant professions and local authorities are expected to play important roles as partners in the implementation of the UNHRP.

The first phase of the UNHRP (2002-2004) focuses on five programme areas: advocacy, outreach and learning from partners; support for the United Nations human rights mechanisms on housing rights; monitoring and evaluation of the progress of realisation of housing rights (including development of housing rights indicators); research-analysis of housing rights (promotion and development of relevant norms, standards and guidelines as well as thematic research on housing rights); and capacity-building and technical co-operation (assistance to States and other stakeholders in building capacities for implementation and monitoring of housing rights).

List of reports

Housing Rights Legislation
A review of housing rights in international and national law, including a discussion of housing rights as progressive legal obligations, the report also reviews selected adjudication, eg how housing rights legislation is being implemented. The report illustrates that effective constitutional and legislative measures on the right to adequate housing are not only realistic but have already been used successfully in a number of countries. The examples presented provide a framework for model legislation with respect to specific components of the right to adequate housing.

International Instruments on Housing Rights
A compilation with excerpts of relevant international instruments on housing rights includes ratification information and interpretative documents by the United Nations Committee on Economic, Social and Cultural Rights (such as the full text of relevant General Comments to the International Covenant on Civil and Political Rights), and other entities. The latter includes the full texts of two of the most important interpretative texts relating to economic, social and cultural rights: the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights and the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights.

National Housing Rights Legislation
This is a compilation of constitutional clauses with respect to housing rights. It also contains the full texts or excerpts of selected legislation related to housing from several States – representing a variety of legal, political, economic and cultural systems and traditions. The compilation is not comprehensive, yet, it is representative of the various means by which States have chosen to include housing rights, including their obligations regarding international instruments, within their domestic legal systems.

Compilation of Selected Adjudication on Housing Rights
A compilation of selected court cases related to housing rights and other adjudication from national and international legal institutions, including the European Court of Human Rights. Includes relevant excerpts of national legislation critically reviewed by the United Nations Committee on Economic, Social and Cultural Rights.

Source: http://www.unhabitat.org/unhrp
Guidelines on development-based evictions and displacement

Miloon Kothari *

1. Scope and nature

1. The obligation of States to refrain from, and protect against, forced evictions from home(s) and land arises from several international legal instruments that protect the human right to adequate housing and other related human rights. These include the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (Art 11, para 1), the Convention on the Rights of the Child (Art 27, para 3), the non-discrimination provisions found in Art 14, para 2 (h), of the Convention on the Elimination of All Forms of Discrimination against Women, and Art 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination.

2. In addition, and consistent with the indivisibility of a human rights approach, Article 17 of the International Covenant on Civil and Political Rights states that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence”, and further the “everyone has the right to the protection of the law against such interference or attacks”. Article 16, paragraph 1, of the Convention on the Rights of the Child contains a similar provision. Other references in the international law include Article 21 of the 1951 International Convention regarding the Status of Refugees; Article 16 of International Labour Organisation (ILO) Convention 169 concerning indigenous and tribal peoples in independent countries (1989); and Article 49 of the Fourth Geneva Convention relative to the protection of civilian persons in time of war of 12 August 1949.


4. Having due regard for all relevant definitions of the practice of “forced evictions” in the context of international human rights standards, the present guidelines apply to acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection.

5. Forced evictions constitute a distinct phenomenon under international law, and are often linked to the absence of legally secure tenure, which constitutes an essential element of the right to adequate housing. The forced evictions share many consequences similar

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to those resulting from arbitrary displacement, including population transfer, mass expulsions, mass exodus, ethnic cleansing and other practices involving the coerced and involuntary displacement of people from their homes, lands and communities.

6. Forced evictions constitute gross violations of a range of internationally recognised human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. The evictions must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law.

7. Forced evictions intensify inequality, social conflict, segregation and “ghettoisation”, and invariably affect the poorest, most socially and economically vulnerable and marginalised sectors of society, especially women, children, minorities and indigenous peoples.

8. In the context of the present guidelines, development-based evictions include evictions often planned or conducted under the pretext of serving the “public good”, such as those linked to development and infrastructure projects (including, for example, the construction of large dams, large-scale industrial or energy projects, or mining and other extractive industries); land-acquisition measures associated with the urban renewal, slum-upgrades, housing renovation, city beautification, or other land-use programmes (including for agricultural purposes) property, real estate and land disputes; unbridled land speculation; major international business or sporting events; and ostensibly environmental purposes. Such activities also include those supported by international development assistance.

9. Displacement resulting from environmental destruction or degradation, and evictions or evacuations resulting from public disturbances, natural or human-induced disasters, tension or unrest, internal, international or mixed conflict (having domestic and international dimensions) and public emergencies, domestic violence, and certain cultural and traditional practices, often take place without regard for existing human rights and humanitarian standards, including the right to adequate housing. Such situations may, however, involve an additional set of considerations that the present guidelines do not explicitly address, though they can also provide useful guidance in those contexts. Attention is drawn to the basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, the Guiding Principles on Internal Displacement, and the Principles on Housing and Property Restitution for Refugees and Displaced Persons.

10. While recognising the wide range of contexts in which forced evictions take place, the present guidelines focus on providing guidance to States on measures and procedures to be adopted in order to ensure that development-based evictions are not undertaken in contravention of existing international human rights standards and do not thus constitute “forced evictions”. These guidelines aim at providing a practical tool to assist States and agencies in developing policies, legislation, procedures and preventive measures to ensure that forced evictions do not take place, and to provide effective remedies to those whose human rights have been violated, should prevention fail.
section seven

the declarations

the delhi declaration
world charter on the right to the city
The Delhi Declaration

On World Habitat Day, October 4, 2004, a rally was held from Rajghat to Jantar Mantar in the national capital of Delhi. After the rally, a delegation of ten persons met the President APJ Abdul Kalam and presented the “Delhi Declaration” memorandum to him for the right to adequate housing for all.

Preamble
We, as organisations involved in the survival struggles of unorganised sector labour and urban poor, representing workers living in slums and pavements of 36 cities from all over the country, met under the banner of the India Habitat Campaign in New Delhi, 1-4 October 2004, organised by the National Forum for Housing Rights India and Human Rights Law Network, New Delhi. After intensive sharing of the deteriorating situations regarding housing due to globalisation, liberalisation and privatisation and after field visits at the relocated sites in Delhi, we resolve the following:

“We the slum, pavement dwellers and the homeless persons of India are to put forth Declaration to the United Progressive Alliance (UPA) government to implement workable solutions for our miseries in accordance with the National Common Minimum Programme.

“We the citizens are the victims and soft targets of land grabbers in the country who occupy our lands in the name of so-called development at (extremely subsidised costs and gain huge direct or indirect profits) while we are continuously squeezed in lesser and lesser urban space.

“We the unorganised workers are treated as secondary citizens by continuously being dragged out of the city to untenable and undeveloped lands on the pretext of city-beautification/urban-renewal while our children starve at remote areas without livelihood, basic amenities or services.

“We the small entrepreneurs are the driving force of the cities’ economy and we contribute at least 62 percent of economic product and form more than 85 percent of employment, still our enterprises are deemed as illegal, demolished, deprived and our productivity for enhancing the cities’ infrastructure is undermined.

“We the informal manual labourers who toil day and night in city’s infrastructure development work in constructing roads, multi-complexes, commercial and residential buildings, yet none of us receive the mandated minimum wages envisaged under the law and hence we are not able to meet our basic needs like adequate shelter, children’s education and health care. Consequently we the citizens of India after 57 years of Independence live on the pavements or shanty homes facing everyday insecurity and threat of evictions and are left unsheltered during rains, winter and scorching heat!
“We, the toiling people, unorganised workers in the city and countryside, are affected particularly by mechanisation, liberalisation and import policies under globalisation, that deprive us of work and livelihood and force us to migrate where work is available. The common struggle against mechanisation, globalisation and liberalisation is a must to stop rural and urban destitution.

“We the urban poor who constitute half of the city’s population reside in less than one-twentieth of the urban space and that too in pockets that are extremely marginal, but in spite of this fact the present policies of the Centre, state and local bodies have failed in addressing the issues of gross inequality. Nor have they planned for a long-term comprehensive workable solution to resolve this impending habitational crisis.

“We the urban poor are not creating slums in cities, but slum like situations are created due to unjust and inequitable landholding. Proliferation of slums and homelessness are the consequences of the failed policies, bad governance, uncontrolled looting, rigged markets and wrong priorities leaving out the housing needs of the majority of the population and facilitating the profiteers to occupy more and more urban space for their limited and selfish greed.

“We emphasise on integrating housing needs of the poor into mainstream planning from which we are usually excluded.

“We the citizens of India have come with great expectation that the UPA government will surely work towards formulating pragmatic solutions to resolve the impending housing crisis for the whole unorganised sector workers’ pressing habitat demands in accordance with the National Common Minimum Programme.”

Common Demands

1. Appeal for Constitution amendment to incorporate ‘Right to Housing’ as a fundamental right for all citizens of the country.

2. Reserve 30 percent of land in all residential land-use areas (public or private) in urban and semi-urban cities for meeting the habitat needs of all unorganised sector workers within the city limits.

3. The UPA government must ensure that the urban poor inhabitants must not be forcefully evicted and care must be taken that the unorganised sector workers are provided adequate housing near their place of occupation and livelihood as promised under the CMP.

4. The National Slum Policy Draft (1999) introduced by the NDA government is recommended for further amendments/ modifications in line with the CMP and should be placed for public debate and then tabled before Parliament.

5. Access to land for housing for the urban poor near their place of occupation and livelihood will be feasible when urban land and property is not controlled and concentrated in the hands of a few. Hence we appeal to the UPA government to reintroduce the Urban Land (Ceiling & Regulation) Act, 1976 with clear pro-poor provisions.

   In majority of the cities there are Urban Ceiling Lands acquired by the state governments and union territories, which are being surreptitiously transferred in the interest of the rich and powerful. Hence, the Centre must direct the states and union territories that the urban ceiling lands, which had been acquired before the Repealing of the Land Ceiling Act must be specifically allocated and used for housing the urban poor.

6. New laws like the industrial area and township development Acts introduced and amended for the purpose of large mega projects, or hi-tech economies, be repealed and their special purpose bodies brought under elected wings of the local bodies.
7. Urban Land Policy adopted by the NDA government should be quashed and new Urban Land Policy should be drafted in line with the CMP to make access to land feasible for the urban poor inhabitants for strategically achieving the goal of the Social Housing and access to economic opportunity and livelihoods.

8. Like the National Women's Commission and the Minority Commission, the UPA government should also set up a national commission on housing and include it in the agenda of the National Human Rights Commission.

9. Allocate appropriate budget in proportion of urban poor in cities in the 10th Five-Year Plan.

10. The central government must direct the National Labour Commission to incorporate actual expenses on housing, health; education while calculating and fixing the statutory minimum wages and the minimum wages should be strictly implemented. A considerable degree of exclusion of poor happens due to very narrow definitions of poverty. There is a need to include costs of living (housing and basic services, education, health) in computing both poverty lines and minimum wages that enable people to live above poverty standards. These hold true for the PDS system as well as poverty alleviation programmes. These standards should be evolved at the local i.e. municipal level and should be common across all departments and schemes.

11. Transfer lands owned by the public authorities like railways, Defence and other central government organisations to the local bodies where they are presently being occupied by poorer settlements. Title to the occupant of this land should be given in the name of women irrespective of their marital status and the local bodies should be directed to extend basic services and infrastructure.

12. We oppose the international money lender and developer driven scheme of squeezing the poor into lesser space in the name of in-situ multistory housing by land sharing where the developer earns huge profit by freeing the land occupied by the poor and selling the flats and commercial spaces in the open market and by getting transferable development rights. Experience has shown clear evidence that the rules of such a developer driven scheme ensures that only 25 percent of the occupants get flats which are worse than their previous dwelling and with substantial and unaffordable hidden costs.

In lieu, we propose in-situ land reform and upgrading of slums with individual services, basic infrastructure and amenities ensuring as far as possible an increase in the available space to the poor but not a decrease by urban local bodies and urban local bodies-based regularisation procedures.

A reconsideration of the Supreme Court's 'black laws' that restrict access to the basic services and infrastructure.

13. As the UPA government is intending to introduce Rural Employment Guarantee Scheme for the rural population, similar urban employment guarantee scheme must be replicated in urban centres for the economically weaker sections.

14. The nationalised and private banks must be directed to provide housing loans to the urban poor, unorganised sector workers and logical mechanisms must be created for repayments based on the actual income and expenses of the urban poor.

15. Strengthen and fund in substantial terms the social welfare programmes like the Public Distribution System (PDS), Integrated Child Development Scheme (ICDS), basic health and education, etc.

16. As per the 74th Amendment and Article 243-G schedule-12, security of tenure and urban planning must be included as a mandatory function in urban local bodies.

17. Land title must be allotted in the name of women and all sections of the urban poor must be entitled with tenure security for their housing. The recommendations of the National Commission for Women from their public hearings on women and globalisation must be immediately implemented. Especially, struggle against globalisation and mechanisation must be strengthened to curb need for migration.

18. Basic services like potable water, electricity, maintenance of sewage, drainage lines and regular garbage clearance must be provided in priority to all poor settlements.

19. Basic amenities like rationshops, schools and public health centres, child care services, etc., must be provided rationally taking into account the norms based on population in each settlement.

20. Urban Street Vendor Policy formed for street vendors, which has was passed by Parliament in December 2003, should be implemented on the ground by forming the ward committees.

The Delhi Declaration
World Charter on the Right to the City

World Charter on the Right to the City was first initiated at the World Social Forum in Porto Alegré in 2000. The Charter defines the equitable use of cities so that the values of sustainable use of cities, democracy and social justice is upheld and safeguarded. The Charter acknowledges the collective rights of the inhabitants of cities – especially the most vulnerable and marginalised groups – to act and organise to achieve appropriate living standards.

Preamble
As we enter this new millennium, half the world population lives in cities and predictions are that by 2005 the degree of urbanisation will have reached 65 percent. Potentially, the cities are areas of great riches and economic, environmental, political and cultural diversity. The urban lifestyle influences the manner by which we establish ties with our fellow human beings and with the territory.

However, contrary to this potential, in the development models currently implemented in the majority of third world cities we find only concentration of income and power and accelerated urbanisation processes which contribute to the degradation of the environment and the privatisation of public spaces generating social and physical segregation.

Most cities are far from offering equitable conditions and opportunities to their inhabitants. A considerable portion of the urban population is deprived or limited in the satisfaction of their basic necessities because of their economic, social, cultural, or ethnic characteristic or because of gender or age. This favours the emergence of representative social movements that struggle for urban rights although usually fragmented and incapable of producing significant change in the current development models.

Faced with this reality, the civil society entities that have maintained contact since the First World Social Forum in 2001, having analysed and debated the problem, took up the challenge to propose a sustainable model for urban society and lifestyle, based on first principles of solidarity, liberty, equality, dignity and social justice. A fundamental aspect of this model shall be the respect for different urban cultures and the balance between the urban and rural environments.

Ever since the First World Social Forum (held in the city of Porto Alegré, Brazil in 2001), a group of social movements, non-governmental organisations, professional associations, fora and country and international networks concerned with the social struggle for cities to be more democratic, just, human and sustainable, have been drafting a World Charter in which are depicted the responsibilities and measures to be undertaken by civil society, local authorities and national governments and international organisations to guarantee that all people live with dignity in the cities.

The Charter on the Right to the City is an instrument intended as a contribution to the urban struggle and as an aid in the process of recognition of the right to the city in the international human rights system. The core element of this right is the equitable usufruct of the cities considering the principles of sustainability and social justice. This right shall be understood as a collective right of all city inhabitants, especially those vulnerable and disfavoured, conferring legitimacy of action and organisation in accordance with their usages and customs in the search of full exercise of the right to an adequate standard of living. Therefore, the specific focus on the Rights of the City is justified by the following observations:
The traditional approach to improvement of the quality of city life centred on housing and suburban living, has to be extended to focus on the quality of living in the city as means of benefiting the entire population of a city (or an entire region in accelerated urbanisation).

This means emphasising new means for the promotion, protection and defence of the economic, social, cultural, civil and political human rights guaranteed in the respective international human rights instruments, by utilising distinct forms of democratic participation and the fulfilment of the social function of the city and property. The right to a democratic, just, equitable and sustainable city presupposes the full and universal exercise by all the inhabitants of the entire spectrum of economic, social, cultural, civil and political rights enshrined in International Human Rights Covenants and Conventions: the right to work under favourable work conditions; to form Labour Unions; to a family life; to effective social security; to an adequate standard of living; to food and clothing; to a suitable home, health, water, education; the right to maintain their culture; to political participation; free association; assembly; manifestation of opinion; public security and the right to a pacific existence.

Furthermore, in addition to guaranteeing the human rights of the people, the city territory, urban or rural, is the space and place where collective rights are to be practiced and assured, as a means of achieving the equitable distribution and enjoyment of the resources, riches, services, property and opportunity of the cities. In this respect, it should be borne in mind that the Charter of Collective Rights enumerates the collective rights of all city inhabitants: the right to a proper environment, to participate in the public planning and management, to collective transport and mobility, to legal rights and justice.

In the city, the co-relation between these rights and the necessary counterpart of duties is required in accordance with different responsibilities and economic situation of the inhabitants as a means of promoting the fair distribution of the benefits and expenses resulting from the urbanisation process, the urban income, the democratic access to land and the public services by the poorer segment of the population.
We invite each and every person, organisations of civil society, local and national governments and international organisations to participate in this project at the local, national, regional and global level, to contribute to the constitution, diffusion and implementation of the World Charter on the Right to the City as one of the paradigms of this millennium demonstrating that a better world is possible.

Part one – General dispositions

Article I. The right to the city

a. Everyone has a right to the city without discrimination of gender, age, race, ethnicity, political and religious orientation and preserving cultural memory and identity, in accordance with the principles and norms established herein.

b. The Right to the City is defined as the equable enjoyment of the cities while respecting the principles of sustainability, democracy and social justice, and is a collective right of all city inhabitants especially the vulnerable and disfavoured on whom is further conferred legality for such actions and organisation as their culture and custom suggests as a means of achieving the complete enjoyment of the right to an adequate standard of living. The Right to the City is interdependent to all recognised international human rights; and its conception is based on an integral view, which includes civil, political, economic, social, cultural and environmental rights enshrined in the international Human Rights Treaties. It includes also the right to liberty of association and organisation; the respect for minorities and racial, ethnic, sexual and cultural plurality; respect for immigrants; and the guarantee of preservation of historical and cultural heritages.

c. The city is a rich and diversified cultural space that belongs to all the inhabitants.

d. The cities in co-responsibility with the National States, commit themselves to adopt measures to maximum extent possible with the resources available, and take all appropriate steps, in particularly by legislative measures, to progressively make more fully effective the enjoyment of universal economic, social, cultural and environmental rights, without in any way altering the essential minimum content of these rights.

e. For the purpose of this Charter, the denomination of City is given to any town, village, city, capital, locality, suburb, settlement or similar which is institutionally organised as a local unit of municipal or metropolitan government, and includes the urban, rural and semi-rural portions of its territory.

f. For the purpose of the Charter, citizens are all persons who live in the city either permanently or in transit.

Article II. Principles and strategic foundations of the right to the city

The following are the principals of the Right to the City:

1. Full exercise of citizenship and participation in the democratic management of the city

a. The cities should be places where all human rights and fundamental liberties are realised and where the dignity and collective well being of all persons is assured under conditions of equality, equitability and justice with full fulfilment of the social responsibility of the habitat. Everyone has the right to find in the cities the conditions necessary for his or her political, economic, cultural, social, and ecological realisation while assuming the associated duties of solidarity.

b. All persons have the right to participate in a direct and representative manner in the elaboration, definition, control and implementation of the public policy and the Municipal budget in the cities in order to improve the transparency, efficiency and autonomous nature of the local public administrations and the popular organisations.

2. The social function of the city

The cities attend its social function if to guarantee to all persons the full usufruct of its economy, culture and resources, as well if urban projects and invested capital are implemented for the benefit of the citizen, by observing the criteria of equitable distribution, gender and environmental equity and with safety.

3. The social functions of the property

a. The public and private spaces and properties belonging to the city and to the citizens should be used in such a way as to prioritise the social, cultural and environmental interest. All citizens have a right to participate in the ownership of urban territory based on democratic parametres, on ideals of social justice and under sustainable environmental conditions. In the formulation and implementation of public policies, the socially fair use of both urban space and land must be promoted, with gender and environmental equity and with safety.

b. In the formulation and implementation of urban policies the social and cultural interest must take priority over the individual right of property.
c. All citizens have the right to participate on the process of generating land value increments by public investments on urban areas, which have been entirely captured by the private owners without any counterpart or activity undertaken in their properties.

4. **Equality and non-discrimination**

The rights set out in this Charter shall be guaranteed to all persons who live permanently or part-time in the cities without any form of discrimination based on age, gender, sexual orientation, language, religion, opinion, racial or ethnic origin, income level, citizenship or migratory situation. The Cities commit themselves to implement public policies to provide equality of opportunities to women in the cities according to the CEDAW and to the Summits on Environment (Rio 92), Women (Beijing 95), and Habitat II (Istanbul 96). The Cities commit themselves to apply resources of the government budget to implement these policies and to establish instruments and indicators to monitoring the accomplishment of these objectives.

5. **Special protection for vulnerable persons and groups**

The more vulnerable groups and individuals have a right to special measures for protection and integration, to have provided the basic services and to combat the discriminations. For the purposes of this Charter vulnerable people are the following: persons and groups in situation of poverty, in health and environmental risk, victims of violence, the disabled people, migrants, refugees and all other groups which, in the reality of each city, are in a situation of disadvantage with respect to the rest of the inhabitants. Within these groups, attention must be primarily paid to the elder, women and to the children. The cities, through affirmative action policies on behalf of the vulnerable groups, shall remove economic and social obstacles that in fact restrict the liberty and equality of the citizens, impede people's full development and effective political, economic, cultural and social participation in the city.

6. **The private sector's social undertaking**

The cities should encourage economic agents of the private sectors to participate in social Programmes and economic undertakings in order to develop solidarity and equality of all the inhabitants in accordance with the guiding principles of this Charter.

7. **Enhancing economic solidarity and imposing progressive policies**

The cities shall promote and guarantee solidarity, economic policy and programmes.

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**Part two**

Rights relative to the exercise of citizenship and of participation in planning, production and management of the city

**Article III – Planning and management of the city**

The cities undertake to create institutional spaces and opportunities for all citizens to participate fully and directly and in an equitable and democratic manner in the planning, elaboration, approval, management and democratic evaluation of results of public policies and budgets, of actions by collegiate organs, in audiences, conferences, public consultations and debates, popular initiatives for drafting laws and urban development plans.

**Article IV – social housing production**

The cities undertake to establish the institutional and development mechanisms and to develop the legal, financial, administrative, planning, fiscal and capacitating instruments necessary to support the various methods available for the socially responsible production of an adequate habitat and housing. Special attention should be given to individual, family and collective self-management housing production processes.

**Article V – sustainable and equitable urban development**

a. The cities commit themselves to develop with the participation of all the citizens urban-environmental planning, regulation and management capable of guaranteeing the balance between urban development and the protection of the environment and the cultural, historical, architectural and artistic heritage, as well as preventing segregation and territorial exclusion. The cities shall prioritise the social production of habitat and the observance of the social function of the city and of the private property. To this end, the cities shall undertake to adapt measures of urban development, in especially the recuperation of precarious or marginalised settlements in order to create an integrated and equitable city.

b. The planning, and the sector programmes and projects in the cities shall take in account the urban security.

c. The cities shall undertake to guarantee that the public services will be assured and executed by the administrative level nearest to the population and that the citizens shall participate in the management and control over them. The public services must be recognised and given legal status of public assets and be protected against privatisation.

d. The cities shall establish social control systems related to the urban services provide by public or private enterprises in especially with regard the quality of the services and the charges of the rates.
Article VI— right to public information

a. Everyone has the right to request and to receive complete, correct, adequate and timely information, from any department of the city administration, or from the legislative or judicial authorities, in respect of their own administrative or financial activities or those of the companies and private or mixed–economy societies contracted to provide public service.

b. The employees of the city government or the private sector receiving a request for information from a citizen has an obligation to create and produce such information as refers to his or her area of competence and which is available at the time. The only limit for access to public information is that imposed by the right to intimacy of the persons involved.

c. The cities undertake to guarantee to make available procedures or mechanisms so that everyone may have access to effective and transparent public information. For this purpose they shall provide access for all sectors of the population and facilitate instruction in the use of information technology and how to access the data with periodic updates.

d. All individuals and organised groups have the right to obtain information about the availability and utilisation of suitable land, as well as in respect of the habitation programmes in progress or planned in the city with particular emphasis on those sectors that produce their own housing and other elements of habitation.

Article VII — liberty and integrity

Everyone has the right to liberty and physical and spiritual integrity. The cities, guarantee to provide protection so that individuals or institutions of any nature do not violate these rights.

Article VIII— political participation

a. In conformity with the laws that regulate the exercise of citizenship, all citizens have the right to participate in the local political life by means of democratic elections of the local representatives and in all decisions which affect the local policies regarding the city, including urban designing, development, management, renovation and improvement of neighbourhoods.

b. The cities shall guarantee the right to free and democratic elections of the local representatives, the realisation of plebiscites and popular legislative initiatives and the free and equal access to debates and public audiences.

c. The cities shall implement affirmative action policies of quotas for the representation and political participation of women and minorities in all local elective instances and in the definition of their public policies.

Article IX — right of association, assembly, expression and the democratic use of urban public space

Everyone has the right to association, assembly and expression. Cities undertake to make public areas available for open meetings and informal gatherings.

Article X — right to justice

a. Signatory cities undertake to take steps to improve the access of all persons to the right to justice.

b. Signatory cities support the resolution of civil, criminal, administrative, and labour conflicts by implementing procedures of public conciliation, mediation and adjustment.

c. The cities undertake to guarantee access to justice by establishing special policies of favourable treatment for poorer population groups and by strengthening the systems of free public legal defence and assistance.

Article XI — the right to the public security and to coexistence based on peace, solidarity and multiculturalism

a. The cities commit themselves to create conditions for the public security, peaceful coexistence, collective development and the practice of solidarity. To this end, full usufruct of the city is guaranteed while respecting the diversity, and preserving the memory and the cultural identity of all citizens without discrimination.

b. The principles of the mission of the security forces shall primarily include the respect and protection of the rights of the citizens. The cities guarantee that the security forces under their command shall use force strictly in accordance with the legal provisions and democratic control.

c. The cities guarantee the participation of all citizens in the control and evaluation of the security forces.

Part three

Rights relating to economic, social, cultural and environmental development of the city

Article XII – rights to water, and access to the supply of urban and domestic public services

a. The cities shall guarantee to all citizens the right to have permanent access to public services of drinking water, sanitation, waste removal, medical services, schools, power and telecommunication supplies in joint responsibility with other public or private sectors
in accordance with international human rights legislation and the legal requirements of each country.

b. The cities shall undertake to guarantee that the public services, even if privatised before the signature of this Charter, are charged at rates socially accessible to the low-income families and unemployed persons, and are adequately implemented.

**Article XIII — right to transport and public mobility**

a. The cities guarantee the right of city mobility and movement by means of public transportation systems adequate and affordable to the citizens. The cities shall promote the establishment of a public transportation system accessible to everyone in accordance with a suitable urban and interurban traffic plan and with the diversity of environmental and social needs (gender, age and incapacities). They shall also stimulate the use of non-polluting vehicles and provide permanent or occasional pedestrian only areas for certain times during the day.

b. The cities shall promote the removal of structural barriers and the installation of equipments necessary to facilitate displacement, movement and traffic as well as the adaptation of all public buildings (or those used by the public), workplaces and evacuation areas for easier use by disabled persons.

**Article XIV — the right to housing**

a. In so far as they are competent to do so, the cities shall undertake to ensure that all citizens are guaranteed the right that the cost of adequate housing is compatible with their incomes; that the housing is habitable; that it is constructed in accessible and suitable locations and that it is adapted to the cultural characteristics of the residents.

b. The cities undertake to facilitate adequate offers of housing and the associated equipments, and services for all citizens, and to guarantee to the poorer families home acquisition financing plans as well as service structures for the assistance of infants and elder people.

c. The cities shall guarantee to the vulnerable and homeless groups priority to benefit from housing laws and Programmes. They shall also establish subsidies and loan programmes for the purchase of urban land or houses, to regularise land ownership and to the improvement of precarious neighbourhoods and informal housing settlements.

d. The cities shall undertake to include in their own names, independently of their civil status, all women beneficiaries in documents of possession or ownership of land or goods regularised or registered within public programmes of land or housing distribution or titling.

e. All homeless citizens whether individually, in partnership, or in family groups are entitled to the right of immediate provision by the city public authorities of an adequate, sufficient and independent living space. Hostels, refuges and bed-and-breakfast lodgings may be used as temporary expedients but do not absolve the authority of the obligation to provide a permanent solution.

f. Everyone has the right to security of tenure of his or her home by means of legal instruments that guarantee the right of protection against evictions, expropriations and forced or arbitrary displacement.

g. The cities shall impede real estate speculation by creating urban norms and regulations for the equitable distribution of the expenses and benefits generated by the urbanisation process in addition to the adjustment of economic, tributary and financial public instruments to the purposes and objectives of urban development.

h. The cities shall promote adequate legislation and establish mechanisms and sanctions designed to take full advantage of the use of public land and of public and private buildings which are unused, under-used or unoccupied, in order to ensure the fulfilment of the social function of the property.

i. The cities shall protect the occupants from arbitrary evictions and the tenants from usury by regulating the rental of living accommodation in accordance with General Comment No. 7 of the United Nations Committee on Economic, Social and Cultural Rights.

j. This present Article shall be applicable to all persons, including but not limited to, families, tenants without ownership titles, the homeless, and those whose living conditions vary, such as nomads, travellers and the Roma.

k. The cities shall provide shelter and housing to women victims of the domestic violence.

**Article XV — the right to work**

a. The cities and the National States are responsible to contribute as far as possible for the maintenance of full employment in the city. To this end they shall promote the upgrading and qualification of the workers by permanent education and training.

b. The cities shall promote conditions for children to enjoy their infancy by combating child labour.

c. In collaboration with other public administrations and the companies, the cities shall develop mechanisms to ensure equal opportunity for everyone in access to work without discrimination.
d. The cities shall promote equal access for women to work by creating day care centres and other facilities, and for disabled persons by the installation of adequate and suitable urban facilities. To improve work conditions the cities shall establish programmes for the improvement of urban housing used by women and vulnerable persons as work places.

e. The cities shall undertake to promote the progressive integration of the informal business run by low-income or unemployed persons, avoiding its elimination and providing adequate areas and policies for the workers until such time as it can be incorporated into the formal urban economy.

Article XVI — the right to the environment

a. The cities commit themselves to adopt measures against the disordered occupation of the territory and/or the protected areas and against contamination, including energy saving, the management and re-utilisation of waste, recycling and the recuperation of watersheds to amplify and protect the green areas.

b. The cities commit themselves to respect their natural, architectonic, cultural and artistic heritages and to promote the recuperation and revitalisation of degraded urban areas and equipment.

Part four — Final dispositions

Article XVII obligations and responsibilities of the state in the promotion, protection and implementation of the right to the city

a. International organisations and national, regional, metropolitan, municipal and local governments are all responsible for the effective application of the rights laid down in this Charter, (in addition to the civil, political, economic, social and cultural human rights) for all citizens, based on international standards of human rights and the competent management system of each country.

b. Failure to implement the rights laid down in this Charter, or faulty or incomplete implementation in violation of the guiding principles of the international agreements or the respective national legislation, will be considered a breach of the Rights of the City which can only be rectified by the full implementation of whatever measures are necessary to correct/revert the violations. Such rectification measures must also guarantee that any collateral negative effects or damages are removed or compensated so that the citizens may enjoy the effective promotion, protection and guarantee of all human rights defined in this Charter.

Article XVIII — measures for the implementation of right to the city

a. The cities must adequately and immediately take all necessary steps and measures to ensure the Right to the city for everyone as laid out in this document. The cities guarantee the participation of all citizens and of the civil society organisations in the process of legislative revision. The cities are obliged to use their maximum resources available to fulfil the legal obligations enshrined in this Charter.

b. The cities shall provide human right education to all the employees involved in the implantation of the Right to the City and the corresponding obligations. The training shall be given in special to those public employees of public organisations whose policies influence in any way the full realisation of the Right to the City.

c. The cities shall promote the teaching of the principles of the Right to the City in schools and universities and in the popular means of media communications.

d. The citizens shall regularly supervise and evaluate the degree to which these rights are being observed overall.

e. The cities shall establish systems to monitor and supervise the execution of the policies of urban development and social inclusion. An efficient system of indicators to monitor and evaluate the right to the city shall be established and applicable to all cities so as to verify the fulfilment of the contests of this Chapter.

Article XIX — the violation of the right to the city

a. The violation of the Right to the City is constituted by all acts of commission and omission undertaken by legislative, administrative and judicial institutions and/or social practices which result in obstruction or refusal, or which introduce difficulties or make impossible:

- The realisation of the rights including in this Charter;
- The participation of inhabitants, social groups and citizens in urban management, or the participation in the implementation of decisions and priorities defined in the participative processes that make up the life of the city;
- The fulfilment of the decisions undertaken and the priorities defined within the participatory process of urban management;
- The maintenance of cultural identities, methods of peaceful coexistence, social production of habitat, as well as forms of manifestation, organisation and action of social or citizens...
b. The actions of commission and/or omission can be carried out by administrative sectors during the process of implementing projects, programmes or plans; in the legislative sphere by the introduction of laws, by the control of public funds or by public policies; or, in the judicial arena by judgments or sentences handed down in collective conflicts referring to themes of urban interest.

Article XX — exegibility of the right to the city
Everyone has a right to effective and full administrative and judicial recourse and remedy with respect to the rights enumerated in this document, including the right not to take advantage of such rights.

Article XXI — commitments with the chapter of the right to the city
I – The networks and social organisations commit to:
   a. Widely disseminate this chapter and strengthen the international articulations through the Right to the City in the context of the World Social Forum, in conferences and in international fora with the objective to the strengthen of social movements and NGOs networks and for the building of a dignified life in the cities.

   b. To build platforms of the exegibility of the Right to the City, to document and disseminate local and national experiences, which aim at the construction of this right.

   c. Present this Charter on the Right to the City to the different organisations and agencies of the United Nations System and to the Regional Human Rights System, to initiate a process to recognise the Right to the City as an international human right.

II – The local and national governments commit themselves to:
   a. Produce and promote institutional framework to recognise and protect the Right to the City, such as formulating urgent plans of actions for the sustainable development of the cities, in accordance with the principles enshrined in this Charter.

   b. Build associative platforms with the full participation of civil society aiming to promote sustainable development in the cities.

   c. Promote the ratification and applications of human rights covenants and other international instruments that will contribute to the construction of the Right to the City.

III – International organisations commit themselves to:
   a. Embark on a mission to stimulate, sensitive, and support the government through the promotion of campaigns, seminars and conferences, and facilitate technical publications that highlight the adherence to the principles of this Charter.

   b. Monitor and to promote the applications of human rights covenants and other international instruments that will contribute to the construction of the Right to the City.

   c. Open participatory spaces for the consultative and decision-making bodies of the United Nations that facilitate the discussion with respect this initiative.
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annexures
This section highlights all chronological events over the years in which international policies were formulated as well as national policies, laws, Acts and regulations implemented and also interventions made by civil society organisations to demand right to adequate housing specifically focusing to urban poor habitat.

1956: The Slum Areas (Clearance and Improvement) Act was enacted to provide for the improvement and clearance of slum areas in certain union territories and for the protection of tenants in such areas from eviction. This Act was further enacted in other Indian states in the Seventies.

1961: Principle 2 of the International Labour Organisation (ILO) in Recommendation number 115 has emphasised on the framing of a general housing policy, which would ensure that housing construction, be carried out in a decent environment.

1966: Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides that State Parties recognise and undertake to take adequate measures for the realisation of the right of everyone to adequate standard of living for himself and his family including adequate food, clothing and housing.

1976: The Vancouver Declaration on Human Settlements in Section III (8) describes adequate shelter as a basic human right and places an obligation upon governments in this regard especially with respect to the least advantaged sections of society.

1987: The Economic and Social Council (ECOSOC) of the United Nations Resolution 1987/62 entitled "The Realisation of the Right to Adequate Housing" recognised that by virtue of the provisions of the Universal Declaration of Human Rights and the ICESCR all persons have the right to an adequate standard of living for themselves and their families, including adequate housing, and that States should take appropriate steps to ensure the realisation of this right.

1987: The National Housing and Habitat Policy was passed by the ministry of urban affairs and employment, Government in India promising the target of the construction of a million houses every year to cover up the housing deficit. The policy inter-alia described the grim situation on the housing front therein acknowledging that the problem was compounded by the uncontrolled growth in population, which frustrated all public efforts in housing and infrastructure development. The policy further described that the previous policy initiatives had been ailing from financial shortfalls among others and had failed to rectify the housing problem.

1996: India became a signatory to the Istanbul Declaration, which reaffirmed the role of the United Nation 1976 Declaration of Human Settlement, namely adequate shelter and services are a basic human right which places an obligation on governments to ensure their attainment by all people.

1996: General Comment 7 of the UN Committee appointed under the International Covenant on Economic Social and Cultural Rights 1956 of which India is a signatory says: “Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human right. The State Party must take all appropriate measures to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

1996: The Urban Land Ceiling and Regulation Repeal Act was passed by Parliament.
1997: The United Nations Commission on Human Rights in its 54th Conference in 1997 had framed certain important guidelines and Directive Principles. Principles six and seven point focus on right of every human being to be protected against arbitrary displacement and impose an obligation on the authorities to ensure rehabilitation of displaced persons in satisfactory conditions of safety, nutrition, health and hygiene.

1997: The National Sample Survey (NSS) Report 417 which came out in September clearly depicted that the growth rate of population in urban slums has been much faster in most states, compared with the same for the urban population in general.

Dec 1998: The union government decided to repeal the Urban Land (Ceiling and Regulation) Act, 1976 by a Bill that was referred to the Parliamentary Standing committee on urban and rural development for examination and report. The Committee recommended repeal of the Act with certain safeguards for the poor and the low-income group in urban housing.

1999: The Draft National Slum Policy, 1999 describes the poor as an important element of the urban labour force and asserts how these very people have been marginalised and excluded from the city-planning framework in terms of housing. In fact, the policy depicts the sorry attitude of labelling slums as “eyesores” or “problem areas” in gross denial of the contribution of the urban poor in building urban prosperity. Endorsing the upgradation and improvement approach in slums the policy does not approve of slum clearance except under strict guidelines for resettlement and rehabilitation in respect of certain slums located at untenable sites.

1999-2000: Sanjha Manch conducted socio-economic survey of slum dwellers of Delhi. This survey of jhuggie jhupris, resettlement colonies and unauthorised colonies points out the utter lack of opportunities that are at the disposal of the urban poor to improve their overall quality of life.

1999: The Draft National Slum Policy was formulated with the objective of integrating slum settlements and the communities residing within them into the urban areas as a whole. The policy was aimed at strengthening the legal and policy framework, the process of slum development and improvement on a sustainable basis.

2001: The Census 2001 data pegged the total population of urban India at over 285 million of which about 82 million or 30 percent of the population was defined to live in slums and other low-income informal settlements and having the least access to housing and basic amenities. The census describes the total population of the million plus states along with statistics about the slum population therein.

2001: Mr Ananth Kumar, the union minister for urban development and poverty alleviation, at the plenary session of national conference on housing, 2001, entitled, “The Agenda for Mass Housing” spoke about the severe housing crisis in urban India. The speech referred to the prime minister’s vision of “Housing for all by 2010” and to this effect emphasises upon the need to tap available resources and to determine the varied requirements including legislative and administrative reforms.

2001: Fact-finding, mission conducted from the March 1-11, 2001 by HIC in collaboration with Sanjha Manch. The objective of the mission was to investigate and assess the practise of forced eviction and resettlement throughout India’s national capital territory (NCT) within the existing framework of International and domestic standards on the human right to housing.

Jan 16, 2003: Speech delivered by Mr KC Pant, Deputy Chairman of the Planning Commission, at the EWS Housing Complex, New Town, Kolkata on January 16, 2003. While speaking on the strategies to achieve “shelter for all” Mr Pant highlighted the need to develop multiple strategies to tackle the problem of housing including the need for adequate resources and the role of the government and the public agencies to supplement individual efforts in building shelter.

Oct 6, 2003: World Habitat Day was observed in Bhopal city. A two-day housing rights workshop was held in the city. Some 47 participants from Bhopal, Indore, Dewas, Mansour, Jabalpur, Rewa and Raipur attended the meeting. The forum had chosen Bhopal-city with a purpose to facilitate in strengthening the state groups and to understand pro-poor policies and provisions in the region. The objective of the workshop was to understand housing rights situation in Madhya Pradesh and Chhattisgarh as also to develop a critical understanding of pro-poor policies of the state and to understand the process of pro-poor interventions in the Master Plans.

Nov 1, 2003: National Forum for Housing Rights India and Human Rights Law Network organised a national housing rights workshop in Kolkata from November 1-3, 2003, on the theme of “New strategies to combat forced evictions”. Kolkata, the fourth largest
metro-city in India, has been facing acute housing crisis, especially among poor. There have been large-scale evictions at Bellilious Park, Belighata Canal and Tolly’s Nala. Around 11,000 families had faced the threat of eviction at Tollygunge-Panchannagram, Keorapukar, Begore, Manikhali and Churial in the city.

Dec 10, 2003: An email campaign was initiated on December 10, the Human Rights Day, against Belighata evictions in Kolkata.

Jan 27, 2004: The Supreme Court asked the states and the federal government to frame a comprehensive action plan to provide shelter for the slum dwellers, homeless persons especially in the urban cities and towns. On January 27, 2004, the Supreme Court allowed two public interest cases of great importance to housing rights to go ahead. The petitioners, E R Kumar, Rohit Mammen Alex, Deepan Bora and six others, argued that Article 21 of The Constitution of India, which guarantees the right to life, includes the right to shelter as housing is essential to a dignified life. Based on this, counsel for the petitioners, Prashant Bhushan, argued that the federal and 13 state governments have an obligation to take immediate steps to provide shelter, food and warm clothes to the thousands of homeless people in the country. These steps should include plans, on strict timelines, to construct adequate housing with basic, essential amenities.

14 March 2004: A two-day Strategic Planning Workshop to finalise the People’s Charter on Housing Rights was organised on March 13-14 2004, at St. Ann’s Generalate, Secunderabad. The objective of this workshop was to release the Charter of Demands before the General Elections to lobby with the political parties for the provision of adequate housing, access to land, basic services and amenities to urban poor inhabitants. Around 115 representatives from the country participated at the two-day meet. The strategy to draft People’s Charter on Housing Rights was planned at the Kolkata National Housing Rights Workshop for incorporating urban poor habitat issues in manifestos during the election campaign period.

May 10, 2004: After the 14th Lok Sabha elections and the formation of the new Congress-led alliance government at the Centre, recommendations were circulated to the policymakers on housing the urban poor, to the Common Minimum Programme Committee by the National Forum for Housing Rights and its network partners.

May 27, 2004: The UPA government incorporated habitat agenda in the National Common Minimum Programme released. Following is the excerpt of the CMP specifically concerned with urban habitat: “The United Progressive Alliance government commits itself to a comprehensive Programme of urban renewal and to a massive expansion of social housing in towns and cities paying particular attention to the needs of the slum dwellers. Housing for the weaker sections in rural areas will be expanded on a large-scale. Forced evictions and demolition of slums will be stopped and while undertaking urban renewal care will be taken to see that the urban and semi-urban poor are provided housing near their place of occupation.”


Oct 4, 2004: India Habitat Campaign-2004 was held at Nizamuddin, Delhi from October 1-4, 2004. The four-day campaign programme was aimed to consolidate solidarity between different struggle organisations from urban centres to put pressure on the UPA government for adequate housing and discuss alternative solutions for the impending housing crisis in the country. Around 800 participants, mostly slum dwellers, homeless persons and organisations working on urban poverty issues had joined the campaign and had released a joint memorandum “The Delhi Declaration”.

Oct 12, 2004: Draft of the Housing for the Urban Poor Bill, 2004 was submitted to the Prime Minister Manmohan Singh and the UPA Chairperson Sonia Gandhi. The process of drafting the bill was initiated by the HRLN-NFHR and circulated widely to groups in many states. Several suggestions and crucial comments were received and the draft was repeatedly modified. At the India Habitat meeting in Oct 2004 at Delhi where the draft was discussed there were further suggestions and critical comments incorporated. The draft, which has been submitted to the UPA government, is the seventh draft. The Housing for the Urban Poor Bill, 2004 draft has been forwarded to the National Advisory Committee who would initiate a wide civil society consultation and thus start the process of drafting the Bill. The draft Bill was handed over to the PM in New Delhi on October 12, 2004.

Oct 15, 2004: The NFHR submitted a memorandum to the chief minister of Madhya Pradesh for the cancellation of the GO of October 15, 2004. The state government had issued an order on October 15, 2004 withdrawing the earlier direction given on July 9, 2004 which stated that for the period from August 26, 1987 to April 30, 1998 the developers of residential colonies approved during this period will have to develop 15...
percent earmarked land for the EWS and sell to EWS class and get the list of EWS certified from the respective District Collector. Such withdrawal of the provision will affect in depriving the poorest of the poor living in urban areas of Madhya Pradesh to access 609.06 hectares of residential land in 1386 developed colonies (Annexure 3) for housing within their affordable income. This land can accommodate six lakh nine thousand and sixty homeless and poorest squatter dwellers living in urban areas of Madhya Pradesh in one lakh twenty one thousand eight hundred and twelve residential plots.

**Nov 3, 2004:** The Parliamentary Standing Committee had invited suggestions and recommendations on ‘Rural Housing’. The committee headed by Kalyan Singh, MP, in its meeting on November 3, 2004 had decided that in view of the importance ‘Rural Housing’ which affects the lives of million of rural poor, memoranda was invited from experts, professionals association and organisations. In consultation with network partners, National Forum for Housing Rights is forwarded a memorandum to the Parliamentary Standing Committee.

**Dec 1, 2004:** The people affected by developmental projects — including dams, mines, sanctuaries and national parks, tourism projects, urban infrastructure, industries and others, social activists, support organisations, academics, researchers and others, had gathered in Delhi on November 30 and December 1, 2004 for the national convention on development, displacement and rehabilitation, to formulate a rights-based, people-centred approach to development. Affirming the principles of justice, equality, democracy, and sustainability, opposing ethnic discrimination and the unjust treatment of, and burden placed on, marginalised populations, in particular adivasis, dalits, and women by the prevalent development paradigm dominated by the state, corporates and global lenders.

**Dec 18, 2004:** The housing rights initiative organised a two-day workshop supported by Oxfam GB which was held on the December 18-19, 2004 on “Women and Housing Rights” and “Housing Rights Bill” in Nagpur. Attended by more than 30 participants the first day of the workshop was on “Women and Housing Rights, and second day was devoted to the discussions were held on Housing Rights Bill. This workshop was used as a space to analyse the Housing Rights Bill critically so that all the organisations that are working on it may be able to understand it.

**Jan 17, 2005:** On January 17, 2005, the Indian People’s Tribunal (IPT) was conducted to investigate the legality of the Mumbai demolitions as well as to look into the alternatives for poor people to obtain housing in the mega city of Mumbai. (IPT) on environment and human rights had constituted a panel headed by Justice Suresh (Retd.), Kenneth Fernandes (Coordinator of Asia Pacific Region, Centre for Housing Rights and Evictions, Australia), Miloon Kothari (UN Special Rapporteur, on adequate housing), Kalpana Sharma (Bureau Chief, The Hindu newspaper), Sanjeevini Kher (Marathi Journalist and freelance writer) and Salaam Bin Razzaq.

**Feb 28, 2005** The NFHR formulated recommendations for the Union Budget 2005-06 on Urban Poor Housing Programme prepared by grass root organisations working on urban poverty in India. The two-page recommendations was submitted to the Finance Minister P Chidambaram to allocate grants for urban poor housing programme for the annual budget 2005-06, schedule to be released on the February 28, 2005.

**Oct 15, 2005:** A national consultation on ‘Urban Development Planning and Space for the poor was organised in Mumbai on October 15-16, 2005 and a massive rally of slum dwellers was held on the next day, October 17. At the meeting, the participants discussed in detail on people’s perspective, experiences of various cities in India with regard to policies, laws and development plans that have direct implications on housing, livelihood and basic services for the urban poor. The meeting also decided to evolve for future plan of action.

The consultation was followed by a protest rally on October 17, 2005 in which over 5,000 people comprising displaced slum and makeshift hut dwellers and hawkers — mostly from the unorganised sectors along with many activists and NGOs. The rally was a strident protest against the anti-poor urban policies of the Government of India especially the government of Maharashtra.

**Dec 3, 2005:** Prime Minister Manmohan Singh launched an ambitious Rs one lakh crore National Urban Renewal Mission to improve urban infrastructure in major cities, and suggested to provide land rights to urban poor at affordable rates to increase private investment. The scheme aims at integrated development of urban infrastructure with special emphasis on providing basic services to the poor like housing, sanitation and slum improvement over a period of seven-year. It covers about 63 cities with a million plus population.

Compiled by Advocate Mathew Benjamin
Human Rights Law Network, New Delhi.
Access to sanitation
Access to sanitation is defined in terms of the types of technology and levels of service afforded. Sanitation is defined to include connection to a sewer or septic tank system, pour flush latrine, simple pit or ventilated improved pit latrine with allowance for acceptable local technologies.

Access to water supply
Access to water supply is similarly defined in terms of the types of technology and level of service afforded. For water, this includes house connections, public standpipes, and boreholes with hand pumps, protected dug wells, protected springs and rainwater collection, with allowance made for other locally defined technologies. ‘Reasonable access’ may be broadly defined as the availability of at least 20 litres per person per day from a source within one kilometre of the user’s dwelling.

NOTE: While access also to water and sanitation has not, in all cases, been defined to imply that the level of service or quality of water is ‘adequate’ or ‘safe’, minimum standards of adequacy should be included by the Index, as this is critical to ensuring the validity of the ‘housing adequacy’ measure.

Accommodation
Accommodation is a broad concept, which may refer to any kind of temporary or permanent shelter, including traditional housing, homeless facilities, hotels, hostels or any other form of paid shelter.

Age of housing stock
To be calculated by subtracting the year a housing structure built from the current yeat. Date when built refers to when the housing was first constructed, not when it was remodelled, added to, or converted. For alternative types of housing, such as a houseboat or a mobile home or trailer, the manufacture’s model year may be assured to be the year built.

Discrimination
Discrimination in housing includes acts or policies that block or do not provide for equal access to housing. For example, not selling or renting to a person on account of that persons race, gender, nationality, religion, ethnicity, sexual orientation, disability, etc., would constitute housing discrimination. Likewise, not lending financial support in order to purchase housing on account of the above factors would constitute housing discrimination.

Displaced person
Persons who have been forced to flee their homes to escape armed conflict, generalised violence, human rights abuses, or natural or human-made disasters but remain in the country of their nationality or country of habitual residence.

Displacement
Displacement is the process of relocating of individuals or groups away from their place of residence. Displacement can have a number of causes including natural disasters such as floods and earthquakes, development projects such as the construction of dams, armed conflicts, ‘ethnic cleansing’, and urban renewal/development projects. Displacement can occur for legitimate as well as illegitimate purposes. (See for comparison: Forced Eviction).

Due process protection
Due process protection in the area of housing implies the presence of legal remedy provided in all cases of eviction, housing discrimination or violation of a tenancy agreement. Due process protection includes the right to have a case heard before an independent and impartial judicial body.

Forced eviction
The permanent or temporary removal against the will of individuals, families and/ or communities from the homes of legal due process or other protection. Forced evictions are a particular type of displacement which are most often characterised by (1) a relation to specific decisions, legislation, or policies of the States or failure of the States to intervene to halt evictions by the non-State actors: (2) an element of force or coercion; and (3) are often planned, formulated and announced prior to being carried out.
**Formal settlement**
A community or group of households within a recognisable boundary, which have legal title to the homes in which they live and the land which they occupy.

**Homeless person or family**
A person or family lacking access to the permanent housing. A homeless person is a person who lacks a fixed, regular and adequate night time residence or a person whose primary night-time residence is a supervised or publicly operated shelter designed to provide temporary living accommodation, or an institution that provides a temporary residence for individuals intended to be institutionalised, or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

**Household**
A household includes all the persons who occupy a housing unit.

**Housing**
The generic term for the dwellings in which all human beings reside.

**Housing rights expenditure**
The percentage of government expenditure, relative to overall budget expenditures, spent on building social or public housing, providing housing subsidies, or facilitating other housing improvement related institutions, polices or Programmes.

**Housing stock**
The total sum of housing units within a particular locality, region, or country.

**Housing unit**
A housing unit is a house, an apartment, a mobile phone, a group of rooms, or a single room that is occupied (or if vacant, is intended for occupancy) as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and which have direct access from the outside of the building or through a common hall. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

**Income**
Total money income from all taxable sources less certain expenses incurred in earning that income. Sources of income include (but are not limited to) the following:
- Wages and salaries
- Income from business
- Gains from the sale of capital assets
- Interests, rents, royalties and dividends
- Alimony
- Annuities and pensions
- Prizes and awards
- A portion of social security payments
- Unemployment compensation

**Informal settlement**
A community or group of households within a recognisable boundary, which do not have legal title to the homes in which they live nor to the land, which they occupy.

**Legal title**
Legal ownership of one’s house, documented and pursuant to local jurisdiction and legislation.

**Median income**
The median divides the income distribution into two equal parts, one having incomes above the median and the other having incomes below the median. For households and families, the median income is based on the distribution of the total number of units including those with no income. The median for persons is based on persons with income. The median income values for all households, families and persons should be computed on the basis of income intervals.

**Net migration rate**
The difference between immigration and emigration per thousand population.

**Owner-occupied housing**
A housing unit is owner occupied if the owner or co-owner lives in the unit even if it is mortgaged or not fully paid for. A unit is owned if it is being purchased with a mortgage or some other debt arrangement such as a deed trust deed, contract to purchase, land contract, or purchase agreement. The unit is also considered owned with a mortgage if it is built on leased land and there is a mortgage on the unit is owned outright without a mortgage.

**Persons per household**
A measure obtained by dividing the number of persons in households by the number of households.

**Private housing**
Private housing refers to housing in market economies, which is sold and purchased by private actors or entities according to market prices.

**Quintile**
Quintile is the value that defines the upper limit of the
lowest one-fifth of the cases, and so on. Quintiles should be presented for certain financial characteristics such as housing costs and income.

**Renter occupied housing**
All occupied housing units, which are not owner, occupied, and are rented for cash rent or otherwise occupied for payment.

**Room**
A room may be defined as a space in a housing unit or other living quarters enclosed by walls reaching from the floor to the ceiling or roof covering, or at least to a height of two metres, of a size large enough to hold a bed for an adult, that is at least four sqms. Rooms, therefore, may include bedrooms, dining rooms, living rooms, studies, habitable attics, servants’ rooms, kitchens, rooms used for professional or business purposes and other separate spaces used or intended for dwelling purposes, so long as they meet the criteria of walls and floor space. Passageways, verandas, lobbies, bathrooms and toilet rooms are not supposed to be counted as rooms, even if they meet the criteria.

**Social housing/public housing**
Housing financed, constructed and/or allocated by the State or public sector, generally designated for low-income groups. Social housing is generally kept at affordable rent levels or, when involving owner-occupation, financed with low-interest loans or credit. This type of housing is provided by the State. In market economies, social/public housing is provided for persons with limited income or wealth.

**Squatter**
A person occupying an otherwise abandoned housing unit or land without legal title to that unit or land. For example, persons who take up residence in unused or abandoned dwellings or buildings are squatters.
People’s Charter on Housing Rights

Introduction
A two-day strategic planning workshop to finalise the People’s Charter on Housing Rights was organised on March 13-14, 2004, in Secunderabad, Andhra Pradesh. The objective of this workshop was to release the charter of demands before the general elections to lobby with the political parties for the provision of adequate housing, access to land, basic services and amenities to urban poor inhabitants. Around 115 representatives from all over the country participated at the two-day meet. The strategy to draft People’s Charter on Housing Rights was planned at the Kolkata national housing rights workshop for incorporating urban poor habitat issues in manifestos during the election campaign period.

Representatives from Hyderabad, Vijayawada, Visakhapatnam, Nalgonda, Kurnool, New Delhi, Chennai, Coimbatore, Ahmedabad, Indore, Jaipur, Nathdwara, Lucknow, Kolkata and Howrah, drafted charter of the demands, which was released on April 14, 2004 at a joint press conference in Hyderabad after the workshop.

The people’s charter was distributed to the regional and national political parties, contesting candidates, civil societies including trade unions, women’s organisations, to incorporate urban poor habitat issues in their election manifesto/agenda. The forum received letters of acknowledgements from all Left Parties and the BJP who had received the People’s Charter on Housing Rights.

The workshop was organised by the National Forum for Housing Rights, India, and Campaign for Housing and Tenurial Rights, (CHATRI) Hyderabad, in collaboration with the Human Rights Law Network (HRLN), New Delhi, and was also attended by independent organisations.

Preamble
Slum dwellers, pavement dwellers, homeless people constitute 40 percent of the city population and contribute significantly to the economic, social, political and cultural character of the city. The unorganised workers that include slum and pavement dwellers contribute 63 percent of gross domestic product (GDP) of our economy. The policymakers, yet, even after 57 years of Independence the right to reside, social security, protection and access to the resources of the city to the citizens of this country, to them time and again.

The slum dwellers are not problem by themselves but slums are manifestation of failed policies, bad governance, uncontrolled market, lack of political will, wrong priority including unjust and inequitable land holdings in rural and urban areas.

People’s charter condemns forceful large-scale eviction of slum dwellers in recent times and also condemns some of the Supreme Court judgments calling slum dwellers as “encroachers, pickpockets and anti-socials”.

We, the urban poor and 115 representatives from Hyderabad, Vijayawada, Visakhapatnam, Nalgonda, Kurnool, New Delhi, Chennai, Coimbatore, Ahmedabad, Indore, Jaipur, Nathdwara, Lucknow, Kolkata and Howrah, put forth the following demands to the political parties in the event of Parliamentary elections - 2004.

Charter of demands

1. Adequate housing along with compulsory, quality, equitable education, quality health care, skill upgradation for all, including urban poor, with special focus on women, children and disabled, should be provided within a five years time frame by the State.

2. To ensure right to housing for urban poor with appropriate laws, including land laws such as ‘Public Land Encroachment and Regularisation Act’ and Urban Land Ceiling Act must be amended, enacted, repealed and policies must be framed and implemented. In addition to this, adequate finance must be provided with quality basic amenities at minimum rate.
3. No developmental scheme that serves only the affluent sections of the city and involves evictions, displacement of urban poor must be carried out. If the land is needed for public purpose that serves the urban poor also, then the alternate accommodation, with adequate infrastructure, to their nearest working place must be given to the affected urban poor, with their participation, before them being evicted.

4. Liberalisation, privatisation and globalisation (LPG) have created havoc in the lives of urban poor, denying them their right to livelihood, leading to displacement, unemployment, bonded labour, indebtedness, trafficking of women and children, alcoholism and suicide. Hence, India should quit from WTO.

5. Undertake legislative and administrative reforms to eradicate legal and social barriers for the equitable access to land for housing and protection of tenure rights and basic amenities to urban poor inhabitants.

6. Review of all the State laws and Supreme Court judgments that have a bearing on the urban poor and enact a national housing Act for the urban poor with the consultation of all the stakeholders.

7. The process of decentralisation of power to the municipal local bodies as envisaged in the 74th Constitutional Amendment should be expedited and ward participation must be ensured.

8. Supreme Court’s interpretation of Article 21 as including the Right to Livelihood, the Right to Housing and Right to Dignity must be upheld under all circumstances.

9. Ensure under law that equal rights for women and men on land and property are protected.

10. Five percent of the GDP must be allocated for housing. Fifty percent of this amount must be allotted to the housing for urban poor.

11. According to the proportion of the population of the urban poor in the city, residential land must be allocated that include services in the city/town/metropolitan Master Plan.

12. The urban poor being the unorganised workers, the central government must enact a comprehensive unorganised workers bill ensuing, regulation of employment, improving the conditions of work and social security.

13. All urban poor must be covered under BPL (below poverty line) and provided with ration cards. To participate in the electoral process, they must be provided with election identity cards.

14. Since the urban poor faces brutal oppression and torture from the police and administration often, the central government must ratify immediately the UN Convention Against Torture.
Memorandum to the chief minister of Tamil Nadu

Respected Madam,

The Tsunami that struck the Tamil Nadu coast on December 26, 2004 was unprecedented in its suddenness and ferocity. Huts and *kutcha* houses have been flattened. The families living along the coastline have lost all their possessions. It is estimated that about 100,000 families have become homeless. In Tamil Nadu, more than 1,40,000 people were displaced from their homes. In Kanyakumari district, 31,175 huts and houses were damaged. In Chennai, nearly 16,900 families were affected. The most critical stage of the rehabilitation work is thus the shelter.

The National Forum for Housing Rights (NFHR), a national network of independent organisation in India on housing rights, and Chennai Slum Dwellers’ Rights Movement (CSDRM), an umbrella organisation of the NGO’s working in slum areas in Chennai, have conducted a preliminary survey and examined the worst affected areas of the coastal line Chennai, Kanchipuram, Cuddalore, Nagapattinam and Kanyakumari districts in Tamil Nadu during January 13-22, 2005 and the slum dwellers representatives meeting was held on January 22, 2005 at Chennai.

The NFHR and CSDRM in their memorandum to the chief minister of Tamil Nadu made the following suggestions:

* The most immediate task is to work out the relief and rehabilitation transition in the order of housing as the first and priority phase. The temporary accommodation provided by the government is the most welcome and the government has done on war footings.
* Temporary shelters should not be very far away but at the same time it should be safer, not too close to the shore. In some areas especially of the Kanyakumari District in Kilmanakudi, Mandaikadu villages the temporary shelters are within 30 metres from the sea. Most of the temporary shelters have no flooring. Temporary shelters should be located in safe places with water, electricity and toilet facilities.
* The government built the shelters with 102-sq ft asbestos, each worth Rs 8000, quickly; the materials used are all locally available, such as bamboo poles, casuarina poles, and eucalyptus poles and light roof material. But in Nagapattinam district in Kallar, Akkarappetai and Keechampalayam villages the roof materials are tin sheets that produce lot of heat and the shelters have no ventilation. The government should remove the tin materials and provide light roofing materials with windows and fan facilities.
* The permanent housing should be a fully contained township. It should contain permanent housing, livelihood rehabilitation, community infrastructure such as roads, water supply, schools, health facilities, Anganwadi, noon meal center, etc. The permanent accommodation may even be in their original locations, if safe.
* In certain areas especially in Chennai, the government forcibly relocates them, though many have expressed the desire to live near the original place with safety measures. They should stop forceful relocations and consult the people before providing the temporary shelters.
* The question is who should get the rights to such temporary shelters, as most of the displaced people lived in rented accommodations. The government should provide temporary shelters only to those reside in the place before Tsunami. Most people were just tenants and the government is allotting houses only to owners whose houses had been destroyed.
* Those who reside in the TNSCB tenements, should check the safety of the building and do repair works and in case if is not safe these people also need permanent housing.
* There is also the issue of discrimination in temporary shelters especially for the Scheduled Caste and Scheduled Tribe people (Irulas). The government should give priority to the SC and ST in allotting the houses and stop caste discriminations.

Rajeev John George, Convener
National Forum for Housing Rights, India

Dr K Shanmugavelayutham, Coordinator
Chennai Slum Dwellers’ Rights Movement
Public hearing held on May 21, 2003 at Chennai organised by the National Commission for Women

Dr K Shanmugavelayutham, coordinator of the Chennai Slum Dwellers Rights Movement (CSDRM) does hereby solemnly affirm and sincerely state as follows:

The Chennai Slum Dwellers Rights Movement is an umbrella organisation of the NGOs working in slum areas in Chennai. The co-ordinators of the movement are Centre for Urban Poverty Alleviation, Pennurimai Iyakkam, Legal Education and Aid Society, TN -FORCES and Nirman Mazdoor Panchayat Sangam.

The government of Tamil Nadu signed an MoU with a Malaysian firm in January 2003 for a huge construction project. As a result, there is a threat of eviction in 15 fishermen colonies on the Marina from Triplicane to Thiruvanmiyur. Due to the threat, around one-lakh populations (20 thousand families), mostly coastal fishermen and other unorganised women labour force, all slum dwellers, are going to be affected. A few thousand Tamil Nadu Slum Clearance Board tenements would also be affected.

The threat of slum eviction on the slumdwellers is complex because it disturbs social life, economic linkage between slum areas and the work places. Evokes emotional attachment to the place of residence. The most importantly there are the indigenous people.

Demolition of slum dwellings is a clear case of violation of human rights. The UN Commission on Human Rights in its 54th Conference in 1997 had framed certain important guidelines and Directive Principles. Principles six and seven point out to the right of every human being to be protected against arbitrary displacement and impose an obligation on the authorities to ensure rehabilitation of displaced person in satisfactory conditions of safety, nutrition, health and hygiene.

India signed and ratified the Covenant on Economic, Social and Cultural Rights (CESCR). Article 11 (1) of CESCR states: “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”.

Displacement of slum dwellers

The slumdwellers will be sent to the Okkiam Thoraipakkam resettlement project, which is 25 kilometres away from the city. In this slum, a large number of women who were domestic workers, small fish vendors and men who were fishermen, rickshaw pullers and wage labourers will definitely lose their means of livelihood and no alternate employment is not available to them.

Okkiam Thoraipakkam – A resettlement project

At Okkiam Thoraipakkam, each family has a single room measuring 8x12 feet (96 square feet). A shared toilet measuring 3x4 feet is allotted for two housing units. The single unit complex is a double storied building with total eight housed in one block. Most of the families are not able to afford electricity.

At this site water is scarce and highly contaminated. Though there are six thousands families residing with a population of 35 to 40 thousand, but there are no primary schools or hospitals at this site. (According to the national norms, there should be one primary school for a population of 3,500). Transportation is very expensive and hardly unavailable. Men and women have to travel long distances in search of temporary jobs within the city. Some earning members come home only on Sundays and live on streets or pavements during the weekdays. They are forced to sleep on pavements because they can’t afford traveling every day to their work place.

Demands

- Immediate moratorium on further evictions till draft national housing / slum policy for urban poor is finalised.
- Withdraw the MoU signed by the Tamil Nadu government with the Malaysian firm.

K.Shanmugavelayutham
Coordinator
Chennai Slum Dwellers Rights Movement
The fact-finding team visited Kallukuttai area on May 31, 2005 and met injured people and held meetings in various places.

The team members included
1) Mrs R Geetha, Unorganised Workers Federations
2) Mr Jose, advocate and human rights activist
3) Mrs Leelavathi, Pennurimai Iyyakam
4) Mrs Kalavathi, Centre for Labour Education and Development
5) Ms Lucy, Human Rights Activist and Advocate
6) Mr Arul, Nirman Mazdoor Panchayat Sangam
7) Dr K Shanmugavelayutham, Chennai Slum Dwellers Rights Movement

The terms of reference of the fact-finding team were
- To understand the Kallukuttai residents' problems
- To find out the reasons for the clash between Kallukuttai residents and the Police
- To enquire into the specific complaints of violations of human rights and other oppressions arising out of police brutality

The report of the fact-finding team
At the time of the visit, a very tense atmosphere was prevalent and the local people felt insecure. There is also fear that their huts will be burnt down. In the morning itself two fire incidents took place. A contingent of police was stationed in the area. Cases were registered against ten residents under charges of assault on the policemen, damage to public property and creating law and order problem.

Historical background
According to one Mrs Savithri, the government of Tamil Nadu purchased 945 acre of land in 1962 (during the tenure of Chief Minister Kamaraj) from the farmers by paying the price fixed by the government and allotted the same to the education department. Prior to the government's purchase, these lands were used for cultivation. In the low-lying areas of that locality, rain water used to get collected and formed lakes. The migratory birds used to visit the areas during the northeast monsoon season. The nearby people used to refer to this place as ‘Second Vedanthangal’.

The people, mostly construction workers, had come to live in the area now referred to as Kallukutai. Originally, the government transferred large tracts of poramboke land in the Kallukuttai area to the directorate of technical education more than three decades ago, mainly to develop scientific, technical and research institutions.

Over the years some other organisations also claimed and got small pieces of land in the area. Now it is called Taramani Institutional area. Besides the existing claims by the directorate of technical education and the two universities, namely, University of Madras and Annamalai University over the use of land, the latest entry into the fray is the Metropolitan Rail Transport (MRTS). Between the two universities themselves, there have been some disputes over claims on land in this area. Overall 365 acre land encloses various ‘Nagars’, and comes under two administrative local self-governments namely, the Corporation of Chennai and the Town Panchayat of Perungudi. Out of the 365 acres of local people occupied, 133 acres belong to the University of Madras, Post-graduate Institute of Basic Medical Sciences and 232 acres belong to the directorate of technical education. Initially, when 20 to 25 huts were put up, they were immediately ‘burnt down’ by the education department. The officials through the public address system made now and then announcements to the squatters that they should vacate the areas or otherwise would face forced eviction.

According to Mrs Mallika, a local resident, the three areas Bharathi Nagar, Periyar Nagar and Anna Nagar abutting the 100 feet road near, Taramani between Vijayanagar and Thiruvanmiyur which came up earlier ie 1981 were also threatened with the eviction order in the 1980s but in 1989 the government of Tamil Nadu regularised the squatters under the Madras Urban Development Project (MUDP).
There are nine Nagars in Kallukutai namely: Ambedkar Puratchi Nagar, Anjugam Ammaikey Nagar, JJ Nagar, Ambedkar Colony, Ambedkar Nagar, Thiruvaluvar Nagar, Ranuva Kudirupu, Rajiv Gandhi Nagar and Santhya Nagar.

According to Mrs Anguthai, local Secretary of the AIDWA, the entire area of Kallukutai under the Perungudi Town Panchayat is neglected by the government. The district administration and local body is not providing electricity, road, water supply and sanitations and garbage collection. As for water supply, the colony had been provided 17 water tanks with a capacity of 1000 litres each. Water tankers supply water to these tanks erratically and it is not adequate. People have to walk more than two kilometres to take water from the roadside. The people have voters ID and ration cards. Mostly they are daily wage labourers and unorganised workers. People complained that the snakes and other creatures would come every day. The average size of the family is five people. Most of the occupants have migrated to this area from the city proper. Kallukutai is a ‘Nagar of Huts’, with thatched houses and no proper flooring. During summer water is a major problem for the residents. Roads are in very poor shape and therefore riding bicycle on these roads is quite dangerous. During heavy rains, roads disappear and the whole area is a sheet of water and boat service is the only option to commute.

Incidents

Ms Kanmani, an activist, related the history of the settlement and the problems faced by the people. There are 10,000 families, according to her. The women’s groups have organised themselves and had to struggle for many years before they could get water supply through tankers. Ms Kanmani said that two years before the things were really bad, five thousand women came out on the main road and did a road roko, which attracted the attention of the authorities towards the problem of non-availability of electricity. They met district collector and other officials so many times in this regard. They also had fasting programme in front of Perungudi Town Panchayat. Protest march held in number of times. Twice a month for the past five years, the women representatives went to the Secretariat to submit their petition for basic services to this huge settlement. The residents wanted to register their protest as power connection; water supply was not provided even after repeated representation to several top levels government officials for more than 15 years. At the time of election all the contesting candidates promised basic facilities will be provided. But nothing happened subsequently.

After series of meetings residents decided to meet the chief minister at the Secretariat. Police asked the residents to select 25 representatives to go to the Secretariat on May 29, 2005. However, on Monday 31, 2005, two thousand residents in 13 lorries headed for Fort St George. The Police intercepted them near SRP Tools but they forced their way through. Trouble started when the Police stopped the residents from Kallukutai. According to Mr Kumaresan a youth, in the beginning, along with residents, four Tata Sumos packed with Mr KP Kandan’s people (town panchayat president) came in the form of help to supply water. “We did not realise who these people were that is why we did not note down the Tata Sumos numbers”. Trouble started when the police stopped the residents. Police asked the residents to disperse and told them that only their leaders could go and register the Complaint at the Secretariat. Immediately the persons in Tata Sumos threw stones on the Police and started pelting stone all around. Immediately Police used their lathis and fired tear gas shells to the innocent residents. Armed Reserve Police lathi-charged and fired tear gas shells. According to one Mr Suresh, the persons in the Tata Sumos came prepared to create law and order problem. There were no women police persons. The men police lathi charged women some dozen buses were smashed and over 50 persons injured. Fifteen residents were admitted to the government Royapettah Hospital. The protesters, numbering two thousand, including several women, squatted on the road when not allowed to proceed beyond the junction. The Swift Action Group and policemen with shields led the charge. The entire area was strewn with stones, glass pieces and sundry missiles.

Recommendations

- It should be the responsibility of the State to protect the poor people. Use of the force is unacceptable in a democratic State.
- The Committee protests against the police lathi-charge on the innocent people including women and children.
- Initiate dialogue with the local leaders for the improvement of civic amenities.
- Free treatment and compensation to the injured.
- Immediate provision of civic amenities like water supply, electricity, road, drainage facility, garbage collection, school and ICDS centre to Kallukutai.
- Action against the officers who ordered the lathi-charge.
The fact-finding team visited Kargil Nagar on June 30, 2005 and met fire victims and held meetings in various places.

The team members include
1) Mr Madan, Unorganised Workers Federations
2) Mr Arul, Nirman Mazdoor Panchayat Sangam
3) Mrs Kamala, Pennurimai Iyyakam
4) Mrs Mallika, Centre for Labour Education and Development
5) Ms Aruna, Initiatives: Women in Development
6) Mrs Malavika, Housing & Land Rights Network
7) Ms Shivani, Housing & Land Rights Network
8) Dr K Shanmugavelayutham, Chennai Slum Dwellers Rights’ Movement

The terms of reference of the fact-finding team were
- To understand the Kargil Nagar residents’ problems
- To find out the reasons for the recurrent fire in Kargil Nagar
- To enquire into the specific complaints of violations of human rights and other oppressions arising out of temporary shelter

Introduction
Kargil Vetri Nagar is located at Saathangadu near Manali (Tsunami temporary shelter), where some 2360 families of the tsunami-survivors have been relocated in shelters built for them by the government. Families living in the area were mostly shifted from Anna Nagar, Dheedir Nag ar Pallam, Poongavanam Kuppam, Powerkuppam Pallam, Pallavan Nagar and Thirvettriyur of north Chennai.

Kargil Nagar conditions
Kargil Nagar is a temporary accommodation provided to coastal fisher hamlet, which was hit by Tsunami. But the actual reason for shifting than seems to be for broadening the coastal road, for container trucks to ply on the road. Thus the reason is pre-Tsunami and displacement pre-planned. The question is, if the Madras Port Trust is interested in the land possessed by the fishing community and other unorganised workers, they can very well offer alternate land and there are even 1000 quarters which they are planning to demolish in Thondiarpet. This is the feeling of the Kargil Nagar residents. If they would have to go for fishing for the beach close to Kargil Nagar, then there would be more conflict with the fisher hamlet located there and justifiably. So instead, it would be better if they were given alternate place near the old place. But it was suggested that they would get worth Rs 1000/ rice and kerosene only if they move out of their settlement. Thus it was forced evictions. The displacement was also by use of police force. Also GO MS. 10 issued for Tsunami Rehabilitation clearly states that the Tsunami affected would be shifted temporarily to a nearby location and after a few months brought back to the original place. Tsunami relief of Rs. 1000 for the current month was provided on the day of the slum fire. The residents said that their money were also burnt and lost. The rice 30 kgs and kerosene and yet to be issued to the affected families. The police and fire service personnel had warned the people on June 21, that there would be fire that night. A powerful lobby in the area engineered the fire.

The Kargil Nagar is located five kilometres away from the original place located in the lake area i.e. low-lying area. Temporary shelters were made up of poor quality materials. Children cross the canal filled with garbage by sitting astride a casuarina pole. There are no steps for the residents to climb down to the area where their homes are. There is just a slippery, stony ramp-like path and often, they lose their footing while making their way down. Poisonous snakes and insects are yet another threat to the people.
There are no bus facilities to go for fishing. They have to travel by share auto, which they are unable to afford. Every day, each individual spend Rs. 20 to go to the sea by share auto. The other important problem is that of toilet facilities. Water stagnated around the main drainage line for months. The stagnant water and the surroundings with no sanitation and hygiene facilities create the perfect breeding ground for mosquitoes. Many children contract fever. Since there is no drainage system sewage water is not sucked by the land. During rains, life in this area become miserable. The stagnant water is breeding ground for flies and mosquitoes. Flies swamp the entire area. The temporary non-Formal education centres are run by NGOs namely Karunalaya, Don Bosco Anbu Illam, Mass Action Net Work and World Vision. These NGOs are project-based and do not address the basic issues like housing and the livelihood. Tsunami affected people are still struggling for their employment.

Background: A series of blazes that have engulfed the area for the past 10 days.

First fire: On June 15, 2005, fire broke out in a cluster of 500 government-built shelters in Blocks G and H. The fire reportedly started at 11.20 pm and within an hour became a big blaze.

Second fire: On June 17, 2005 about 60 houses burnt down in Ragavan Street, old Kargil Nagar.

Third fire: A fire broke out in the Kargil Nagar shelters in the early hours of June 22, 2005 morning around 1.15 am. Blocks A to F of the resettlement colony were completely destroyed and around 1662 families rendered homeless.Two days prior to fire, the residents of Block A and F had received a warning that their house would be the next target.

The fire spread too fast amongst the tar-coated sheds. The thick fumes emerging from the blaze further affected the health of the people.The fire vehicle was not in the area on June 21, 2005. All the 2360 shelters constructed for the victims were completely destroyed by the fire. A 22-year-old youth was also charred to death while he was trying to pull out his belongings from his hut. People lost household items such as clothes, utensils, blankets and valuables including jewellery. The government gave Rs 2000, five kilos of rice and one saree and one dhoti to all the families affected by the fire. As per residents’ views, the government was going to provide temporary shelters near Ennore Thermal Power station within two weeks. But the residents did not know where the exact location was.

Facts

- The location is unsuitable for even temporary dwellings.
- Basic amenities like toilet, transport, crèche facilities are missing.
- There is inordinate delay in the decision making process in respect of permanent housing.
- Fire service vehicles not stationed in Kargil Nagar temporary shelters.
- Layout of the temporary shelter makes it vulnerable, as the low-lying area is not readily accessible to heavy vehicles such as fire tenders and water trucks.
- Materials used in construction were in poor quality including tar sheets.
- Kargil Nagar fires are deliberate, not accidents. Miscreants have been using spontaneously flammable chemicals as rather difficult to extinguish chemical originated fire.

Recommendations

- The government should probe the fire incidents and take severe action against the culprits.
- Better living conditions i.e. regular protected water supply, toilet facilities, transport facilities, school and crèche facilities should be provided.
- The government should provide immediate relief in the form of food supplies and household utensils to the affected families.
- The families in temporary shelter should be given education about fire safety.
- In Kargil Nagar, a fire tender should be stationed at the site to attend to emergency calls.
- It is the government’s responsibility to provide adequate housing to the affected people. It is also entitlement of the people to get adequate housing as per constitutional provisions and international covenant. Moving the entire temporary shelter to safer localities can prevent further disasters. The local residents preferred they could be shifted to Madras Port Trust quarters. Now the Government is intending to demolish the quarters. Another alternative site is they can be shift to the TNSCB land near the WIMCO in Neithal Nagar.
- Temporary shelters for 2300 families will pose social and community problem. Instead, they should have 500 houses for the rehabilitation.
- Suitable alternate land (the MPT land in Tondiarpet) must be chosen so that fisher- other unorganised labour livelihoods are not lost.
- Immediate provision of Tsunami relief materials like 30 kg of rice and kerosene must be give to the people.
Campaign for Housing and Tenurial Rights

To
The Corporator
Municipal Corporation of Hyderabad
Hyderabad

Sub: Stand up for your rights as elected local representatives. Stand up for the spirit of the 74th amendment

July 5, 2005

Dear Sir,

As you are probably aware, the CHATRI is a campaign organisation working to build awareness among and protect the housing rights of the urban and rural poor. This organisation grew out of a number of associations and collaborations forged in the wake of the Nandanavanam project proposed in 1997, which threatened to dislocate thousands of poor families along the Mussi River. These associations at that time worked from two common platforms called Nandanavanam Bastee Parirakshana Samiti and Mussi Bachao Andolan (Save Mussi Campaign). It included individuals and organisations advancing the concerns of environment, downstream farmers, slumdwellers and human rights. CHATRI made several constructive suggestions including developing an alternative road alignment plan at our own cost to minimise evictions.

The Nandanavanam project appeared to have been shelved by the previous government after the massive floods in the year 2000 that inundated one-third of the Hyderabad city. However, recent reports in the media quoting officials and briefings by representatives of NGOs suggest that the project is being revived under a new name The Save Mussi Campaign.

The sparse details of the Save Mussi Campaign that are available to us indicate the following: The Save Mussi Campaign is estimated to cost Rs 900 crore. The project has been completed in 30 months. The one major difference between the old Nandanavanam project and the new Save Mussi Campaign in terms of works is that it now includes the nearly 11 km stretch from Tipu Khan Bridge to Chaderghat bridge. The 18 km length of the river in the city has been divided into three areas broadly known as Ecological Precinct, Heritage Precinct and Metropolitan Precinct.

While it is clear that the government does not have the resources to make any major financial commitments, we also understand that the government is planning to create a special development authority to alter the zoning and building regulations especially in the metropolitan precinct. Further we understand that the government aims to create a Mussi River Development Corporation, which will have ownership of the project. Going by the experience of a similar project in Gujarat, the Sabarmati Riverfront Development Project, we surmise that the government will either acquire and transfer land to the corporation or empower the corporation to reclaim land from the riverbed.

At this stage we have a number of reservations regarding the manner in which the government is proceeding on the project.

1. First, it is beyond our comprehension why the MCH Commissioner chose to organise a workshop on saving the Mussi without inviting any of the organisations which have been not only intimately involved in advocating the concerns of slum dwellers along the river ever since the project was first conceptualised in 1997 but also took the trouble to develop alternative road alignment plans etc to minimise the damage. Further, it is puzzling that the government should have chosen to announce the launching of the project itself on June 1 and then called for public suggestions. How can people’s suggestions make any impact retrospectively? We, therefore, demand that the government involve The CHATRI and other similar organisations in all future consultations.

2. Secondly, it is three years since the draft Master Plan 2020 was put up for public inputs. Our organisation at that time made several suggestions to be incorporated into the Master Plan to protect the interests of the low
income groups who have as much right to live in the city as the rich. We are yet to know the fate of these suggestions. We demand that the government should do its legal duty with respect to the Master Plan before making any changes to it.

3. Thirdly, we understand that there is a case pending in the High Court challenging the creation of special development authorities in the municipal limits of Hyderabad especially in relation to the Budha Purnima Project. Such special authorities, which are not answerable to the Municipal bodies can only be understood to be a deliberate attempt to undermine the spirit of the 74th amendment. We demand that the elected local representatives in the Municipal Corporation of Hyderabad assert their right to decision making on local town planning.

4. Fourthly, we believe that the practice of turning land into equity for corporations is a highly objectionable one. It is the constitutional duty of the government to protect the poor from the ravages of the free market. Here, in the proposed Save Mussi Project which appears to be substantively the same as Nandanavanam project, the government appears to be deliberately edging out the poor who have laboured for decades to turn the most worthless lands in the city into living and working places with the intention of handing over the same lands to a few for pleasure and profiteering. We demand that the government abandon such projects.

As elected representatives of the people it is your responsibility to protect the most vulnerable groups in your wards. As you are all aware, Hyderabad city has historically been known to be the destination for the poor seeking livelihoods. However, in recent years, with growing poverty in the rural areas, the number of poor people coming to the city has increased tremendously. At the same time, the city is increasingly turning hostile to the poor, driving them out of all the central locations where the poor can find livelihoods. There is a need to arrest this trend. As corporators you should stand up for your own rights against the assembly and the bureaucrats who seem to be controlling the city in every way and making it possible only for the very rich to live here. We urge you to act responsibly before it is too late.

Thanking you,

Yours Sincerely

S. Jeevan Kumar
Co-convener

Md. Ashfaq
Co-convener
Part 1: Preliminary

1. Short title, extent and commencement-

1. This Act may be called the Land Acquisition Act, 1894.
   (i) It extends to the whole of India except (the state of Jammu & Kashmir).
   (ii) It shall come into force on the first day of March 1894.

2. [Repeal and Saving] rep. Partly by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II, and partly by the Repealing Act, 1938 (1 of 1938) s.2 and Sch.

3. Definitions. - In this Act, unless there is something repugnant in the subject or context, -

(a) the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

[(aa) the expression “local authority” includes a town planning authority (by whatever name called) set up under any law for the time being in force];

(b) the expression “person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

(c) the expression “collector” means the Collector of a district, and includes a deputy commissioner and any officer specially appointed by the [appropriate government] to perform the functions of a collector under this Act;

[(cc) the expression “corporation owned or controlled by the “State” means any body corporate established by or under a central, provincial or state Act, and includes a government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), a society registered under the Societies Regulation Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, being a society established or administered by government and a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, being a co-operative society in which not less than fifty-one percentum of the paid-up share capital is held by the central government, or by any state government or governments or partly by the central government and partly by one or more state governments].

(d) the expression “court” means a principal civil court of original jurisdiction unless, the [appropriate government] has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform functions of the court under this Act;

[(e) the expression “company” means –
   (i) a company as defined in section 3 of the Companies Act, 1956 (1 of 1956), other than a government company referred to in clause (cc);
   (ii) a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, other than a society referred to in clause (cc);
   (iii) a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, other than a co-operative society referred to in clause (cc);]

[(ee) the expression “appropriate government” means, in relating to acquisition of land for the purposes of the union, the central government, and, in relation to acquisition of land for any other purposes, the state government]}

[(f) the expression “public purpose” includes-
   (i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites;]
(ii) the provision of land for town or rural planning;
(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;
(iv) the provision of land for a corporation owned or controlled by the State;
(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by government, any local authority or a corporation owned or controlled by the State;
(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by government or by any authority established by government for carrying out any such scheme, or with the prior approval of the appropriate government, by a local authority, or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a state, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State;
(vii) the provision of land for any other scheme of development sponsored by Government or with the prior approval of the appropriate government, by a local authority;
(viii) the provision of any premises or building for locating a public office, but does not include acquisition of land for companies;

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that –

(i) no person shall be deemed “entitled to act” whose interest in the subject matter shall be shown to the satisfaction of the collector or court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend or, in default of his appearance by a next friend, the collector or court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(iii) the provisions of [Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908) shall, mutatis mutandis, apply in the case of persons interested appearing before a collector or court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(iv) no person “entitled to act” shall be competent to receive the compensation money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase money on a voluntary sale.

Part II: Acquisition

Preliminary investigation

4. Publication of preliminary notification and power of officers thereupon. -

(1) Whenever it appears to the [appropriate government] the land in any locality [is needed or] is likely to be needed for any public purpose [or for a company], a notification to that effect shall be published in the official gazette [and in two daily newspapers circulating in that locality of which at least one shall be in the regional language], and the collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality [the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification].

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by such government in this behalf, and for his servants and workman,
to enter upon and survey and take levels of any land in such locality;
to dig or bore into the sub-soil;
to do all other acts necessary to ascertain whether the land is adapted for such purpose;
to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;
to mark such levels, boundaries and line by placing marks and cutting trenches;
and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle;
Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days’ notice in writing of his intention to do so.

5. Payment for damage - The officer so authorised shall at the time of such entry pay or tender payment for all necessary damages to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the collector or other chief revenue officer of the district, and such decision shall be final.

Objections

5A. Hearing of objections -

(1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a company may, within thirty days from the date of the publication of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the collector in writing, and the collector shall give the objector an opportunity of being heard [in person or by any person authorised by him in this behalf] or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, [either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that government]. The decision of the [appropriate government] on the objections shall be final.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

Declaration of intended acquisition

6. Declaration that land is required for a public purpose - (1) Subject to the provision of Part VII of this Act, [appropriate government] is satisfied, after considering the report, if any, made under section 5A, sub-section (2), that any particular land is needed for a public purpose, or for a company, a declaration shall be made to that effect under the signature of a secretary to such government or of some officer duly authorised to certify its orders [and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1) irrespective of whether one report or different reports has or have been made (wherever required) under section 5A, sub-section (2)];

[Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1) -

(i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), shall be made after the expiry of three years from the date of the publication of the notification; or

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), shall be made after the expiry of one year from the date of the publication of the notification]

Provided further that] no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

[Explanation 1 - In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (1), is stayed by an order of a Court shall be excluded.
Explanation 2. - Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by the State, such compensation shall be deemed to be compensation paid out of public revenues.

(2) [Every declaration] shall be published in the official gazette [and in two daily newspapers circulating in the locality in which the land is situated of which at least one shall be in the regional language, and the collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state] the district or other territorial division in which the land is situated, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a company, as the case may be; and, after making such declaration, the [appropriate government] may acquire the land in manner hereinafter appearing.

7. After declaration, collector to take order for acquisition. - Whenever any land shall have been so declared to be needed for public purpose, or for a company, the [appropriate government], or some officer authorised by the [appropriate government] in this behalf, shall direct the collector to take order for the acquisition of the land.

8. Land to be marked out, measured and planned. - The collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof), a plan to be made of the same.

9. Notice to persons interested. - (1) The collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the government intends to take possession of the land, and that claims to compensations for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in letter addressed to him at his last known residence, address or place or business and [registered under sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898)].

10. Power to require and enforce the making of statements as to names and interests. - (1) The collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any), received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code (45 of 1860).

Enquiry into measurements, value and claims, and award by the collector

11. Enquiry and award by Collector. - [(1)] On the day so fixed, or on any other day to which the enquiry has been adjourned, the collector shall proceed to enquire into the objection (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land [at the date of the publication of the notification under section 4, sub-
section (1)], and into the respective interests of the persons claiming the compensation and shall make an award under his hand of-

(i) the true area of the land;

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, or whom, or of whose claims, he has information, whether or not they have respectively appeared before him:

[Provided that no award shall be made by the collector under this sub-section without the previous approval of the appropriate Government or of such officer as the appropriate government may authorise in this behalf:

Provided further that it shall be competent for the appropriate Government to direct that the collector may make such award without such approval in such class of cases as the appropriate government may specify in this behalf:

[2] Notwithstanding anything contained in sub-section (1), if at any stage of the proceedings, the collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate government, he may, without making further enquiry, make an award according to the terms of such agreement.

(3) The determination of compensation for any land under sub-section (2) shall not in any way affect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of this Act.

(4) Notwithstanding anything contained in the Registration Act, 1908 (16 of 1908), no agreement made under sub-section (2) shall be liable to registration under that Act.

[11A. Period shall be which an award within made. - The collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceeding for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), the award shall be made within a period of two years from such commencement.

Explanation - In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a court shall be excluded.]

12. Award of collector when to be final. - (1) Such award shall be filed in the collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the collector and the persons interested, whether they have respectively appeared before the collector or not, of the true area and value of the land, and the appointment of the compensation among the persons interested.

(2) The collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

13. Adjournment of enquiry. - The collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

[13A. Correction of clerical errors, etc. - (1) The collector may, at any time but not later than six months from the date of the award, or where he has been required under section 18 to make a reference to the court, before the making of such reference, by order, correct any clerical or arithmetical mistakes in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority:

Provided that no correction, which is likely to affect prejudicially any person, shall be made unless such person has been given a reasonable opportunity of making a representation in the matter.

(2) The collector shall give immediate notice of any correction made in the award to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered as an arrear of land revenue.]

14. Power to summon and enforce attendance of witnesses and production of documents. - For the purpose of enquiries under this Act the collector
shall have powers to summon and enforce the attendance of witnesses, including the Parties interested of any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner as is provided in the case of a Civil Court under the [Code of Civil Procedure 1908 (5 of 1908)].

15. Matters to be considered and neglected. - In determining the amount of compensation, the collector shall be guided by the provisions contained in section 23 and 24.

[15A Power to call for records, etc. - The appropriate government may at any time before the award is made by the collector under section 11 call for any record of any proceedings (whether by way of inquiry or otherwise) for the purpose of satisfying itself as to the legality or propriety of any findings or order passed or as to the regularity of such proceedings and may pass such order or issue such direction in relation thereto as it may think fit:

Provided that the appropriate government shall not pass or issue any order or direction prejudicial to any person without affording such person a reasonable opportunity of being heard.]

**Taking possession**

16. Power to take possession. - When the collector has made an award under section 11, he may take possession of the land, which shall thereupon [vest absolutely in the [Government]], free from all encumbrances.

17. Special powers in case of urgency. – (1) In cases of urgency whenever the [appropriate government], so directs, the collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section 1). [Take possession of any land needed for a public purpose]. Such land shall thereupon [vest absolutely in the [government], free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any railway administration to acquire the immediate possession of any land for the purpose of maintaining any structure or system pertaining to irrigation, water supply, drainage, road communication or electricity[,] the collector may immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the [appropriate government], enter upon and take possession of such land, which shall thereupon [vest absolutely in the [government]] free from all encumbrances:

Provided that the collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the collector shall at that time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and from any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

[3](3A) Before taking possession of any land under sub-section (1) or sub-section (2), the collector shall, without prejudice to the provisions of sub-section (3)-

(a) Tender payment of eighty percentum of the compensation for such land as estimated by him to the person interested entitled thereto, and

(b) Pay it to them, unless prevented by some one or more of the contingencies mentioned in section 31, sub-section (2), and where the collector is so prevented, the provisions of section 31, sub-section (2), (except the second proviso thereto), shall apply as they apply to the payment of compensation under that section.

(3B) The amount paid or deposited under section (3A), shall be taken into account for determining the amount of compensation required to be tendered under section 31, and where the amount so paid or deposited exceeds the compensation awarded by the collector under section 11, the excess may, unless refunded within three months from the date of collector’s award, be recovered as an arrear of land revenue].
(4) In the case of any land to which, in the opinion of the [appropriate government], the provisions of sub-section (1) or sub-section (2) are applicable, the [appropriate government] may direct that the provisions of section 5A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time [after the date of the publication of the notification] under section 4, sub-section (1).

Part III
Reference to court and procedure thereon

18. Reference to Court. - (1) Any person interested who has not accepted the award may, by written application to the collector, require that the matter be referred by the collector for the determination of the court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made:

(a) If the person making it was present or represented before the collector at the time when he made his award, within six weeks from the date of the collector's award;

(b) In other cases, within six weeks of the receipt of the notice from the collector under section 12, sub-section (2), or within six months from the date of the collector's award, whichever period shall first expire.

19. Collector's statement to the court. - (1) In making the reference, the collector shall state for the information of the court, in writing under his hand -

(a) The situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) The names of the persons whom he has reason to think interested in such land;

(c) The amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11;

[(cc) The amount paid or deposited under sub-section (3A) of section 17; and]

(d) If the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the Parties interested respectively.

20. Service of notice. - The court shall thereupon cause a notice specifying the day on which the court will proceed to determine the objection, and directing their appearance before the court on that day, to be served on the following persons, namely: -

(a) The applicant;

(b) All persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and

(c) If the objection is in regard to the area of the land or to the amount of the compensation, the collector.

21. Restriction on scope of proceedings. - The scope of the enquiry in every such proceeding shall be restricted to a consideration of the interest of the persons affected by the objection.

22. Proceedings to be in open court. - Every such proceeding shall take place in open court, and all persons entitled to practice in any civil court in the State shall be entitled to appear, plea and act (as the case may be) in such proceeding.

23. Matters to be considered on determining compensation. - (1) In determining the amount of compensation to be awarded for land acquired under this Act, the court shall take into consideration-

First, the market-value of the land at the date of the publication of the [notification under section 4, sub-section (1)];

Secondly, the damage sustained by the person interested, by reason of the taking of any standing crops trees, which may be on the land at the time of the collector's taking possession thereof;

Thirdly, the damage (if any) sustained by the person interested, at the time of the collector's taking possession of the land, by reason of serving such land from his other land;

Fourthly, the damage (if any) sustained by the person interested, at the time of the collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or
immovable, in any other manner, or his earnings;

Fifthly, in consequence of the acquisition of the land by the collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change, and

Sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the collector’s taking possession of the land.

[(1A) In addition to the market value of the land, as above provided, the court shall in every case award an amount calculated at the rate of twelve percentum per annum on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the collector or the date of taking possession of the land, whichever is earlier.

Explanation. - In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any court shall be excluded.]

(2) In addition to the market value of the land as above provided, the court shall in every case award a sum of [thirty percentum] on such market value, in consideration of the compulsory nature of the acquisition.

24. Matters to be neglected in determining compensation. - But the court shall not take into consideration

First, the degree of urgency, which has led to the acquisition;

Secondly, any disinclination of the person interested to part with the land acquired;

Thirdly, any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

Fourthly, any damage, which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

Sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;

Seventhly, any outlay or improvements on, or disposal of the land acquired, commenced, made or effected without the sanction of the collector after the date of the publication of the [notification under section 4, sub-section (1); [or]

[Eighthly, any increase to the value of the land on account of its being put to any use, which is forbidden by law or opposed to public policy.]

25. Amount of compensation awarded by court not to be lower than the amount awarded by the collector. - The amount of compensation awarded by the court shall not be less than the amount awarded by the collector under section 11.

26. Forms of awards. - [(1)] Every award under this part shall be in writing signed by the judge, and shall specify the amount awarded under clause first of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

[(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (9), respectively of the code of civil procedure 1908 (5 of 1908).]

27. Costs. - (1) Every such award shall also state the amount of costs incurred in the proceeding under this part, and by what persons and in what proportions they are to be paid.

(2) When the award of the collector is not upheld, the cost shall ordinarily be paid by the collector, unless the court shall be opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the collector that some deduction from his costs should be made or that he should pay a part of the collector’s costs.

28. Collector may be directed to pay interest on excess compensation. - If the sum, which the collector did award as compensation, the award of the court may direct that the collector shall pay interest on such excess at the rate of [nine percentum] per annum from the date on which he took possession of the land to the date of payment of such excess into court:
[Provided that the award of the court may also direct that where such excess or any part thereof is paid into court after the date or expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen percentum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into court before the date of such expiry.]

[28A. Re-determination of the amount of compensation on the basis of the award of the court. - (1) where in an award under this part, the court allows to the applicant any amount of compensation in excess of the amount awarded by the collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the collector may, notwithstanding that they had not made an application to the collector under section 18, by written application to the collector within three months from the date of the award of the court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court:

Provided that in computing the period of three months within which an application to the collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the collector, required that the matter be referred by the collector for the determination of the court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.]

Part-IV
Appointment of compensation
29. Particulars of apportionment to be specified. - When there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

30. Dispute as to apportionment. - When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the collector may refer such dispute to the decision of the court.

Part-V
Payment
31. Payment of compensation or deposit of same in court. - (1) On making an award under section 11, the collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the collector shall deposit the amount of the compensation in the court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the [appropriate government] instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of
the collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

32. Investment of money deposited in respect of lands belonging to person incompetent to alternate. - (1) If any money shall be deposited in court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the court shall-

(a) Order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(b) If such purchase cannot be effected forthwith, then in such government of other approved securities as the court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied-

(i) In the purchase of such other lands as aforesaid; or

(ii) In payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of money deposited to which this section applies the court shall order the costs of the following matters, including therein all reasonable charge and expenses incident thereon, to be paid by the collector, namely: -

(a) The costs of such investments as aforesaid;

(b) The costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

33. Investment of money deposited in other cases. - When any money shall have been deposited in court under this Act for any cause other than mentioned in the last preceding section, the court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such government or other approved securities as it may think proper, and paid in such manner as it may consider will give the parties interested therein the same benefit the reform as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

34. Payment of interest - When the amount of such compensation is not paid or deposited on or before taking possession of the land, the collector shall pay the amount awarded with interest thereon at the rate of nine percentum per annum from the time of so taking possession until it shall have been so paid or deposited:

[Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen percentum per annum shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.]

Part VI
Temporary occupation of land

35. Temporary occupation of waste or arable land. Procedure when difference as to compensation exists. - (1) Subject to the provisions of Part VII of this Act, whenever it appears to the [appropriate government] that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a company, the [appropriate Government] may direct the collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The collector shall thereupon give notice in writing to the person interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the collector shall refer such difference to the decision of the court.

36. Power to enter and take possession and compensation on restoration. - (1) On payment of such
compensation, or on executing such agreement, or on making a reference under section 35, the collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the [appropriate government] shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a company.

37. Difference as to condition of land. - In case the collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the collector shall refer such difference to the decision of the court.

Part - VII
Acquisition of land for companies
38. [Company may be authorised to enter and survey]. Rep. by the Land Acquisition (Amendment) Act, 1984 (68 of 1984), s.21.

[38A. Industrial concern to be deemed company for certain purposes. - An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a company, desiring to acquire land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a company for the purposes of this Part, and the references to company in [selections 4, 5A, 6, 7 and 50] shall be interpreted as references also to such concern]

39. Previous consent of appropriate government and execution of agreement necessary. - The provisions of [sections 6 to 16 (both inclusive) and sections 18 to 37 (both inclusive)] shall not be put in force in order to acquire land for any company [under this Part], unless with the previous consent of the [appropriate government], not unless the Company shall have executed the agreement hereinafter mentioned.

40. Previous enquiry. - (1) Such consent shall not be given unless the [appropriate government] be satisfied. [either on the report of the collector under section 5A, sub-section (2), or] by an enquiry held as hereinafter provided, -

(a) That the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith, or

[(aa) That such acquisition is needed for the construction of some building or work for a company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, or]

(b) That such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public].

(2) Such enquiry shall be held by such officer and at such time and place as the [appropriate government] shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the [Code of Civil Procedure, 1908 (5 of 1908)] in the case of a civil court.

41. Agreement with appropriate government. - If the [appropriate government] is satisfied [after considering the report, if any, of the collector under section 5A, sub-section (2), or on the report of the officer making an inquiry under section 40] that [the proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40], it shall require the company to enter into an agreement [with the [appropriate government]], providing to the satisfaction of the [appropriate government] for the following matters, namely :-

(1) The - [payment to the [appropriate government]] of the cost of the acquisition;

(2) The transfer, on such payment, of the land to the company.

(3) The terms on which the land shall be held by the company,

[(4) Where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected]
terwith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided;

[(4A) Where the acquisition is for the construction of any building or work for a company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, the time within which, and the conditions on which, the building or work shall be constructed or executed; and]

(5) Where the acquisition is for the construction of any other work, the time within which and the conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use the work.]

42. Publication of agreement. - every such agreement shall, as soon as may be after its execution, be published in the official gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

43. Section 39 to 42 not to apply where Government bound by agreement to provide land for companies. - The provisions of sections 39 to 42, both inclusive, shall not apply and the corresponding sections of Land Acquisition Act, 1870 (10 of 1870), shall be deemed never to have applied, to the acquisition of land for any railway or other company, for the purposes of which, [under any agreement with such company, the secretary of state for India in council, the secretary of state, [the central government or any state government] is or was bound to provide land].

44. How agreement with railway company may be proved. - In the case of the acquisition of land for the purpose of a railway company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of government.

[44A. Restriction on transfer, etc. - no company for which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate government.

44B. Land not to be acquired under this part except for certain purpose for private companies other than government companies. - Notwithstanding anything contained in this Act, no land shall be acquired under this part, except for the purpose mentioned in clause (a) of sub-section (1) of section 40, for a private company, which is not a Government company.

Explanation. - “Private company” and “government company” shall have the meaning respectively assigned to them in the Companies Act, 1956 (1 of 1956).]

Part - VIII
Miscellaneous
45. Service of notices. - (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice section 4, by the officer therein mentioned, and, in the case of any notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the collector or judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and [registered under sections 28 and 29 of the Indian Post Office Act, 1898 (6 of 1898), and service of it may be proved by the production of the addressee’s receipt.

46. Penalty for obstructing acquisition of land. - Whoever willfully obstructs any person in doing any of the acts authorised by section 4 or section 8, or willfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprison for any term not exceeding one month, or to fine not exceeding [five hundred rupees], or to both.

47. Magistrate to enforce surrender. - If the collector is opposed or impeded in taking possession under this Act of any land, he shall, if a magistrate, enforce the surrender of the land to himself, and if not a magistrate, he shall apply to a magistrate or (within the towns of Calcutta, Madras and Bombay) to the commissioner of police, and such magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the collector.

48. Completion of acquisition not compulsory, but compensation to be awarded when not completed.
(1) Except in the case provided for in section 36, the government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the government withdraws from any such acquisition, the collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings there under, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provision of part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

49. Acquisition of part of house or building. - (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not be take possession of such land until after the question has been determined.

(2) If, in the case of any claim under section 23, sub-section (1), thirdly, by a person interested, on account of the severing of the land to be acquired from his other land, the [appropriate Government] is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the [appropriate Government] to the person interested, and shall thereafter proceed to make his award under section 11.

50. Acquisition of land at cost of a local authority of company. - (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or company.

(2) In any proceeding held before a collector or court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation.

Provided that no such local authority or company shall be entitled to demand a reference under section 18.

51. Exemption from stamp duty and fees. - No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

51A. Acceptance of certified copy as evidence. - In any proceeding under this Act, a certified copy of a document registered under the Regulation Act, 1908 (16 of 1908), including a copy given under section 57 of that Act, may be accepted as evidence of the transaction recorded in such document.

52. Notice in case of suits for anything done in pursuance of Act. - No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

53. Code of Civil Procedure to apply to proceedings before Court - Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the [Code of Civil Procedure, 1908 (5 of 1908)], shall apply to all proceedings before the Court under this Act.

54. Appeals in proceedings before court. - Subject to the provisions of the code of civil procedure, 1908 (5 of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award,
of the court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.

55. Power to make rules. - (1) The [appropriate government] shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made:

[Provided that the power to make rules for carrying out the purposes of part VII of this Act shall be exercisable by the central government and such rules may be made for the guidance of the state governments and the officers of the central government and of the state governments:

Provided further that every such rule made by the central government shall be laid as soon as may be after it is made, before each House of parliament while it is in session for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

[Provided also that every such rule made by the state government shall be laid, as soon as may be after it is made, before the state legislature.]

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the conditions of the rules, being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall be published in the official gazette, and shall thereupon have the force of law.

Exact from the Land Acquisition (Amendment) Act, 1984 - Extract of Section 30 - transitional provisions.

30 (1) the provisions of sub-section (1A) of section 23 of the principal Act, as inserted by clause (a) of section 15 of this Act, shall apply, and shall be deemed to have applied, also to and in relation to -

(a) every proceeding for the acquisition of any land under the principal Act pending on the 30th day of April, 1982 (the date of introduction of the Land Acquisition (Amendment) Bill in the House of people) in which no award has been made by the collector before that date;

(b) every proceeding for the acquisition of any land under the principal Act commenced after that date, whether or not an award has been made by the collector before the commencement of this Act.

(2) the provisions of sub-section (2) of section 23 and section 28 of the principal Act, as amended by clause (b) of section 15 and section 18 of this Act respectively, shall apply, and shall be deemed to have applied, also to, and in relation to, any award made by the collector or court or to any order passed, by the High Court or Supreme Court in appeal against any such award under the provisions of the principal Act after the 30th day of April 1982 (the date of introduction of the Land Acquisition (Amendment) Bill 1982, in the House of the People and before the commencement of this Act.

7. Validation of certain actuations - Notwithstanding any judgment, decree per order of any court, every actuation of land for a company made or purporting to have been made under part VII of the principle Act before the 20th day of July 1962, shall, in so far as such acquisition is not for any of the purposes mentioned in clause (a) or clause (b) of sub-section (1) of section 40 of the principal Act, be deemed to have been made for the purpose mentioned in clause (aa) of the said sub-section, and accordingly every such acquisition and any proceeding, order, agreement or action in connection with such acquisition shall be, and shall be deemed always to have been, as valid as if the provisions of section 40 and 41 of the principal Act, as amended by this Act, were in force at all material times when such acquisition was made or proceeding was held or order was made or agreement was entered into or action was taken.

Explanation - In this section “company” has the same meaning as in clause (e) of section 3 of the principal Act as amended by this Act.
(3) the provisions of section 34 of the principal Act, as amended by section 20 of this Act, shall apply, and shall be deemed to have applied, also to, and in relation to,

(a) every case in which possession of any land acquired under the principal Act had been taken before the 30th of April, 1982 (the date of introduction of the Land Acquisition (Amendment) Bill 1982, in the House of the People), and the amount of compensation for such acquisition had not been paid or deposited under section 31 of the principal Act until such date, with effect on and from that date; and

(b) every case in which such possession had been taken on or after that date but before the commencement of this Act without the amount of compensation having been paid or deposited under the said section 31 with effect on and from the date of taking such possession.
Preamble

An Act to provide for the improvement and clearance of slum areas in certain Union Territories and for the protection of tenants in such areas from eviction.

Be it enacted by Parliament in the Seventh Year of the Republic of India as follows:

Chapter I: Preliminary

1. Short title, extent and commencement.—

(1) This Act may be called the Slum Areas (Improvement and Clearance) Act, 1956.

(2) It extends to all union territories except the Union territories of the Andaman and Nicobar Islands and the Laccadive, Minicoy and Amindivi Islands.

(3) It shall come into force in a union territory on such date as the central government may, by notification in the official gazette, appoint; and different dates may be appointed for different union territories.

2. Definitions.— In this Act, unless the context otherwise requires,—

(a) “Administrator” means the Administrator of a union territory;

(b) “building” includes any structure or erection or any part of a building as so defined but does not include plant of machinery comprised in a building;

(c) “competent authority” means such officer or authority as the Administrator may, by notification in the official gazette, appoint as the competent authority for the purposes of this Act;

(d) “erection” in relation to a building includes extension, alteration or re-erection;

(e) “land” includes benefits to arise out of land, and things attached to the earth of permanently fastened to anything attached to the earth;

(f) “occupier” includes—

(a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent in paid or is payable;

(b) an owner in occupation of, or otherwise using his land or building;

(c) a rent-free tenant of any land or building;

(d) a licensee in occupation of any land or building; and

(e) any person who is liable to pay to the owner damages for the use and occupation of any land or buildings;]

(g) “owner” includes any person who is receiving or is entitled to receive the rent of any building or land whether on his own account or on behalf of himself and others or as agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant;

(h) “prescribed” means prescribed by rules made under this Act; and

(i) “slum clearance” means the clearance of any slum area by the demolition and removal of buildings therefrom.

(j) “work of improvement” includes in relation to any building in a slum area the execution of any one or more of the following works, namely:

(i) necessary repairs;

(ii) structural alterations;

(iii) provision of light points, water taps and bathing places;

(iv) construction of drains, open or covered;

(v) provision of latrines, including conversion of dry latrines into water-borne latrines;

(vi) provision of additional or improved fixtures or fittings;

(vii) opening up or paving of courtyards;

(viii) removal of rubbish; and

(ix) any other work including the demolition of any building or any part thereof which in the opinion of the competent authority is necessary for executing any of the works specified above.}
Chapter II: Slum areas

3. Declaration of slum areas:

1. Where the competent authority upon report from any of its officers or other information in its possession is satisfied as respects any area that the buildings in that area—

   (a) are in any respect unfit for human habitation; or
   (b) 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, are detrimental to safety, health or morals, it may, by notification in the official gazette, declare such area to be a slum area.

2. In determining whether a building is unfit for human habitation for the purposes of this Act, regard shall be had to its condition in respect of the following matters, that is to say—

   (a) repair;
   (b) stability;
   (c) freedom from damp;
   (d) natural light and air;
   (e) water supply;
   (f) drainage and sanitary conveniences;
   (g) facilities for storage, preparation and cooking of food and for the disposal of waste water; and the building shall be deemed to be unfit as aforesaid if and only if it is so far defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition.

Chapter III: Slum improvement

4. Power of competent authority to require improvement of buildings unfit for human habitation: If Where the competent authority upon report from any of its officers or other information in its possession is satisfied that any building in a slum area is in any respect unfit for human habitation, it may, unless in its opinion the building is not capable at a reasonable expense of being rendered fit, serve upon the owner of the building a notice requiring him within such time not being less than thirty days as may be specified in the notice to execute the works of improvement specified therein and stating that in the opinion of the authority those works will render the building fit for human habitation.

Provided that if the owner proves that he

(a) is receiving the rent merely as agent or trustee for some other person; and

(b) has not in his hands on behalf of that person sufficient money to satisfy the whole demand of the authority his liability shall be limited to the total amount of the money which he has in his hands as aforesaid.

5. Enforcement of notice requiring execution of works of improvement: If a notice under section 4 requiring the owner of the building [or of the land on which the building stands, as the case may be] to execute works of improvement is not complied with, then, after the expiration of the time specified in the notice the competent authority may itself do the works required to be done by the notice.

Provided that where the owner of the building is different from the owner of the land on which the building stands and the works of improvement required to be executed relate to provision of water taps, bathing places, construction of drains, open or covered, as the case may be, provision of water-borne latrines or removal of rubbish and such works are to be executed outside the building, the notice shall be served upon the owner of the land.

6. Expenses of maintenance of works of improvement etc., to be recoverable from the occupiers of buildings: Where works of improvement have been executed in relation to any building in a slum area in pursuance of the provisions of sections 4 and 5, the expenses incurred by the competent authority or, as the case may be, any local authority in connection with the maintenance of such
works of improvement or the enjoyment of amenities and conveniences rendered possible by such works shall be recoverable from the occupier or occupiers of the building as arrears of land revenue.

6A. Restriction on building, etc., in slum areas.

(1) The competent authority may, by notification in the official gazette, direct that no person shall erect any building in a slum area except with the previous permission in writing of the competent authority.

(2) Every notification issued under sub-section (1) shall cease to have effect on the expiration of two years from the date thereof except as respects things done or omitted to be done before such cesser.

(3) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the competent authority in such form and containing such information in respect of the erection of the building to which the application relates as may be prescribed.

(4) On receipt of such application, the competent authority, after making such inquiry as it considers necessary, shall, by order in writing -

(a) either grant the permission subject to such terms and conditions, if any, as may be specified in the order; or

(b) refuse to grant such permission:

Provided that before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

(5) Nothing contained in sub-section (1) shall apply to -

(a) any works of improvement required to be executed by a notice under sub-section (1) of section 4 or in pursuance of an undertaking given under sub-section (2) of section 7; or

(b) the erection of any building in any area in respect of which a slum clearance order has been made under sub-section 10.

7. Power of competent authority to order demolition of buildings unfit for human habitation:

(1) Where a competent authority upon a report from any of its officers or other information in its possession is satisfied that any building within a slum area is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, it shall serve upon the owner of the building, and upon any other person having an interest in the building, whether as lessee, mortgagee or otherwise, a notice to show cause within such time as may be specified in the notice as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under sub-section (1) appears in pursuance thereof before the competent authority and gives an undertaking to the authority that such persons shall within a period specified by the authority execute such works of improvement in relation to the building as will in the opinion of the authority render the building fit for human habitation, or that it shall not be used for human habitation until the authority on being satisfied that it has been rendered fit for that purpose cancels the undertaking, the authority shall not make any order of demolition of the building.

(3) If no such undertaking as is mentioned in sub-section (2) is given, or if in a case where any such undertaking has been given any work of improvement to which the undertaking relates is not carried out within the specified period, or the building is at any time used in contravention of the terms of the undertaking, the competent authority shall forthwith make an order of demolition of the building requiring that the building shall be vacated within a period to be specified in the order not being less than thirty days from the date of the order, and that it shall be demolished within six weeks after the expiration of that period.

8. Procedure to be followed where demolition order has been made:

(1) Where an order for demolition of a building under section 7 has been made the owner of the building or any other person having an interest therein shall demolish that building within the time specified in that behalf by the order; and if the building is not demolished within that time the competent authority shall enter and demolish the building and sell the materials thereof.

(2) Any expenses incurred by the competent authority under sub-section (1), if not satisfied out of the proceeds of sale of materials of the building shall be recoverable from the owner of the building or any other person having an interest therein as arrears of land revenue.
Chapter IV: Slum clearance and re-development

9. Power to declare any slum area to be a clearance area:

(1) Where the competent authority upon a report from any of its officers or other information in its possession is satisfied as respects any slum area that the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in the area, the authority shall by an order notified in the official gazette declare the area to be a clearance area, that is to say, an area to be cleared of all buildings in accordance with the provisions of this Act.

Provided that any building in the area which is not unfit for human habitation or dangerous or injurious to health may be excluded from the declaration if the authority considers it necessary.

(2) The competent authority shall forthwith transmit to the Administrator a copy of the declaration under this section together with a statement of the number of persons who on a date specified in the statement were occupying buildings comprised in the clearance area.

10. Slum clearance order:

(1) As soon as may be after the competent authority has declared any slum area to be a clearance area, it shall make a slum clearance order in relation to that area ordering the demolition of each of the buildings specified therein and requiring each such building to be vacated within such time as may be specified in the order and submit the order to the Administrator for confirmation.

(2) The Administrator may either confirm the order in toto or subject to such variations as he considers necessary or reject the order.

(3) If the Administrator confirms the order, the order shall become operative from the date of such confirmation.

(4) When a slum clearance order has become operative, the owners of buildings to which the order applies shall demolish the buildings before the expiration of six weeks from the date on which the buildings are required by the order to be vacated or before the expiration of such longer period as in the circumstances of the case the competent authority may deem reasonable.

(5) If the buildings are not demolished before the expiration of the period mentioned in sub-section (4), the competent authority shall enter and demolish the buildings and sell the materials thereof.

(6) Any expenses incurred by the competent authority in demolishing any building shall, if not satisfied out of the proceeds of sale of materials thereof, be recoverable by the competent authority as arrears of land revenue.

(7) Subject to the provisions of this Act, where a slum clearance order has become operative, the owner of the land to which the order applies may re-develop the land in accordance with plans approved by the competent authority and subject to such restrictions and conditions (including a condition with regard to the time within which the re-development shall be completed), if any, as that authority may think fit to impose:

Provided that an owner who is aggrieved by a restriction or condition so imposed on the user of his land or by a subsequent refusal of the competent authority to cancel or modify any such restriction or condition may, within such time as may be prescribed, appeal to the Administrator and the Administrator shall make such order in the matter as he thinks proper and his decision shall be final.

(8) No person shall commence or cause to be commenced any work in contravention of a plan approved or a restriction or condition imposed under sub-section (7).

11. Power of competent authority to re-develop clearance area:

(1) Notwithstanding anything contained in sub-section (7) of section 10, the competent authority may at any time after the land has been cleared of the buildings in accordance with a slum clearance order but before the work of re-development of that land has been commenced by the owner, by order, determine to re-develop the land if that authority is satisfied that it is necessary in the public interest to do so.

(2) Where land has been cleared of the buildings in accordance with a slum clearance order, the competent authority, if it is satisfied that the land has been, or is being, re-developed by the owner thereof in contravention of plans approved by the authority or any restrictions or conditions imposed under sub-section (7) of sub-section
10 or has not been re-developed within the time, if any, specified under such conditions, may, by order, determine the re-develop the land:

Provided that before passing such order, the owner shall be given a reasonable opportunity to show cause why the order should not be passed.]

Chapter V: Acquisition of land

12. Power of Central Government to acquire land:

(f) Where on any representation from the competent authority it appears to the central government that, in order to enable the authority to execute any work of improvement in relation to any building in a slum area or to re-develop any clearance area, it is necessary that land within, adjoining or surrounded by any such area should be acquired, the central Government may acquire the land by publishing in the official gazette a notice to the effect that the central government has decided to acquire the land in pursuance of this section:

Provided that, before publishing such notice, the central government may call upon the owner of the land and every person who, in the opinion of the central government, may be interested in, such land to show cause why it should not be acquired; and after considering the cause, if any, shown by the owner or any other person interested in the land, the central government may pass such order as it deems fit.

(2) When a notice as aforesaid is published in the official gazette, the land shall, on and from the date on which the notice is so published, vest absolutely in the central government free from all encumbrances.

13. Land acquired by the central government to be made available to the competent authority:

Where any land in a slum area or clearance area has been acquired under this Act the central government shall make the land available to the competent authority for the purpose of executing any work of demolition or for the purpose of re-development.

[Provided that where on any representation from the competent authority, the central government is satisfied that any such land or any portion thereof is unsuitable for the purposes mentioned in this section, the central government may use the land or allow it to be used for such other public purpose or purposes as it may deem fit.]

14. Right to receive compensation: Every person having any interest in any land acquired under this Act shall be entitled to receive from the central government compensation as provided hereafter in this Act.

15. Basis for determination of compensation:

(f) The amount payable as compensation in respect of any land acquired under this Act shall be an amount equal to sixty times the net average monthly income actually derived from such land during the period of five consecutive years immediately preceding the date of publication of the notice referred to in section 12.

(2) The net average monthly income referred to in sub-section (f) shall be calculated in the manner and in accordance with the principles set out in the Schedule.

(3) The competent authority shall, after holding an inquiry in the prescribed manner, determined in accordance with the provisions of sub-section (2), the net average monthly income actually derived from the land and publish a notice in the official gazette specifying the amount so determined and calling upon the owner of the land and every person interested therein to intimate to it before a date specified in the notice whether such owner or person agrees to the amount so determined and if he does not so agree, what amount he claims to be the net average monthly income actually derived from the land.

(4) Any person who does not agree to the amount of the net average monthly income determined by the competent authority under sub-section (3) and claims a sum in excess of that amount may prefer an appeal to the Administrator within thirty days from the date specified in the notice referred to in that sub-section.

(5) On appeal the Administrator shall, after hearing the appellant, determine the net average monthly income and his determination shall be final and shall not be questioned in any court of law.

(6) Where there is any building on the land in respect of which the net average monthly income has been determined, no separate compensation shall be paid in respect of such building.

Provided that where the owner of the land and the owner of the building on such land are different, the competent authority shall apportion the amount of compensation between the owner of the land the owner of the building a[in the
same proportion as the market price of the land bears to be market price of the building on the date of the acquisition:]

16. **Apportionment of compensation.-**
   
   (1) Where several persons claim to be interested in the amount of compensation determined under section 15, the competent authority shall determine the persons who in its opinion are entitled to receive compensation and the amount payable to each of them.

   (2) If any dispute arises as to the apportionment of compensation or any part thereof, or as to the persons to whom the same or any part thereof is payable, the competent authority may refer the dispute to the decision of the Administrator; and the Administrator in deciding any such dispute shall follow, as far as may be, the provision of Part III of the Land Acquisition Act, 1894 (1 of 1894).

17. **Payment of compensation or deposit of the same in court:**
   
   (1) After the amount of compensation has been determined, the competent authority shall on behalf of the central government tender payment of, and pay, the compensation to the persons entitled thereto.

   (2) If the persons entitled to compensation do not consent to receive it, or if there be any dispute as to the title to receive compensation or as to the apportionment of it, the competent authority shall deposit the amount of compensation in the court of the district judge and that court shall deal with the amount so deposited in the manner laid down in section 32 and 33 of the Land Acquisition Act, 1894 (1 of 1894).

18. **Powers of competent authority relation to determination of compensation, etc:**
   
   (1) The competent authority may, for the purposes of determining the amount of compensation or apportionment thereof, require, by order, any person to furnish such information in his possession as may be specified in the order.

   (2) The competent authority shall, while holding inquiry under section 15, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:

   (a) summoning and enforcing the attendance of any person and examining him on oath
   (b) requiring the discovery and production of any document;
   (c) reception of evidence on affidavits;
   (d) requisitioning any public record from any court or office;
   (e) issuing commissions for examining of witnesses.

**Chapter VI : Protection of tenants in slum areas from eviction**

[19. **Proceedings for eviction of tenants not to be taken without permission of the competent authority:**
   
   (1) Notwithstanding anything contained in any other law for the time being in force, no person shall, except with the previous permission in writing of the competent authority -

   (a) institute, after the commencement of the Slum Area (Improvement and Clearance) Amendment Act, 1964, any suit or proceeding for obtaining any degree or order for the eviction of a tenant from any building or land in a slum area; or

   (b) where any degree or order is obtained in any suit or proceeding instituted before such commencement for the eviction of a tenant from any building or land in such area, execute such degree or order.

   (2) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the competent authority in such form and containing such particulars as may be prescribed.

   (3) On receipt of such application, the competent authority, after giving an opportunity to the Parties of being heard and after making such summary inquiry into the circumstances of the case as it thinks fit, shall by order in writing, either grant or refuse to grant such permission.

   (4) In granting or refusing to grant the permission under sub-section (3), the competent authority shall take into account the following factors, namely:

   (a) whether alternative accommodation within the means of the tenant would be available to him if he were evicted;

   (b) whether the eviction is in the interest of improvement and clearance of the slum areas;

   (c) such other factors, if any, as may be prescribed.
(5) Where the competent authority refuses to grant the permission, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.

[20. Appeals: Any person aggrieved by an order of the competent authority refusing to grant the permission referred to in sub-section (1) of section 6A or referred to in sub-section (1) of section 19 may, within such time as may be prescribed, prefer an appeal to the Administrator and the Administrator may, after hearing the appellant, decide such appeal the decision shall be final.]

[20A. Restoration of possession of premises vacated by a tenant: (1) Where a tenant in occupation of any building in a slum area vacates any building or is evicted therefrom on the ground that it was required for the purpose of executing any work of improvement or for the purpose or re-erection of the building, the tenant may, within such time as may be prescribed, file a declaration with the competent authority that he desires to be replaced in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be.

(2) On receipt of such declaration, the competent authority shall be order require the owner of the building to furnish to it, within such time as may be prescribed, the plans of the work of improvement or re-erection of the building and estimates of the cost thereof and such other particulars as may be necessary and shall, on the basis of such plans and estimates and particulars, if any, furnished and having regard to the provisions of sub-section (3) of section 20B and after holding such inquiry as it may think fit, provisionally determine the rent that would be payable by the tenant if he were to be replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1).

(3) The rent provisionally determined under sub-section (2) shall be communicated in the prescribed manner to the tenant and the owner.

(4) If the tenant after the receipt of such communication intimates in writing to the competent authority within such time as may be prescribed that when he is replaced in occupation of the building in pursuance of the declaration made by him under sub-section (1), he would pay to the owner until the rent is finally determined under section 20B the rent provisionally determined under sub-section (2), the competent authority shall direct the owner to place the tenant in occupation of the building after the completion of the work of improvement or re-erection of the building, as the case may be, and the owner shall be bound to comply with such direction.

20B. Rent of buildings in slum areas: (1) Where any building in a slum area is let to a tenant after the execution of any work of improvement or after it has been re-erected, the rent of the building shall be determined in accordance with the provisions of this section.

(2) Where any such building is let to a tenant other than a tenant who is placed in possession of the building in pursuance of a direction issued under sub-section (4) of section 20A, the tenant shall be liable to pay to the owner

(a) if there is a general law relating to the control of rents in force in the area in which the building is situated and applicable to that building, the rent determined in accordance with the provisions of that law

(b) if there is no such law in force in such area, such rent as may be agreed upon between the owner and the tenant.

(3) Where any such building is let to a tenant in pursuance of a direction issued under sub-section (4) of section 20A, the tenant shall, notwithstanding any law relating to the control of rents in force in the area be liable to pay to the owner-

(a) if any work of improvement has been executed in relation to the building, an annual rent of a sum equivalent to the aggregate of the following amounts, namely:

(i) the annual rent the tenant was paying immediately before he vacated the building for the purpose of execution of the work of improvement;

(ii) six percent of the cost of the work of improvement; and

(iii) six percent of a sum equivalent to the compensation payable in respect of any land which may have been acquired for the purpose of effecting such improvement as if such land
Where acquired under section 12 on the date of the commencement of the work of improvement;

(b) if the building has been re-erected, an annual rent of a sum equivalent to four percent of the aggregate cost of reconstruction of the building and the cost of the land on which the building is re-erected.

Explanation: For the purposes of this clause, the cost of the land shall be deemed to be a sum equivalent to the compensation payable in respect of the land if it were acquired under section 12 on the date of commencement of the reconstruction of the building.

(4) The rent payable by a tenant in respect of any building under sub-section (3) shall, on an application made by the tenant or the owner, be determined by the authority referred to in sub-section (5);

Provided that an application for determination of such rent by the owner or the tenant shall not, except for sufficient cause, be entertained by such authority after the expiry of ninety days from the completion of the work of improvement or re-erection of the building, as the case may be.

(5) The authority to which the application referred to in sub-section (4) shall be made, shall be—

(a) where there is a general law relating to the control of rents in force in the area in which the building is situated, the authority to whom applications may be made for fixing of rents of buildings situated in that area; and for the purpose of determining the rent under this section that authority may exercise all or any of the powers it has under the said general law; and the provisions of such law including provisions relating to appeals shall apply accordingly;

(b) if there is no such law in force in that area, such authority as may be specified by rules made in this behalf by the central government and such rules may provide the procedure that will be followed by that authority in determining the rent and also for appeals against the decision of such authority.

(6) Where the rent is finally determined under this section, then the amount of rent paid by the tenant shall be adjusted against the rent so finally determined and if the amount so paid falls short of, or is in excess of, the rent finally determined, the tenant shall pay the deficiency, or be entitled to a refund, as the case may be.

21. Chapter not to apply to eviction of tenants from certain buildings: Nothing in this Chapter shall apply to or in relation to the [eviction under any law] of a tenant from any building in a slum area belonging to the Government, the [Delhi Development Authority] or any local authority.

Chapter VII: Miscellaneous

22. Power of entry: It shall be lawful for any person authorised by the competent authority in this behalf to enter into or upon any building or land in a slum area with or without assistants or workmen in order to make any inquiry, inspection, measurement, valuation or survey, or to execute any work which is authorised by or under this Act or which it is necessary to execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule or order made thereunder.

23. Powers of inspection:—(f) The competent authority may, by general or special order, authorise any person—

(a) to inspect any drain, latrine, urinal, cesspool, pipe, sewer or channel in or on any building or land in a slum area, and in his discretion to cause the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, latrine, urinal, cesspool, pipe, sewer or channel, as the case may be;

(b) to examine works under construction in the slum area, to take levels or to remove, test, examine, replace or read any metre.

(2) If, on such inspection, the opening of the ground is found to be necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building, but if it is found that no nuisance exists of but for such opening would have arisen, the ground or portion of any building, drain, or other work opened, injured or removed for the purpose of such inspection shall be filled in, reinstated, or made good, as the case may be, by the competent authority.

24. Power to enter land adjoining land where work is in progress.—(f) Any person authorised
by the competent authority in this behalf may, with or without assistants or workmen, enter on any land within fifty yards of any work authorised by or under this Act for the purpose of depositing thereon any soil, gravel, stone or other materials, or for obtaining access to such work or for any other purposes connected with the carrying on of the same.

(2) The person so authorised shall, before entering on any land under sub-section (1), state the purpose thereof, and shall, if so required by the occupier, or owner, fence off so much of the land as may be required for such purpose.

(3) The person so authorised shall, in exercising any power conferred by this section, do as little damage, as may be, and compensation shall be payable by the competent authority to the owner or occupier of such land or to both for any such damage whether permanent or temporary.

25. Braking into buildings: It shall be lawful for any person authorised by the competent authority in this behalf to make any entry into any place, to open or cause to be opened any door, gate or other barrier—

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

26. Entry to be made in the daytime: No entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

27. Owners consent ordinarily to be obtained: Save as otherwise provided in this Act shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than twenty-four hours’ written notice of the intention to make such entry:

Provided that no such notice shall be necessary if the place to be inspected is a shed for cattle or a latrine, urinal or a work under construction.

28. Power of eviction to be exercised only by the competent authority: Where the competent authority is satisfied either upon a representation from the owner of a building or upon other information in its possession that the occupants of the building have not vacated it in pursuance of any notice, order or direction issued or given by the authority, the authority shall, by order, direct the eviction of the occupants from the building in such manner and within such time as may be [and for the purpose of such eviction may use or cause to be used such force as may be necessary] Provided that before making any order under this section the competent authority shall give a reasonable opportunity to the occupants of the building to show cause why they should not be evicted therefrom.

29. Power to remove offensive or dangerous trades from slum areas: The competent authority may, by order in writing, direct any person carrying on any dangerous or offensive trade in a slum area to remove the trade from that area within such time as may be specified in the order:

Provided that no order under this section shall be made unless the person carrying on the trade has been afforded a reasonable opportunity of showing cause as to why the order should not be made.

30. Appeals: (1) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued or given by the competent authority may appeal to the Administrator within a period of thirty days from the date of issue of such notice, order or direction.

(2) Every appeal under this Act shall be made by petition in writing accompanied by a copy of the notice, order or direction appealed against.

(3) On the admission of an appeal, all proceedings to enforce the notice, order or direction and all prosecutions for any contravention thereof shall be held in abeyance pending the decision of the appeal, and if the notice, order or direction is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

(4) No appeal shall be decided under this section unless the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner.

(5) The decision of the Administrator on appeal shall be final and shall not be questioned in any court.

31. Service of notices, etc: (1) Every notice, order or direction issued under this Act shall, save as otherwise expressly provided in this Act, be served—

(a) by giving or tendering the notice, order or direction, or by sending it by post to the person for whom it is intended; or
(b) if such person cannot be found, by affixing the notice, order or direction on some conspicuous part of his last known place of abode or business, or by giving or tendering the notice, order or direction to some adult male member or servant of his family or by causing it to be affixed on some conspicuous part of the building or land, if any, to which it relates.

(2) Where the person on whom a notice, order or direction is to be served is a minor, service upon his guardian or upon any adult male member or servant of his family shall be deemed to be the service upon the minor.

(3) Every notice, order or direction which by or under this Act is to be served as a public notice, order or direction or as a notice, order or direction which is not required to be served to any individual therein specified shall, save as otherwise expressly provided, be deemed to be sufficiently served if a copy thereof is affixed in such conspicuous part of the office of the competent authority or in such other public place during such period, or is published in such local newspaper or in such manner, as the competent authority may direct.

32. Penalties: (1) Whoever fails to comply with any notice, order or direction issued or given under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever commences or causes to be commenced any work in contravention of any restriction or condition imposed under sub-section (7) of section 10 or any plan for the redevelopment of any clearance area or in contravention of any notice, order or direction issued or given under this Act the competent authority may, in addition to any other remedy that may be resorted to under this Act or under any other law, make an order directing that such erection shall be demolished by the owner thereof within such time not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order, the competent authority may itself cause the erection to be demolished and the expenses of such demolition shall be recoverable from the owner as arrears of land revenue: Provided that no such order shall be made unless the owner has been given a reasonable opportunity of being heard.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (3) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purposes of this section -
(a) ‘company’ means a body corporate and includes a firm or other association of individuals; and
(b) ‘director’ in relation to a firm means a partner in the firm.

33. Order of demolition of buildings in certain cases: [(1)] Where the erection of any building has been commenced, or is being carried out, or has been completed, in contravention of any restriction or condition imposed under sub-section (7) of section 10 or a plan for the redevelopment of any clearance area or in contravention of any notice, order or direction issued or given under this Act the competent authority may, in addition to any other remedy that may be resorted to under this Act or under any other law, make an order directing that such erection shall be demolished by the owner thereof within such time not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order, the competent authority may itself cause the erection to be demolished and the expenses of such demolition shall be recoverable from the owner as arrears of land revenue:

Provided that no such order shall be made unless the owner has been given a reasonable opportunity of being heard.
[(2) For the purpose of causing any building to be demolished under sub-section (7), the competent authority may use or cause to be used such force as may be necessary.]

34. Jurisdiction of Courts: No court inferior to that of a magistrate of the first class shall try an offence punishable under this Act.

35. Previous sanction of the competent authority or officers authorised by it for prosecution: No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the competent authority or an officer authorised by the competent authority in this behalf.

36. Power to delegate: [(1)] The competent authority may, by notification in the official gazette, direct that any power exercisable by it under this Act may also be exercised, in such cases and subject to such conditions, if any, as may be specified in the notification, by such officer or the local authority as may be mentioned therein.

[(2) The central government may, by notification in the official gazette, direct that any power exercisable by the Administrator under sub-section (7) of section 10, section 15, sub-section 20 and section 30 may, subject to such conditions, if any, as may be specified in the notification, be exercised also by the chief secretary or by such other officer as may be mentioned therein.]

37. Protection of action taken in good faith: No suit, prosecution or other legal proceeding shall lie against the competent authority or against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

37A. Bar of jurisdiction: Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the competent authority or any other person is empowered by or under this Act, to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

38. Competent authority etc., to be public servants: The competent authority and any person authorised by him under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

39. Act to override other laws: The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

40. Power to make rules: (1) The central government may, by notification in the official gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:

(a) the manner of authentication of notices, orders and other instruments of the competent authority;

(b) the preparation of plans for the re-development of any slum area, and matters to be included in such plans;

(bb) the form in which an application under sub-section (3) of section 6A shall be made and the information to be furnished and the fees to be levied in respect of such application;

(bbb) the manner in which inquiries may be held under sections 15 and 19;

(c) the form and manner in which applications for permission under sub-section (2) of section 19 shall be made and the fees to be levied in respect of such applications;

(d) the procedure to be followed [and the factors to be taken into consideration] by the competent authority before granting or refusing to grant permission under section 19;

(e) the time within which an appeal may be preferred under [sub-section (7) of section 10 or section 20]

(ee) the time within which a declaration may be filed under sub-section (7) or an intimation may be sent under sub-section (4) of section 20A and the fees, if any, to be levied in respect of such declaration;

(eee) the time within which plans, estimates and other particulars referred to in sub-section (2) of section 20A may be furnished;

(eeee) the procedure to be followed by the competent authority for fixing the provisional rent under sub-section (2) of section 20A;

(eeee) the manner in which the rent provisionally determined under section 20A shall be communicated to the tenants and owners;
(eeeee) the matters in respect of which provision may be made under sub-section (f) of section 20B;

(jj) the officers and local authorities to whom powers may be delegated under section 36; and

(gg) any other matter which has to be, or may be, prescribed.

((jj)) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or [in two or more successive sessions and if before the expiry of the session immediately following the session, or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

The schedule

(See section 15)

Principles for determination of the net average monthly income

1. The competent authority shall first determine the gross rent actually derived by the owner of the land acquired including any building on such land during the period of five consecutive years referred to in sub-section (f) of section 15.

2. For such determination the competent authority may hold any local inquiry and obtain, if necessary, certified copies of extracts from the property tax assessment books of the municipal or other local authority concerned showing the rental value of such land.

3. The net average monthly income referred to in sub-section (f) of section 15 shall be sixty percent of the average monthly gross rent which shall be one sixtieth of the gross rent during the five consecutive years as determined by the competent authority under paragraph 1.

4. Forty percent of the gross monthly rental referred to above shall not be taken into consideration in determining the net average monthly income but shall be deducted in lieu of the expenditure which the owner of the land would normally incur for payment of any property tax to the municipal or other local authority, for collection charges, income-tax or bad debts as well as for works of repair and maintenance of the buildings, if any, on the land.

5. Where the land or any portion thereof has been unoccupied or the owner has not been in receipt of any rent for the occupation of the land during the whole or any part of the said period of five years, the gross rent shall be taken to be the income which the owner would in fact have derived if the land has been leased out for rent during the said period, and for this purpose the rent actually derived from the land during a period prior or subsequent to the period during which it remained vacant or from similar land in the vicinity shall be taken into account.

1. Substituted for “(e) “work of improvement” includes in relation to any building in a slum area the execution of any one or more of the following works, namely:

I. necessary repairs;
II. structural alterations;
III. provision of light points and water taps;
IV. construction of drains, open or covered;
V. provision of latrines;
VI. provision of additional or improved fixtures or fittings;
VII. opening up or paving of court yards;
VIII. removal of rubbish; and
IX. any other work including the demolition of any building or any part thereof which in the opinion of the competent authority is necessary for executing any of the works specified above;

(jj) “occupier” includes an owner in occupation of or otherwise using his own land or building;” by the Slum Areas (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

2. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

3. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

4. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

5. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.
6. Words “(3) If the owner of the building is different from the person who owns the land on which the building stands and the expenses incurred by the competent authority under this section are recoverable from both these persons, then, such expenses shall be recoverable from them in such proportion as may be determined by the competent authority or by an officer empowered by it in this behalf.” Omitted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

7. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

8. Substituted for “(7) Where a slum clearance order has become operative, no land to which the order applies shall be re-developed except in accordance with plans approved by the competent authority and except subject to such restrictions and conditions, if any, as the competent authority may think fit to impose: Provided that an owner who is aggrieved by a restriction or condition so imposed on the user of his land or by a subsequent refusal of the competent authority to cancel or modify any such restriction or condition may at any time appeal to the Administrator and the Administrator shall make such order in the matter as he thinks proper and his decision shall be final.” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

9. Substituted for “11.Power of competent authority to re-develop clearance area or any part thereof: Where land has been cleared of buildings in accordance with a slum clearance order, the competent authority may, at any time after the expiration of twelve months from the date on which the order became operative, by order, determine to re-develop any land which on the date of the making of the order has not been, or is not in the process of being, re-developed by the owner thereof in accordance with plans approved by the authority and any restrictions and conditions imposed under sub-section (7) of section 10.” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

10. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

11. Substituted for “in such proportion as he considers reasonable” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

12. Words “Provided further that the compensation in respect of the building shall not in any case exceed fifty percent of the total amount of compensation which has been determined in accordance with provisions of this section.” Omitted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

13. Substituted for “19.Tenants slum areas not to be evicted without permission of the competent authority: (1) Notwithstanding anything contained in any other law for the time being in force, no person who has obtained any decree or order for eviction of a tenant from any building in a slum area shall be entitled to execute such decree or order except with the previous permission in writing of the competent authority.

   (2) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the competent authority in such form and containing such particulars as may be prescribed.

   (3) On receipt of such application the competent authority, after giving an opportunity to the tenant of being heard and after making such summary inquiry into the circumstances of the case as it thinks fit, shall by order in writing either grant such permission or refuse to grant such permission.

   (4) Where the competent authority refuses to grant the permission it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

14. Substituted for “20.Appeals: Any person aggrieved by an order of the competent authority refusing to grant the permission referred to in sub-section (1) of section 19 may, within such time as may be prescribed, prefer an appeal to the Administrator and the decision of the Administrator on such appeal shall be final.” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

15. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.
16. Substituted for “execution of any decree or order under any law for the eviction” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

17. Substituted for “Delhi Improvement Trust” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

18. Substituted for “No building or land” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

19. Substituted for “specified in the order:” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

20. Substituted for “does any act in contravention of” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

21. Section 33 renumbered as sub-section (1) of section 33 by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

22. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

23. Section 36 renumbered as sub-section (1) of section 36 by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

24. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

25. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

26. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

27. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

28. Substituted for “section 20;” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

29. Inserted by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

30. Substituted for “(3) All rules made under this section shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session to which they are so laid or the section immediately following.” by the Slum Area (Improvement and Clearance) Act, 1964, w.e.f. 27-02-1975.

31. Substituted for “in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following,” by Delegated Legislation Provision (Amendment) Act, w.e.f. 15-05-1986.
National Slum Policy (Draft) 2001

Objectives
The main objectives of this policy are
1. To create awareness amongst the public and in government of the underlying principles that guide the process of slum development and improvement and the options that are available for bringing about the integration of these settlement and the communities residing within them into the urban area as a whole.

2. To strengthen the legal and policy framework to facilitate the process of slum development and improvement on a sustainable basis.

3. To establish a framework for involving all stakeholders for the efficient and smooth implementation of policy objectives.

Governing principles
1. 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 (see Section C para 4a).

2. The policy embodies the core principle that households in all urban informal settlements should have access to certain basic minimum services irrespective of land tenure or occupancy status.

3. Cities without slums should be the goal and objective of all urban planning for social and economic development. To reach this goal, it will be necessary to revision our urban development processes to make towns and cities fully democratic economically productive, socially just environmentally sustainable and culturally vibrant.

4. Urban growth and development should lay greater emphasis on equity and distributive justice. This will mean adopting policies and processes that promote balanced equitable and sustainable development. The policy aims to support the planned growth of urban areas in a manner that will help to upgrade all existing slums and informal settlements with due regard for the protection of the wider public interest.

5. The proliferation of slums and informal settlements can be obviated by ensuring continuous supply/recycling of serviced and semi-serviced land suitable for high density occupation by lower income groups. Institutional, planning and fiscal mechanisms should be devised to prevent the idle use of land in urban areas. In those few cases where land needs to be conserved for future use in the wider public interest the land owning agencies concerned must evolve more effective safeguarding measures.

6. Urban local bodies should work in collaboration with all other stakeholders to enhance the impact of slum development and improvement activity by building the capacities of the poor and empowering them to improve their own living conditions. Urban management systems need to be improved in three critical areas: i) resource allocation and use; ii) service delivery; and iii) urban governance- democratic, efficient, transparent and gender sensitive.

7. The poor represent an extremely important element of the urban labour force and contribute substantially to total productivity and labour market competitiveness. It is vital that all ULBs recognise the contribution of the urban poor in helping to build urban prosperity and make sufficient provision for them to have access to affordable land, house sites and services. The present planning and development framework is exclusive of slums and informal settlements. It views slum as “problem areas” requiring corrective action. The legal framework with its origin in the pre-independence socio-economic context requires modifications and progressive change. There is a need for a greater commitment to institutional re-orientation by
adopting a more ‘enabling’ approach to the delivery of basic services accessible to the poor through the more effective mobilisation of community resources and skills to complement public resource allocations. Major areas of attention include: town planning, land management, poverty alleviation, basic service delivery and capacity building.

8. Greater participation of communities and civil society in all areas of planning, capacity building and development is envisaged. The 74th Constitution Amendment represents the context within which this policy document is set, recognising that it is the ultimate responsibility of states and urban local bodies to interpret and implement this policy to the best of their ability. This policy reinforces the emphasis in the 74th Constitutional Amendment on decentralised participatory structures such as ward committees and municipal planning committees in support of local initiatives by community groups. This Policy stresses, inter-alia, a priority role for local bodies in the discharge of functions listed in the Twelfth Schedule of Constitution of India viz I) slum improvement and upgradation, ii) urban poverty alleviation, iii) regulation of land use and construction of buildings, iv) provision of urban amenities, and v) public health and sanitation including provision of water supply.

9. In line with the 74th Amendment this Policy presumes that all public land not identified for specific government use should be vested with the ULB.

C Essential strategic interventions

1. Inclusive “Approach to definition of slum/Informal settlement
   a) All under-serviced settlements, be they unauthorised occupation of land, congested Inner-city built up areas, fringe area unauthorised developments, villages within urban areas and in the periphery, irrespective of tenure or ownership or land use shall be covered under the definition of a slum/informal settlement.
   b) The criteria for defining a slum/informal settlement shall take into consideration economic and social parameters (including health indicators) as well as physical conditions. Each state/union territory shall lay down the norms/criteria for categorising an areas as under-serviced and the local body of each town shall list all such areas as slums.

2. Listing and Registration
   a) Comprehensive listing of slums/informal settlements: For the purpose of providing basic urban services, all under-serviced settlements characterised by poor physical and socio-economic conditions, irrespective of land tenure status and ownership should be identified by better-off residents. Once identified, these settlements should be listed by the urban local body.
   b) Registration of slum dwellers: All people residing in such listed settlements should then be registered with the ULB in order to prevent ineligible beneficiaries being included in the development Programmes and schemes just before the initiation of improvement works or the issue of tenurial rights. The date for the completion of this process will be at the discretion of the ULB. A reckoning date will be required for administrative purposes in order to facilitate annual planning, budgeting and service provision. The register should be updated to include subsequent amendments and new registrations lodged with ward committees from time to time.
   c) Identity card: A suitable identity card shall be issued to all households in listed slums. The identity card may contain a few details such as household name, address, details of family members, etc.
   d) Basic service eligibility: Once settlements have been listed in the above manner all registered residents will be automatically eligible to receive basic minimum services/amenities from the urban local bodies (ULBs) pending any more permanent measures taken to upgrade, rehabilitate or resettle the community. Each state and ULB should determine the norms and standards for basic services such as water, sanitation, electricity, health, etc., and how these will be delivered to residents of listed settlements.
   e) Other entitlements: All urban poor, regardless of their land tenure status, shall be entitled to any other special assistance or welfare schemes that are operative within the urban area and/or the state and which are not geographically or spatially determined but targeted to specific poverty groups. These may include schemes for economic support, credit, pensions, insurance, etc., and services.

3. De-listing

The urban local bodies should de-list those settlements, which have been provided with a sustainable level of basic services, and where socio-economic indicators have reached defined acceptable
norms. The ULBs may also consider prescribing a certain period of time (two or three years) for providing basic services under any slum development Programmes after which, the area should be reviewed for de-listing.

4. Classification of land status/tenability
The land status of all listed slums/informal settlements should be classified by the ULB as either tenable or untenable in order to determine whether or not regular planned service provision will be undertaken on an in-situ or re-settlement basis. All listed slums/informal settlements should be considered as tenable unless the site falls strictly within the definition of untenability as expressed below:

a) Definition of untenable slums/informal settlements: A site shall not be declared as untenable unless existence of human habitation on such sites entails undue risks to the safety or health or life of the residents themselves or where habitation on such sites is considered contrary to “public interest”.

The issue of whether a settlement’s existence is against public interest shall be decided by the district magistrate in consultation with the ULB and technical experts, after giving full opportunity to the resident community to express their views, in a public hearing. The process of consultation and public hearing shall be completed within three calendar months from the date of their initiation.

b) Definition of tenable slums/informal settlements: All listed settlements that do not fall strictly within the category identified above under untenable situations shall be considered ‘tenable’, and thus eligible for in-situ upgrading (subject to the settlement of ownership disputes on private land).

Granting of tenure
a) Tenure on government owned land: 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. Tenure shall be allotted in the joint names of the head of household shall not be precluded from having full tenure rights. Other forms of tenure may also be considered, if desired by the community. This may include: group tenure, collective tenure, co-operative tenure, etc.

Conflict Resolution: On lands occupied by slums/informal settlements and owned by central, state and local government bodies, municipal authorities are to be designated as nodal agencies for initiating the process of resolution of disputes. It will be obligatory for ministries at the state and central level to participate in these negotiations. The Ministry of urban affairs and employment will play a pro-active role in resolving disputes on such lands owned by Union Ministries so that all basic services, development and resettlement and rehabilitation (R&R) activities can be negotiated more effectively. The MUAE may be empowered to act as an arbitrator between the central government and local bodies concerning disputes over such lands (owned by union government).

b) Tenure on privately owned lands
i) Land acquisition: All tenable settlements on private land should be acquired unless the ULB decides to pass a resolution otherwise. All states should make immediate provision to streamline and simplify the procedure to ensure the speedy acquisition of land for slums on private land categorised as tenable. The land acquisition process should be completed within a maximum period of six calendar months from the time of initiating the process.

ii) Negotiated compensation: The acquisition of land from private parties should be undertaken on a negotiated basis. All the stakeholders (residents, urban local bodies, public agencies, others) may be invited to participate in the negotiation to promote transparency and equity. Funds earmarked from a tax/cess on vacant lands should be drawn from the urban poverty eradication and shelter fund (see para 12 c) to provide compensation for acquiring private lands on which the slum settlements exist. monitored and supervised by the ULB with community representatives. (Also see section 16 on monitoring and evaluation).

Translating these principles into action envisages:
- Full, accurate and detailed baseline inventories of all assets including livelihoods
- Community mobilisation
- Timing of the interventions to reduce dislocation and discomfort especially during periods of inclement weather
- Communication at all levels to ensure transparency
- Mobilising support of the local media to assist the process
- Co-ordination of multiple ministries and convergence of various Programmes
- Participation of the host community at all stages of the process
7. Planning for Integration:
   a) Modify existing planning framework: All existing planning instruments such as Master Plans, land use plans, etc., should be modified to ensure that slums and informal settlements could be properly integrated into wider urban area. In order to achieve this objective it will be necessary to:
      i) Ensure that all Master Plans and land use plans allow for high density, mixed use (for micro-enterprise) land occupation in all slums/informal settlements. This will ensure that every ULB designates sufficient and more appropriate (higher density lower cost) living and working space for the poor within the urban area.
      ii) Master Plans and land use plans should also ensure that all new land development schemes make sufficient provision for land to house low-income workers as required by such schemes.
      iii) All plans and other regulatory instruments must provide sufficient flexibility to modify layouts and building regulations in line with more realistic density/mixed use requirements.

The powers to implement such changes outlined in i – iii above should be vested in the ULB within parameters laid down by state governments.

b) Integrated Municipal Development Plan (IMDP): All ULBs should begin to work towards the formulation of an integrated municipal development plan. The principle objective of this plan is to ensure that the ULB has an adequate and sustainable level of infrastructure and services for all its residents and that such infrastructure and services are planned and delivered in an equitable manner. In order to achieve this objective it will be necessary to identify the capital and recurrent requirements and costs for the city as a whole (e.g. bulk water supply) as well as the specific wards and neighborhoods within the city (secondary and tertiary water supply). The plan should prioritise ways and means of narrowing the gap between the better-serviced and less well-serviced (slums) areas of the ULB.

c) Convergence: The IMDP process assumes the implementation of the 74th Amendment and embodies the principle of convergence of activities and funds to achieve more efficient and equitable urban developments. The IMDP will incorporate existing plans and reflect schemes and budget allocations as follows:
   - Master Plans land use plans and other statutory instruments
   - Urban development plans & schemes
   - Departmental plans & schemes in the ULB area

d) Dynamic multi-year planning: The IMDP outlined in b) above should be undertaken as a dynamic process which will be updated and reviewed every three years. The overall plan should then be implemented through annual action plans and budget allocation so that development work can be taken up in a phased manner. These annual action plans should reflect plan priorities based on the level of service deprivation or service gaps pertaining in the wards and neighborhoods.

e) Bottom-up planning: Planning should begin at the micro-level with each urban poor area drawing up a list of existing services and identifying gaps and deficiencies. The community using should undertake this activity participatory planning techniques and each plan should include a clear prioritisation of needs and an indication of different stakeholder contributions towards costs. The ULBs will be required to submit evidence of community participation in planning service provision.

8. Environmental Improvement

The provision of physical infrastructure components such as water supply, drainage, sanitation, improved access, electricity, etc., should support the ultimate objective of improve quality of life? The evidence from existing slum improvement projects clearly shows that an improved physical environment greatly facilitates the integration of the settlement in the wider urban area and at the same time, contributes to improved livelihoods and health and well being of the community.

a) Approach
   i. Community-based approach: All physical upgrading and improvement in informal settlements should adopt a community-based approach with the active involvement of members of the community at every stage of design, implementation, and maintenance of services and assets. Community structures and systems should reflect local conditions and preferences rather than confirm to any uniform pattern. Communities have an important role to
play at all stages of service delivery in terms of location of the service points, day-to-day functioning of the service and guarding against its misuse. Communities should be encouraged to contribute land and resources to help establish community centres and to promote the collection of user charges to contribute to the operation of certain services.

ii. Target women and children: There is a need to target women and children directly in the design and implementation of physical infrastructure and the delivery of social and economic services. Infrastructure users, especially the urban poor and women are central to the sustainability of any investment decisions related to infrastructure.

iii. Service delivery on individual household basis:
Wherever possible, the delivery of basic services such as water, sanitation and electricity should be provided on an individual household basis and may even precede the granting of full tenure rights.

Individual connections will improve operations, maintenance, and facilitate recovery of user charges and thus improve the overall environment.

iv. Contracting – out: Wherever possible works should be undertaken by communities/CBOs under appropriate supervision of the ULBs. Such works must be done according to departmental norms and procedures with proper muster rolls maintained and other stipulations to be observed. Services may also be contracted out, where appropriate, to the NGOs and other private companies. Solid waste management has already been successfully contracted-out by many ULBs. Similarly, the maintenance of pay and use toilets has also been contracted-out to the NGOs and community-based organisations (CBOs). State enactments/procedures dealing with improvement works should be modified to allow the implementation of such works to be undertaken on a contract basis by the community/CBOs.

b) Physical Infrastructure Development
The guiding principles and expected outcomes to be kept in focus while planning and implementing the following basic infrastructure and services are outlined as:

I. Water supply: Quantum, duration, timing and water quality are the four critical factors in planning water supply delivery. Dual and standby systems, such as piped supply supported by local hand-pumps should be considered as a means of helping to address these four factors.

Even where individual water tap connections are provided, it may be desirable to install hand-pumps or community storage facilities to offset poor frequency of supply and inadequate storage capacity at individual household level.

It is desirable that the collection of user charges and the maintenance of assets should be undertaken by community groups on behalf of the ULBs.

II. Sanitation: The ULBs should avoid constructing community latrines within slum/informal settlements as these quickly degenerate on account of poor operations and maintenance (O&M) thus becoming counter productive to public health. Where there is insufficient space for individual sanitation options (mostly where on-site disposal systems have to be adopted) group or cluster latrines with clearly demarcated and agreed household responsibility for O&M may be a suitable alternative option.

It is vital that any community wide sanitation programme be preceded by an awareness campaign designed to raise demand for the implementation of specific sanitation options. This would greatly facilitate all subsequent O&M. Activities as would also assist the process of raising financial contributions. Many members of the community, especially male members, do not perceive sanitation, as a clear priority need. This needs to be addressed before embarking upon the installation of sanitation.

Considering the limitations on improving sanitation in many towns due to the absence of underground drainage and sewerage systems, low cost sanitation options, particularly twin pit pour flush latrines may be a more appropriate and cost effective option for slums duly keeping environmental safeguards in mind. Efforts should be made to popularise and facilitate the introduction of such systems wherever appropriate. The tenurial status and likelihood of a settlement getting relocated at some point in the future should not deter promoting such systems since the benefits of such environmental improvement far exceed the initial investment incurred.

III. Pedestrian and vehicular access ways: Paved access for pedestrians and/or vehicles will greatly improve overall accessibility. Paved access will
encourages investment in the community and promote physical integration with neighbouring areas. It may also help to improve social integration within and between communities. Paved access will also greatly facilitate the introduction of other related infrastructure such as storm water drains, underground drainage, water supply, electricity and collection/removal of garbage. Paving would also help in maintaining a clean environment and help reduce flooding and water stagnation. Paved access ways also facilitates the use of such facilities for social activity, extension of household activities and space for economic activity.

IV. Storm water drains: Drains in slums serve the dual purpose of carrying sullage water from individual houses as well as draining storm water. It is crucial to integrate the outfalls of such drains with the city’s main drainage system. The planning of storm drainage should be fully integrated into the planning of neighbouring systems as well as city as a whole.

V. Electricity: Individual house connections will greatly enhance the comfort and safety of living and working conditions for residents. The mere provisions of street lighting without formal household connections leads to illegal tapping and loss of revenue and at the same time causes unplanned loading of the system and fire hazards. Community management systems for collection of user charges will facilitate improved revenue recovery and reduce revenue losses.

VI. Solid waste collection: Sustained awareness campaigns and provision of waste collection receptacles will facilitate a cleaner environment. Urban local bodies could organise ‘clean slum competitions’ and institute prizes to create more awareness encourage the community groups to maintain a clean environment within their localities. At community level, management systems that employ private sweepers by collecting monthly charges may also be adopted.

9. Improving access to social services
Basic services of health, education and access to credit are crucial for human capital development and reduce the incidence of poverty. Improved access to social services would also help building up the capacities of poor and empowering them to improve their own living conditions and quality of life. Effective delivery of these services would also reduce social inequities and promote integration of people residing in slums into the social and economic networks of the city as a whole, thereby enhancing the overall productivity of the city. Various physical infrastructure components such as water supply and sanitation have a direct bearing on improving health conditions in slums. This section outlines a number of complementary services where ULBs should actively seek to improve access for the urban poor.

a. Health Services
Wherever health services and national health Programmes have been devolved to city level following the 74th Amendment, ULBs must build health management capacities to improve service delivery to the poor.

i) Participatory health delivery: All promotive, preventive and curative health services for the urban poor should be implemented on a participatory basis with active community involvement and support. All required training and basic infrastructure should be arranged through convergence with departmental schemes.

ii) Demand for health services: The community should be mobilised to create demand for better preventive health services and to access these services in a more effective manner. Hygiene behaviour changes should be promoted as an integral part of the sanitation services outlined in section 8 b) ii above. An emphasis should also be placed on health education for STD/HIV prevention, as well as measures to combat alcoholism and violence. The ULBs should establish a network of community health workers/volunteers to facilitate this process through health promotion activity.

iii) Private sector partnerships: The ULBs may consider establishing formal partnerships with private medical practitioners to undertake the delivery of curative services in slums. Such partnerships could provide greater outreach of services at low cost. Traditional systems of medicine may also be used where this expertise is available.

iv) Health insurance to widen the access to curative health care: The ULBs should encourage communities to participate in health insurance schemes in conjunction with the saving and credit society component of the Swarna Jayanti Shahari Rozgar Yojana (SJSRY) scheme and any other scheme for widening access to curative health care.
b) Education:
Attention and efforts should be focused on increasing the school enrollment at primary level, reducing school drop-out rates particularly for girls and supplementing formal school education with coaching assistance to assist slum children join the schooling system. The following specific measures will facilitate this process:

1. **Primary education:** The ULBs should identify all informal settlements that are inadequately served with pre-school and primary school facilities. Funds should then be made available under the NSDP and other departmental Programmes to address this problem on a priority basis with the most underserviced areas receiving priority assistance. Multi purpose community centre (MPCC) may also be used for primary education where necessary.

2. **Pre-schools and non-formal education:** The ULBs should actively promote pre-school/crèche facilities and non-formal education focusing on literacy and vocational training. The MPCC may be used for pre-schools/crèches facilities, non-formal education classes, adult education, recreation activities, etc. It is to be emphasised that community management and control on the use of community centres is desirable to avoid misuse of this facility.

3. **Community management in education:** Mobilising the community and use of resource persons from within the community to supervise and monitor the educational activity would greatly enhance the delivery of this service. Contributions by way of space and building would build stake of the community in the process of creating awareness and demand for this service.

4. **Education incentive scheme:** Innovative incentive schemes may be established for those communities that show good performance in improving school attendance particularly in relation to the female child in both the formal and non-formal systems.

5. **Literacy:** A strong emphasis should be placed on developing literacy skills especially for women and children. The ULB should ensure that all slum development schemes are properly integrated into state and national literacy initiatives and campaigns. Community halls and other public spaces may be used for holding literacy classes. The NGOs wishing to participate in literacy schemes for slum dwellers should be given access to such halls and other facilities.

6. **Day crèche facilities:** The ULBs should make provision for establishing day crèche facilities in all slums to enable women to participate more fully in the labour market. Community halls may be used for such purposes and parents may be encouraged to contribute to the cost of running and maintaining such facilities.

C) **Child labour and child rights**
The ULBs should be active partners in the implementation of the international convention on child rights and should ensure that every child has access to a sufficient range of education and vocational training. At the same time, the ULBs should discourage child labour through the implementation of penalties and fines and the withdrawal of licenses for employers found to be using child labour without proper provision for education or training.

D) **The Public Distribution System**
State Governments and the ULBs may consider granting community development societies licences to operate fair price shops where such societies have been set up and are seen to be running effectively. This will have the dual effect of strengthening the CDS structure and maximising public satisfaction and welfare.

10. **Municipal services to be brought under Consumer Protection Act**
It will be desirable to bring Municipal Services under the Consumer Protection Act to monitor quality and reliability of basic infrastructure services delivered at settlement level. This should be uniformly applied irrespectively of tenure and land status of the settlement, with a specific mandate to monitor absolute levels of service coverage and differential levels of service availability throughout the ULB area. It is recommended that a special consumer panel be established in each municipality comprising members from different settlement categories (in proportion to their total number in the population) with authority to report to the council.

11. **Economic empowerment**
   a) **Financial services for the poor**
The poor primarily require mechanisms that will encourage savings for small jump sums that can be used for a variety of consumption (including emergency) and production purposes. These mechanisms can also be used for credit purposes based on group (solidarity) lending principles, which
involve incremental borrowing against social collateral (peer pressure). Such approaches have been seen to be far more successful ways of providing the poor with convenient access to credit on a sustainable basis (good internal discipline and low rates of default than many of the subsidised schemes run by the government which suffer from low levels of credit discipline, poor rates of repayment and high levels of leakage. The savings and credit groups can be further strengthened and supported through networking of such groups with each other to form a federated structure that may also access formal sources of credit.

The ULBs should identify organisations with the expertise in-group based savings and credit to promote financial service initiatives in slums wherever possible. The ULB may also wish to consider using such organisations and methodologies to implement government sponsored credit schemes such as SJRY. To facilitate this process, it is recommended to create an apex body of saving and credit groups at city and state level. Possibility to enlarge the saving and credit services by contracting out to authorised financial intermediaries in the private sector shall also be explored.

The guiding principles for organising savings and credit groups shall include: The group to identify its own members, help develop their own rules and regulations, encourage them to take decisions in terms of money to be saved, periodicity of savings, the purpose for which the money can be lent, amount to be lent, interest rates to be charged, repayment period etc. Any imposition or interference in this process will promote dependency and affect their confidence levels in terms of taking decisions and implementing the activities. The organisers of the community should also help people to acquire capacities in terms of maintenance of accounts, monitoring savings and loan Programmes etc., to ensure that the discipline is established and sustained.

b) Economic support/ enterprise development

There is a need for the ULBs to support interventions designed to address livelihood needs of the urban poor. This will include:

- The provision of vocational training facilities
- Implementation of savings and credit schemes for self-employment
- Addressing constraints in the labour market
- Providing improved access to raw materials and marketing support
- Legal rights and redressal systems

It would be desirable for the ULB to involve the private sector in such initiatives wherever possible.

12. Financing sustainable slum improvement & service

a) Resource mobilisation: Positive and proactive interventions for enlarging the resource base shall include a series of initiatives at Central/State/local levels:

i) State financing: A slum development fund the (SDF) should be created at state level to support slum development activities taken up by the ULBs. The SDF shall include:

- Contribution from central devolution of funds from the Planning Commission and as earmarked by the Central Finance Commission.
- Bilateral/ Multi-lateral funding (directly to the SDF or town specific)
- Contribution from states own revenue resources

ii) Municipal Convergence Funding: At Municipal level a variety of sources of funds could be converged to finance slum developments as indicated in each ULB’s Integrated municipal development plan and annual action plan. These sources may include:

- Transfers from the state slum development fund
- Private contributions (with tax concessions) from business, industry and trade
- Contribution from other domestic donors
- Contributions form the shelter fund to finance shelter needs in slums
- Matching contributions from community resource through the CDSs
- Revenues from a Vacant Land tax
- Special cess on new layouts (for slum development)
- Revenues from any other taxes/cess or service charges
- ULB priority sector allocations under the category of the SC/ST/BC
- Contributions from the general municipal fund as decided by the ULB
- Percentage contribution from the MPs/MLAs Councillors funds.
iii) Role of the Private Sector: It may be desirable to leverage additional resources for slum improvement by involving the private sector in certain projects which will utilise revenues from the commercial development of high value inner city slums for resettlement and rehabilitation schemes which will result in bringing about a substantial improvement in the physical, economic and social quality of life of slum dwellers.

Any private sector development scheme must strictly comply with state resettlement and rehabilitation guidelines and must be approved by the ULB after full consultation with the community. Only those schemes which will cover the full cost of R&R and associated services (transportation, communication, etc.) should be considered by the ULB. The ULB must satisfy itself that any land development and R&R scheme will produce a clear win/win situation for all Parties but most particularly for the slum community.

Construction Programmes by government agencies tend to have excessive time and cost overruns. To avoid this and provide greater accountability and competitiveness such projects would be best assigned to the private sector.

iv) Private sector funding: The contribution of slum dwellers in helping to maintain the productivity of local business, industry and trade is substantial. ULBs should take initiatives to mobilise resources from the private sector either for the adoption of specific development works at the slum level in accordance with the priorities identified in the municipal slum development plan (MSDP) and annual action plans (see Section 7 above) or through direct contributions to the ULB convergence fund. State governments and the ULBs may consider introducing fiscal incentives such as tax exemptions, etc., as incentives to mobilising contributions.

v) Institutional finance: The ULBs may also consider other means of attracting capital for investment in city and slum infrastructure such as raising bonds and institutional loan finance. A refinancing scheme may be extending (in line with the NHB refinancing) to facilitate city governments to raise funds from identified commercial banks.

vi) Extending tax base: The slum areas, particularly those which have been provided with services should be de-notified (refer to earlier point 3) and brought under the net of municipal taxes. A consolidated service tax (as part of property tax family) on properties located in slums (tenable and untentable) should be levied to raise resources from the users. Similarly, other land based taxes on specific developments such as illegal sub-division (regularised-unauthorised) should be applied to recover costs on the basis of paying capacities and used to cross-subsidise the development of the slums. These could include:

- Betterment Levy
- Valoration
- Exactions
- Impact fees

The levying of such taxes may require the modification of state municipal Acts.

vii) User charges: At the administrative and political level any unwillingness to charge for services delivered should be discouraged. The standard and effectiveness of service delivery can only be improved if sufficient funds are recovered from the operation of services. ULBs may consider cross-subsidy from user charges where appropriate. It may be important to utilise the services of private agencies and the CBOs in the process.

viii) Community cost sharing: Slum improvement projects should encourage contributions from the community right from the beginning as a means of sharing costs and extending works from the stage of prioritising/inclusion of slums for service delivery to further stages of assessment of needs and demands followed by planning and implementation. The cost sharing approach enhances, commitment and self-reliance.

ix) Selling of land title: The ULBs may consider selling of title on an installment basis as a means of raising capital for upgrading and improvement as also to meet the expenses for operations and maintenance. Regularisation and grant of tenure should be linked with (a) loans to beneficiaries for meeting the costs (partially) on infrastructure provision, and (b) mobilisation of community resources (as done under Madras urban development project – MUDP). In this regard community/collective collateral may be used as security to finance subsequent provision of infrastructure.

13. Improving creditworthiness of the slum dwellers

Improving slum dwellers creditworthiness will help in accelerating the flow of private funds for slum development especially if this results in the coverage
of the large group of ineligible households under formal financing schemes. This would not only provide an additional flow funds for shelter and other infrastructure but would also have the additional benefit of ensuring greater Programmes ownership, sustainability and effectiveness. Making slum dweller creditworthy, establishing funding mechanism with transparent subsidy arrangements and innovations are important issues, which require policy interventions. The nature of financial intermediation should be such that it encourages suitable local financial institutions to work alongside the ULBs (e.g. SEWA Bank).

a) Making slum dwellers creditworthy: Savings and credit at the group level (see section 11 a) with upward linkages to formal sector finance will have a substantial impact on overall slum development and urban poverty alleviation.

- **Financial discipline**: This process would require support for establishing grass roots financial discipline and group capacity building which could be undertaken by specialist savings and credit organisation. Financial institutions should also be allowed to cover the non-eligible segment through acceptance of community and collective in line with the HUDCO scheme for the NGOs.

- **Social collateral**: Institutional mechanisms should be evolved in line with the community development societies (CDS) system to mobilise community-based resources to be linked as collateral to extend institutional loans.

b) Rational use of subsidies: Subsidies in slum improvement programmes have become an all-encompassing feature firmly based on a welfare state approach. Even though subsidies for genuinely poor households are inevitable as a means of fulfilling their access to basic shelter and services, it has become imperative to make a shift towards establishing more sustainable financing mechanisms with the participation of the users to bring about desired change.

- Firstly, this shift could be facilitated by quantifying/making explicit the quantum of subsidies and also making them more transparent.
- Subsidies can also be used as security to leverage more funds for slum development.
- Subsidies could be rotated as revolving funds rather than being simple one-time grants.
- Subsidies could be used as partial captive recovery as has been done in some of the housing projects.

Some specific suggestions to reduce and rationalise the inherent subsidies may include the following measures:

**Reforming subsidies**

- Provision of individual household services such as water supply, electricity and sanitation would facilitate recovery of user charges and wherever these services are to be subsidised they can be quantified and used judiciously.
- Subsidies could be more clearly focussed on specific components such as roads, drains and other social infrastructure facilities such as pre-school provision, nutrition Programmes to children and pregnant women, managing primary health care centre and a host of such other related activities of common benefit or benefiting specific individuals or groups.
- Subsidies should be discouraged in employed generation schemes, economic support Programmes, and housing/shelter upgradation. Here access to affordable and efficient loans will be more important.

14. **Strengthening municipal governance and management**

a) Urban governance: The nature of urban governance has import implications for national slum development policy, which requires the adoption of new approaches to urban management and urban poverty alleviation. Urban governance should be defined as the relationship between civil society and the municipality/ULB. This implies a shift, away from a perspective that defines infrastructure and services provision as exclusive concerns of government, to a new perspective that acknowledge the potential role, responsibility and impact of civil society. Civil society groups include: civic association, community groups, women’s groups, social movements, non-governmental organisations, community based organisations, private sector, etc. These groups already play a significant role in areas such as housing development, sale and rental of land, transportation and enterprise.

The 74th Constitutional Amendment Act shall form the basis for converging new partnerships and creating an environment wherein the urban local body, as the city government will have the prime responsibility as a coordinator. One of the important features of the 74th Amendment is the Constitution of ward committees, which should be extended to cover local bodies of all sizes. In particular community structures
of the poor should nominate ward committee members rather than the political parties.

In keeping with the spirit of the 74th Constitutional Amendment, the activities, which are hitherto performed by the state level agencies like Slum clearance board, housing board etc., needs to be operated through the local body. Till such time the institutional restructuring is not full accomplished, the local body in each town shall mandatorily be consulted and shall guide all activities of such state level agencies particularly with regard to provision of amenities and services.

b) Capacity building: A series of capacity building initiatives should be promoted to enable ULBs to effectively carry out slum development in accordance with the National slum development policy. This should include skill development, financial administration and management and human resource development.

i. Skill development shall be taken up under a three tier training strategy covering:
   - Seminars for senior level functionaries (both officials and elected representatives).
   - Mid carrier training at decentralised locations
   - On-the-job training.

ii. Financial Management: This component will be essential to the implementation of improved financing of slum development. It will be necessary to build financial management capacity in a number of areas such as:
   - Asset management – development of inventory, classification, valuation, assessment of returns and mobilisation strategy.
   - Financial planning – normative budgeting and investment planning.
   - Accounting and internal control – application of double entry accounting, reporting and recording formats and timely auditing.
   - Borrowing and debt management – updating of debt register and optimum recovery from assets created by debt.
   - Automation – asset, receivable, payable accounting, budgeting.
   - Property tax reforms
   - Public private partnerships.

iii. Human resource development: Human resource management and development shall cover the promotion of specific cadre under community development cell within ULB to prepare, implement and monitor IMDP at town level. The deployment of cadre at the ULB level shall be for a minimum prescribed period so as to have continuity in the slum development activity.

iv. Multi-lateral and bilateral Cooperation should be promoted to have financial and technical support to carry out capacity building and develop a backup of research, evaluation and impact assessment studies for dissemination in a wider context of skill development. This should be taken up by direct contribution to slum development funds as well as implementation of demonstration projects.

c) Partnerships: In order to realise the above-suggested changes, it will be necessary to consider practical ways of developing partnerships with civil society groups for the improvement of informal settlements. Partnerships need to be institutionalised and not person-based. For achieving this, there is need to create a mandate for partnerships and recognise capacity building as a thrust area in programmes with definite budgets and plans. The capacity building should be applicable across the board to communities, officials, the NGOs, non-officials (elected representatives) and all stakeholders.

Partnership principles: Important guiding principles for partnership development shall include:

i) widening the base to include a wide variety of community organisations like youth groups, Mahila Mandals, saving and credit groups, association of interest groups/trades etc; and give the interlinking responsibility to the community development unit;

ii) the nature of financial intermediation should be such that, it facilitates creation of community
based financial institutions suitable to local needs and situations;

iii) Women should share decision-making with the local body, so as to learn to do the same on their own when they become more active as members or managers in the local CBOs.

iv) Invest in capacity building in respect of various activities and ensure dovetailing of training with the activity itself; for instance balwadi teachers may require skill training and encouragement for the innovative use of using local materials and models in the day-to-day teaching activity;

v) The CBOs must have a choice to select from a range of technical or professional expertise in legal, infrastructure, sanitation and other aspects with local body assistance.

vi) Develop flexible instruments to facilitate infrastructure development to be demand driven and evolving.

d) Community development: To give a focus and direction for establishing partnerships arrangements, in particular between the communities and the departments of the local body, a nucleus of community development unit has to be established in each and every local body. This unit should take a lead role in converging all activities of slum development through community organisations, the NGOs and other civil society actors.

15. Shelter upgradation

This section of the slum policy is intended to emphasise the fundamental importance of empowering and enabling the urban poor to fulfil their own housing needs just like other city dwellers by facilitating access to serviced land, home loan financing and other technical and institutional support.

Given the magnitude of urban poverty and the availability of public funds is neither practical nor desirable to provide free housing for all the urban poor, especially since this would undermine the inherent capacity of most slum dwellers to provide for their own shelter needs within an enabling policy framework. Consequently, this policy is committed to a shelter upgradation approach that will enable, support and extend individual and community initiatives for housing provision.

This policy envisages the primary role of the ULB in shelter upgradation as one of addressing and resolving the following critical bottlenecks:

a) Land for affordable housing: This can be facilitated by modifying planning legislation and planning instruments (Master Plans, etc.), as indicated in Section 7, to regularise the concept of high density, mixed use occupation for slum areas. This will have the effect of helping to keep costs down and ensure that the market for land in slum areas will be determined by high density, low income characteristics and not subject to widespread commercial speculation as elsewhere in the urban area.

b) Security of tenure: The lack of security of tenure is one of the major reasons why poor households are unable or unwilling to engage in shelter upgradation. The possible of future eviction and or resettlement is a distinct disincentive to investing private money for improved dwellings. At the same time, without proper tenure and thus collateral, households are unable to access formal sources of loan finance for housing. This policy is designed the issue of improving land tenure for the poor through the new provisions laid out for granting of tenure (see Section 5 above). These provisions will expedite the process of obtaining greater security of tenure for all slum dwellers on government land categorised as tenable and will also speed up and improve the process of land acquisition and negotiated compensation on tenable settlements on private land by adopting innovative methods such as land sharing arrangements and increased FSI/FAR by way of compensation.

c) Rationalisation of norms and standards: Whilst making efforts to formalise and regularise the concept of higher density, mixed use occupation of land in existing slum areas, certain minimum norms governing dwelling space should be specified by each the state/ULB. Such norms and standards should be redefined so as to allow for high density, low cost housing units with provision for adequate access, ventilation, light, safety and privacy. Provision for a range of plot/house options to accommodate varying needs would be desirable.

d) Creative incremental unit design and layout patterns: Innovative designs and layout patterns such as cluster planning (see Indian Standards: Requirements of Clusters Planning for Housing – Guide; IS 13727: 1993) which maximise the use of common open spaces are to be encouraged. There should be flexibility for dwelling units to expand incrementally in keeping with a family’s changing requirements and economic situation.
e) **Community participation:** Participatory approaches to housing design and alternatives for housing improvement and development both *in-situ* and in resettlement areas should be evolved through a process of dialogue. A range of supporting measures to facilitate more effective participation in shelter upgradation might include:

i) **Improved market information:** This is required to bridge the gap in information about market condition in terms of availability and prices of both land and housing. Compiling systematic information and exchanging the same will be useful to both potential buyers and seller (including private and public agency) and will ultimately lead to market efficiencies.

ii) **Cost effective technology:** Technical assistance is required to enable households to have access to better technology and materials at cheaper prices through better information, design advice as well as a better assessment of costs of shelter upgradation and provision of household level basic services. Local and outside experts can be invited to build this capacity. Establishing housing guidance centres and utilising the existing building centre network is recommended for this purpose.

iii) **Legal services:** Legal services are required for determining the status of different housing options and land parcels. The need for reliable and affordable legal services is substantial. The main legal services that the ULBs should make available to the community would relate to information on planning laws, building regulations and bye-laws. In particular, this would consist of making communities more aware of the modified planning laws and redefined house plot/building norms and standards.

iv) **Training, documentation and advocacy:** The concept of “Housing Clinics” where practical training is imparted to grassroots leaders is recommended to enable them to act as key sources of information in relation to points i-iv above. Documentation support like training materials, pamphlets and booklets to support the training efforts in housing clinics is necessary.

f) **Project planning and management:** All potential housing development schemes need to be undertaken on a project basis. This would facilitate identifying the opportunities that exist and also identify and mobilise opportunities for developing fundable projects. Project management services to prepare feasibility reports and other project documents are an important service that needs to be strengthened. The individual members, community groups, the NGOs and even some of the government/semi-government agencies often feel demand for such services.

g) **Financing shelter upgradation:** Given the absence of long term (mortgage) finance for low income housing, this policy encourages states and the ULBs to seek new ways to financing shelter for the urban poor. This may include:

i. **Creation of a evolving shelter fund:** This fund should be created from the current minimum 10 percent allocation of the NSDP funds earmarked for housing. This revolving fund should be linked to community savings and credit initiatives with appropriate safeguards. This would then provide immediate cash injection into a new system of informal housing loans operated on group/solidarity lending principles. Such monies would be far more accessible to the poor households than the present system of institutional finance.

ii. **Partnership with savings and credit societies:** The ULBs may consider placing such funds with a savings and credit organisation capable of supporting group based approaches in an effective manner.

iii. **Leveraging additional funds:** An apex body of savings and credit groups at city and possibly even state level may then provide funds to lending institutions at neighbourhood/area level which are capable of promoting sustainable housing finance on the basis of innovative loan repayment mechanisms with low default rates. This will entail providing training to borrowers, supporting group savings and lending, peer monitoring and the establishment of flexible repayment schedules/installments. Such lending institutions should leverage additional finance for housing finance from formal banking institutions.

iv. **Loans and guarantees:** In addition to supporting group savings and lending mechanisms cash loan facility will be established to enable poor residents to access to housing finance with government guarantees.

v. **Innovative lending methods:** Increased access to institutional funds for housing would be facilitated by a combination of the following measures:
• Better targeting of groups and individuals who can establish their creditworthiness through participation in savings and credit groups
• Utilising subsidies as security against loans
• Institutional interventions through local bodies and other government departments which agree to take up housing development on their own land.

vi) Targeting the EWS/ LIG housing schemes:
The EWS and LIG housing schemes should be targeted at registered slum dwellers. In-situ upgradation should be given priority within such schemes.

vii) Private sector participation: It is imperative that the housing stock for poorer families be increased. This policy advocates exploring ways of achieving this objective. Existing land owners, the NGOs or CBOs, for example, may be encouraged to undertake upgrading as per norms and standards defined provided that any increase in house values and rents be formally agreed with the community and the ULB prior to works being undertaken.

16. Monitoring and Evaluation (M&E)
The M&E is a tool for effective objectives-oriented management of development projects and Programmes aimed at benefiting the poor and disadvantaged groups. In order to find out the extent to which the Programmes and projects of each strategic intervention under the National Slum Policy are being implemented and whether defined policy objectives are being achieved, a system of monitoring and evaluation shall have to be established at different levels of government with the department of urban employment and poverty alleviation, ministry of urban affairs and employment, Government of India at the apex level.

A well-defined monitoring and evaluation framework should be developed for every essential strategic intervention by utilising different performance indicators to evaluate and assess the changes that take place as a result of implementing the Programme and project under this policy. It is also considered essential to ensure that the monitoring systems provide feedback for further developing and improving this policy framework and that a learning process takes place so that implementation and management of various slum development Programmes and projects can be improved in future.

Programmes and projects for implementation of this policy should include firm arrangements for monitoring not only during implementation but also after that to be sure of the result of how the situation develops after each strategic intervention. Monitoring may render essential information and highlight the necessity to adjust the strategic interventions under the slum policy and its different Programmes to meet the stated objectives. Adequate provisions shall be needed for monitoring and evaluation of the various slum policies and programmes.

A common management information system in respect of each of the identified activity shall have to be developed and put into place to be implemented for effective follow up actions so that field functionaries of the concerned departments, at the state and local levels report and fill up same set of forms at the grassroots level.

Provision should also be made to ensure participation of the community in monitoring and to use the response as a constructive resource for improvement. Feedback of the community is considered the best yardstick to assess the general satisfaction with any slum Programme or project. Participatory monitoring can be achieved through including community representatives in the monitoring team, regularly consulting key-person in the community or regular surveys among those covered under different projects programmes.

For all slum development projects specially relating to resettlement and rehabilitation an extensive ex-post evaluation of the project should be made a clear part of the project. The project completion report should evaluate the outcome of relocation and its impact on the beneficiaries/resettle households for their standard of living. Results appearing from evaluations may be crucial information for the planning/implementation of other such projects within the city or state as well as out-side the state. The information is also essential to build up experience. It is necessary for the ULBs to conduct ex-post evaluations at different time intervals (say, after one year and five years) since some impacts are only recognisable after considerable time. Of the Parties affected by the implementation of such projects, those interested in evaluation should be the state Governments, the ULBs, affected residents, affected business, The CBOs and NGOs of these, NGOs may be considered for a leading role for evaluations while the ULBs may play the leading role in implementation and monitoring of all such projects.
Monitoring and evaluation teams should be staffed with multi-disciplinary background with economic, sociological, anthropological and technical expertise including specialists on gender aspects. The evaluation teams need the credibility that their findings will be taken seriously, and the ability to communicate that will make their findings effective in improving performance.

Monitoring and evaluation of resettlement projects should also be linked into the overall monitoring process of the ‘push’ projects (projects which pressurise resettlement for other use of the land in public interest).

A well functioning monitoring and evaluation system is the best insurance that various interventions under this policy will be implemented and that there will be learning process. Much of the slum development is still “trial-and-error”. The M&E, therefore, as an aid to the learning process must be seen as an integral part of projects and Programmes of slum development and is essential to build up the institutional capacity that is necessary to manage the slum problem on a sustainable basis in our cities.

**Monitoring and evaluation – action points**

Each intervention, programme or project under this policy shall need a monitoring and evaluation mechanism. Based on the guiding principles given above, key points necessary to design and build effective monitoring and evaluation into the various projects of strategic interventions for achieving the objectives of the National Slum Policy are given as under:

- Monitoring and evaluation should be built into every Programme and its management from the beginning in terms of clear responsibility and budgets.
- Ensure that procedures and conditions are connected to the results of monitoring and evaluation.
- Try to ensure that monitoring and credible bodies carry out evaluation. These may include both the communities’ affected themselves and independent third Parties.
- Monitoring and evaluation should allow both immediate feedback to action and more considered reflection and response.
- Monitoring should be frequent in the early stages, but requires follow up over an extended period until the desired and acceptable levels of project programme objectives are achieved.

**d. Immediate steps required**

1. All state governments should establish a working group to ensure that institutional arrangements, legislative frameworks and other necessary actions achieve conformity with the National Slum Policy.
2. All states that have not formulated a slum Act should consider formulating and notifying an Act, which reflects the current policy principles and guidelines.
3. It is essential that the States re-examine the implementation of the relevant sections of the Slum Act with a view to ensuring that the land acquisition procedures in respect of slum and informal settlements are simplified to ensure the speedy resolution of disputes and negotiations and that the proceedings should not last longer that a period of six calendar months from initiation.
4. States should take immediate action to ensure that all laws relating to encroachments on government land are revised and modified in the light of the National Slum Policy.
5. States should take immediate action to compile clear guidelines on resettlement and rehabilitation (R&R) in accordance with the principles laid down in Section C.6
6. States should identify the main training and capacity building requirements for the efficient implementation of the National Slum Policy and devise a programme of action to address skill gaps and needs.
7. The ULBs must compile a comprehensive list of all slums/informal settlements in the urban area within a period of one calendar year from the announcement of this Policy and must establish a system for the on-going registration and issuing of identity cards for all urban poor households regardless of their current tenurial status in accordance with Section C.2
8. The ULBs must ensure that the land status of all listed slums/informal settlements is classified as either tenable or untenable strictly according to the definition outlined in this Policy in Section C.4
9. Wherever slums/informal settlements are classified as tenable, the ULB must facilitate the granting of tenure on all government occupied land and initiate acquisition proceedings and/or negotiations on all privately occupied land in accordance with section C.5
10. The ULBs should take necessary action to formulate an integrated municipal development plan which will
coverage all development activities and resources to provide a clear picture of the different levels of infrastructure and services in the ULB area and the relative gap or deficiency in infrastructure and services between the better serviced and under serviced wards and neighbourhoods. As a priority the IMDP should then propose actions and financial allocations to reduce this gap as far as possible in accordance with Section C.7 of the Policy.

11. The ULBs should also take action to modify their bye-laws and building regulations so as to facilitate the implementation of the National Slum Policy Section C.7

12. The ULBs should implement slum development and urban poverty Programmes in conformity with this National Slum Policy emphasising the principle of community participation in all aspects of policy implementation. Each ULB must establish concrete structures and systems for ensuring community participation in environmental improvement, social development and economic development for the urban poor.

13. The ULBs must take immediate action to identify specific financial resources that may be converged for slum development in accordance with Section C.12 of this Policy.

14. The ULBs should identify any competent organisations/agencies with expertise in group savings and credit schemes that would be able to work in the ULB area to promote financial services for the poor including the operation of a revolving shelter fund using the minimum 10percent housing allocation under the NSDP.
Statement of objects and reasons

There has been a demand for imposing a ceiling on urban property also, especially after the imposition of a ceiling on agricultural lands by the state governments. With the growth of population and increasing urbanisation, a need for orderly development of urban areas has also been felt. It is, therefore, considered necessary to take measures for exercising social control over the scarce resource of urban land with a view to ensuring its equitable distribution amongst the various sections of society and also avoiding speculative transactions relating to land in urban agglomerations.

With a view to ensuring uniformity in approach Government of India addressed the state governments in this regard; eleven states have so far passed resolutions under Article 252(1) of the Constitution empowering Parliament to undertake legislation in this behalf. The present proposal is to enact a parliamentary legislation in pursuance of these resolutions.

The Bill is intended to achieve the following objectives:

(i) to prevent concentration of urban property in the hands of a few persons and speculation and profiteerings therein;

(ii) to bring about socialisation of urban land in urban agglomerations to subserve the common good by ensuring its equitable distribution;

(iii) to discourage construction of luxury housing leading to conspicuous consumption of scarce building materials and to ensure the equitable utilisation of such materials; and

(iv) to secure orderly urbanisation.

The Bill mainly provides for the following:

(i) imposition of ceiling on both ownership and possession of vacant land in urban agglomerations, the ceiling being on a graded basis according to the classification of the urban agglomeration;

(ii) acquisition of the excess vacant land by the state government with powers to dispose of the vacant land to subserve the common good;

(iii) payment of an amount for the acquisition of the excess vacant land, in cash and in bonds;

(iv) granting exemptions in respect of certain specific categories of vacant land;

(v) regulating the transfer of vacant land within the ceiling limit;

(vi) regulating the transfer of urban or urbanisable land with any building (whether constructed before or after the commencement of the proposed legislation) for a period of 10 years from the commencement of the legislation or the construction of the building, whichever is later;

(vii) restricting the plinth area for construction of future residential buildings; and

(viii) other procedural and miscellaneous matters.

Preamble

An Act to provide for the imposition of a ceiling on vacant land in urban agglomerations, for the acquisition of such land in excess of the ceiling limit, to regulate the construction of buildings on such land and for matters connected therewith, with a view to preventing the concentration of urban land in the hands of a few persons and speculation and profiteering therein and with a view to bringing about an equitable distribution of land in urban agglomerations to subserve the common good.

WHEREAS it is expedient to provide for the imposition of a ceiling on vacant land in urban agglomerations, for the acquisition of such land in excess of the ceiling limit, to regulate the construction of buildings on such land and for matters connected therewith, with a view to preventing the concentration of urban land in the hands of a few
persons and speculation and profiteering herein and with
a view to bringing about an equitable distribution of land
in urban agglomerations to subserve the common good;

AND WHEREAS Parliament has no power to make laws
for the states with respect to the matters aforesaid except
as provided in Articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of Article
252 of the Constitution resolutions have been passed by
all the Houses of the Legislatures of the States of Andhra
Pradesh, Gujarat, Haryana, Himachal Pradesh, Karnataka,
Maharashtra, Orissa, Punjab, Tripura, Uttar Pradesh and
West Bengal that the matters aforesaid should be regulated
in those states by Parliament by law;

BE it enacted by Parliament in the twenty-seventh year
of the Republic of India as follows:

Chapter-I

Preliminary

1. Short title, application and commencement

(1) This Act may be called The Urban (Ceiling and

(2) It applies in the first instance to the whole of the
states of Andhra Pradesh, Gujarat, Haryana
Himachal Pradesh, Karnataka, Maharashtra,
Orissa, Punjab, Tripura, Uttar Pradesh and West
Bengal and to all the union territories and it shall
also apply to such other state which adopts this
Act by resolution passed in that behalf under
clause (1) of Article 252 of the Constitution.

(3) It shall come into force in the states of Andhra
Pradesh, Gujarat, Haryana, Himachal Pradesh
Karnataka, Maharashtra, Orissa, Punjab, Tripura,
Uttar Pradesh and West Bengal and in the union
territories at once and in any other state which
adopts this Act under clause (1) of Article 252
of the Constitution, on the date of such
adoption and, save as otherwise provided in this
Act, any reference this Act to the commencement
of this Act shall, in relation to any state or union
territory, mean the (sic) on which this Act comes
into force in such state or union territory.

Chapter II: Definitions

2. Definitions

In this Act, unless the context otherwise requires—

(a) “appointed day” means,—

(i) in relation to any state which adopts this Act under
clause (1) of Article 252 of the Constitution, the date
of such adoption;

(b) “building regulations” means the regulations
contained in the Master Plan, or the law in force
governing the construction of buildings;

(c) “ceiling limit” means the ceiling limit specified in
section 4;

(d) “competent authority” means any person or authority
authorised by the state government, by notification
in the official gazette, to perform the functions of
the competent authority under this Act for such area
as may be specified in the notification and different
persons or authorities may he authorised to perform
different functions;

(e) “dwelling unit”, in relation to a building or a portion
of a building, means a unit of accommodation, in
such building or portion, used solely for the purpose
of residence;

(f) “family” in relation to a person, means the individual,
the wife or husband, as the case may be, of such
individual and their unmarried minor children.

Explanation: For the purpose of this clause,
“minor” means a person who has not completed
his or her age of eighteen years;

(g) “land appurtenant”, in relation to any building,
means—

(i) in an area where there are building regulations,
the minimum extent of land required under such
regulations to be kept as open space for the
enjoyment of such building, which in no case
shall exceed five hundred square metres, or

(ii) in an area where there are no building regulations,
an extent of five hundred square metres
contiguous to the land occupied by such building
and includes, in the case of any building
constructed before the appointed day with a
dwelling unit therein, an additional extent not
exceeding five hundred square metres of land,
if any, contiguous to the minimum extent
referred to in sub-clause (i) or the extent referred
to in sub-clause (ii), as the case may be;

Master Plan in relation to an area within an urban
agglomeration or any part thereof, means the plan
(by whatever name called) prepared under any law for the time being in force or in pursuance of an order made by the state government for the development of such area or part thereof and providing for the stages by which such development shall be carried out;

(i) “person” includes an individual, a family, a firm, a company, or an association or body of individuals, whether incorporated or not;

(j) “prescribed” means prescribed by rules made under this Act;

(k) “state” includes a union territory and “State Government”, in relation to any land or building situated in a union territory or within the local limits of a cantonment declared as such under section 3 of the Cantonments Act, 1924, means the central government;

(l) “to hold” with its grammatical variations, in relation to any vacant land means—

(i) to own such land; or

(ii) to possess such land as owner or as tenant or as mortgagee or under an irrevocable power of attorney or under a hire-purchase agreement or partly in one of the said capacities and partly in any other of the said capacity or capacities.

Explanation: Where the same vacant land is held by one person in one capacity and by another person in another capacity, then, for the purposes of this Act, such land shall be deemed to be held by both such persons;

(m) “Tribunal” means the urban land tribunal constituted under section 12;

(n) “urban agglomeration”

(A) in relation to any state or union territory specified in column (1) of Schedule I means,—

(i) the urban agglomeration specified in the corresponding entry in column (2) thereof and includes the peripheral area specified in the corresponding entry in column (3) thereof; and,

(ii) any other area which the state government may, with the previous approval of the central government, having regard to its location, population (population being more than one lakh) and such other relevant factors as the circumstances of the case may require, by notification in the official gazette, declare to be an urban agglomeration and any agglomeration so declared shall be deemed to belong to category D in that schedule and the peripheral area therefore shall be one kilometre;

(B) in relation to any other state or union territory, means any area which the state government may, with the previous approval of the central government, having regard to its location, population (population being more than one lakh) and such other factors as the circumstances of the case may require, by notification in the official gazette declare to be an urban agglomeration and any agglomeration so declared be deemed to belong to category D in Schedule I and the peripheral area therefor shall be one kilometre;

“urban land” means—

(i) any land situated within the limits of an urban agglomeration and referred to as such in the Master Plan; or

(ii) in a case where there is no Master Plan, or where the Master Plan does not refer to any land as urban land, any land within the limits of an urban agglomeration and situated in any area included within the local limits of a municipality (by whatever name called), a notified area committee, a town area committee, a city and town committee, a small town committee, a cantonment board or a panchayat, but does not include any such land which is mainly used for the purpose of agriculture.

Explanation: For the purpose of this clause and clause (q),—

(A) “agriculture” includes horticulture, but does not include -

(i) raising of grass,

(ii) dairy farming,

(iii) poultry farming,

(iv) breeding of live-stock, and

(v) such cultivation, or the growing of such plant, as may be prescribed;

(B) land shall not be deemed to be used mainly for the purpose of agriculture, if such land is not entered in the revenue or land records before the appointed day as for the purpose of agriculture:

Provided that where on any land which is entered in the revenue or land records before the appointed day as for the purpose of agriculture, there is a building which is not in the nature of a farm-house, then, so much of the extent of such land as is occupied by the building shall not be deemed to be used mainly for the purpose of agriculture:
Provided further that if any question arises whether any building is in the nature of a farm-house, such question shall be referred to the state government and the decision of the state government thereon shall be final:

(C) notwithstanding anything contained in clause (B) of this explanation, land shall not be deemed to be mainly used for the purpose of agriculture if the land has been specified in the Master Plan for a purpose other than agriculture;

(p) “urbanisable land”, means land situated within an urban agglomeration, but not being urban land

(q) “vacant land”, means land, not being land mainly used for the purposes of agriculture, in an urban agglomeration, but does not include -

(i) land on which construction of a building is not permissible under the building regulations in force in the area in which such land is situated;

(ii) in an area where there are building regulations, the land occupied by any building who has been constructed before, or is being constructed on, the appointed day with approval of the appropriate authority and the land appurtenant to such building; and

(iii) in an area where here are no building regulations, the land occupied by any building which has been (sic) before, or is being constructed on, the appointed day and the land appurtenant to such building:

 Provided that where any person ordinarily keeps his cattle, other than for the purpose of dairy farming or for the purpose at of breeding of live-stock, on any land situated in a village within an urban agglomeration (described as a village in the revenue records), then, so much extent of the land as has been ordinarily used for the keeping of such cattle immediately before the appointed day shall not be deemed to be vacant land for the purposes of this clause.

Chapter III: Ceiling on vacant land

3. Persons not entitled to hold vacant land in excess of the ceiling limit

Except as otherwise provided in this Act, on and from the commencement of this Act, no person shall be entitled to hold any vacant land in excess of the ceiling limit in the territories to which this Act applies under sub-section (2) of section 1.

4. Ceiling limit

(1) Subject to the other provisions of this section, in the case of every person, the ceiling limit shall be—

(a) where the vacant land is situated in an urban agglomeration falling within category A specified in Schedule I, five hundred square metres;

(b) where such land is situated in an urban agglomeration falling within category B specified in Schedule I, one thousand square metres;

(c) where such land is situated in an urban agglomeration falling within category C specified in Schedule I, one thousand five hundred square metres;

(d) where such land is situated in an urban agglomeration falling within category D specified in Schedule I, two thousand square metres.

(2) Where any person holds vacant land situated in two or more categories of urban agglomeration specified in Schedule I, then, for the purpose of calculating the extent of vacant land held by him—

(a) one square metre of vacant land situated in an urban agglomeration falling within category A shall be deemed to be equal to two square metres of vacant land situated in an urban agglomeration falling within category B, three square metres of vacant land situated in an urban agglomeration falling within category C and four square metres of vacant land situated in an urban agglomeration falling within category D;

(b) one square metre of vacant land situated in an urban agglomeration falling within category B shall be deemed to be equal to one and one-half square metres of vacant land situated in an urban agglomeration falling within category C and two square metres of vacant land situated in an urban agglomeration falling within category D; and

(c) one square metre of vacant land situated in an urban agglomeration falling within category C shall be deemed to be equal to one and one-third square metres of vacant land situated in an urban agglomeration falling within category D.

(3) Notwithstanding anything contained in sub-section (1), where in respect of any vacant land any scheme for group housing has been sanctioned by an authority competent in this behalf immediately before the commencement of this Act, then, the person holding such vacant
land at such commencement shall be entitled to continue to hold such land for the purpose of group housing:

Provided that not more than one dwelling unit in the group housing shall be owned by one single person:

Provided further, that the extent of vacant land which such person shall be entitled to hold shall in no case, extend—

(a) the extent required under any building regulations governing such group housing; or

(b) the extent calculated by multiplying the number of dwelling units in the group housing and the appropriate ceiling limit referred to in sub-section (1), whichever less.

Explanation: For the purposes of this sub-section and sub-section (10).—

(i) “group housing” means a building constructed or to be constructed with one or more floors, each floor consisting of one or more dwelling units and having common service facilities;

(ii) “common service facility” includes facility like staircase, balcony and varandah.

(4) (a) In any state to which this Act applies in the first instance, if, on or after the 17th day of February 1975, but before the appointed day, any person has made any transfer by way of sale mortgage, gift, lease to otherwise (other than a bona fide sale under a registered deed for valuable consideration) of any vacant land held by him and situated in such state to any other person, whether or not for consideration, then, for the purposes of calculating the extent of vacant land held by such person the land so transferred shall be taken into account, without prejudice to the rights or interests of the transferee in the land so transferred:

Provided that the excess vacant land to be surrendered by such person under this chapter shall be selected only out of the vacant land held by him after such transfer.

(b) For the purpose of clause (a) the burden of proving any sale to be a bona fide one shall be on the transferee.

Explanation: Where in any state aforesaid, there was or is in force any law prohibiting transfer of urban property in that state except under the circumstances, if any, specified therein, then, for the purposes of this sub-section, any transfer by way of sale of such property, being vacant land, made by any person under a registered deed for valuable consideration in accordance with the provisions of such law or in pursuance of any sanction or permission granted under such law, shall be deemed to be a bona fide sale.

(5) Where any firm or unincorporated association or body of individuals holds vacant land or holds any other land on which there is a building with a dwelling unit therein or holds both land and such other land, then, the right or interest of any person in the vacant land or such other land or both as the case may be, on the basis of his share in such firm or association or body shall also be taken into account in calculating the extent of vacant land held by such person.

(6) Where a person is a beneficiary of a private trust and his share in the income from such trust is known or determinable, the share of such person in the vacant land and in any other land on which there is a building with a dwelling unit therein, held by the trust, shall be deemed to be in the same proportion as his share in the total income of such trust bears to such total income and the extent of such land apportionable to his share shall also be taken into account in calculating the extent of vacant land held by such person.

(7) Where a person is a member of a Hindu undivided family, so much of the vacant land and of any other land on which there is a building with a dwelling unit therein, as would have fallen to his share had the entire vacant land and such other land held by the Hindu undivided family been partitioned amongst its members at the commencement of this Act shall also be taken into account in calculating the extent of vacant land held by such person.

(8) Where a person, being a member of a housing co-operative society registered or deemed registered under any law for the time being in force, holds vacant land allotted to him by such society, then, the extent of land so held shall also be taken into account in calculating the extent of vacant land held by such person.

(9) Where a person holds vacant land and also holds any other land on which there is a building with a dwelling unit therein the extent of such other land occupied by the building and the land appurtenant thereto shall also be taken into account in calculating the extent of vacant land held by such person.
(10) Where a person owns a part of a building, being a
group housing, the proportionate share such person in
the land occupied by the building and the land
appurtenant thereto shall also be taken in account in
calculating the extent of vacant land held by such person.

(11) For the removal of doubts it is hereby declared that
nothing in sub-sections (5), (6), (7), (9) and (10) shall
be construed as empowering the competent authority
to declare any land referred to in sub-clause (ii) or
sub-clause (iii) of clause (q) of section 2 as excess
vacant land under this chapter.

**Explanation:** For the purposes of this section and
sections 6, 8 and 18 a person shall be deemed to
hold any land on which there is a building (whether
or not with a dwelling unit therein) if he -

(i) owns such land and the building; or

(ii) owns such land but possesses the building or
possesses such land and the building, the
possession, in either case, being as a tenant under
a lease, the unexpired period of which is not
less than ten years at the commencement of this
Act, or as a mortgagee or under an irrevocable
power of attorney or a hire-purchase agreement
or party in one of the said capacities and partly in
any other of the said capacity or capacities; or

(iii) possesses such land but owns the building the
possession being as a tenant under a lease or as
a mortgagee or under an irrevocable power of
attorney or a hire-purchase agreement or partly
in one of the said capacities or partly in any
other of the said capacity or capacities.

5. **Transfer of vacant land**

(1) In any State to which this Act applies in the first
instance, where any person who had held vacant land
in excess of the ceiling limit at any time during the
period commencing on the appointed day and
ending with the commencement of this Act, has
transferred such land or part thereof by way of sale,
mortgage, gift, lease or otherwise, the extent of the
land so transferred shall also be taken into account in
calculating the extent of vacant land held by such
person and the excess vacant land in relation to such
person shall, for the purposes of this chapter, be
selected out of the vacant land held by him after
such transfer and in case the entire excess vacant land
cannot be so selected, the balance, or, where no
vacant land is held by him after the transfer, the entire
excess vacant land, shall be selected out of the vacant
land held by the transferee:

Provided that where such person has transferred his
vacant land to more than one person, balance, or, as
the case may be, the entire excess vacant land
aforesaid, shall be selected out of the vacant land
held by each of the transferees in the same proportion
as the area of the vacant land transferred to him
bears to the total area of the land transferred to all
the transferees.

(2) Where any excess vacant land is selected out of
the vacant land transferred under sub-section (1), the
transfer of the excess vacant land so selected shall be
deemed to be null and void.

(3) In any state to which this Act applies in the first
instance and in any state which adopts this Act under
clause (1) of Article 252 of the Constitution, no person
holding vacant land in excess of the ceiling limit
immediately before the commencement of this Act
shall transfer any such land or part thereof by way of
sale, mortgage, gift, lease or otherwise until he has
furnished a statement under section 6 and a notification
regarding the excess vacant land held by him has been
published under sub-section (1) of section 10; and
any such transfer made in contravention of this
provision shall be deemed to be null and void.

6. **Persons holding vacant land in excess of
ceiling limit to file statement**

(1) Every person holding vacant land in excess of the
ceiling limit at the commencement of this Act shall,
within such period as may be prescribed, file a statement
before the competent authority having jurisdiction
specifying the location, extent, value and such other
particulars as may be prescribed of all vacant lands and
of any other land on which there is a building, whether
or not with a dwelling unit therein held by him (including
the nature of his right, title or interest therein) and also
specifying the vacant lands within the ceiling limit which
he desires to retain:

Provided that in relation to any state to which this
Act applies in the first instance, the provisions of this
sub-section shall have effect as if for the words;
“Every person who hold vacant land in excess of
ceiling limit at the commencement of this Act”, the
words, figures and letters; “Every person which
vacant land in excess of the ceiling limit on or after
the 17th day of February, 1975 and before the
commencement of this Act and every person holding
vacant land in excess of the ceiling limit at such
commencement” had been substituted.
Explanation: In this section, “commencement of this Act” means—

(i) the date on which this Act comes into force in any state;

(ii) where any land, not being vacant land, situated in a state in which this Act is in force become vacant land by any reason whatsoever, the date on which such land becomes vacant land;

(iii) where any notification has been issued under clause (n) of section 2 in respect of any area in a state in which this Act is in force; the date of publication of such notification.

(2) If the competent authority is of opinion that—

(a) in any State to which this Act applies in the first instance, any person held on or after the 17th day of February, 1975 and before the commencement of this Act or holds at such commencement or

(b) in any state which adopts this Act under clause (1) of Article 252 of the Constitution, any person holds at the commencement of this Act.

Vacant land in excess of the ceiling limit, then, notwithstanding anything contained in sub-section (1), may serve a notice upon such person requiring him to file, within such period as may be specified in the notice, the statement referred to in sub-section (1).

(3) The competent authority may, if it is satisfied that it is necessary so to do, extend the date for filing the statement under this section by such further period or periods as it may think fit; so, however, that the period or the aggregate of the periods of such extension shall not exceed three months.

(4) The statement under this section shall be filed—

(a) in the case of an individual, by the individual himself; where the individual is absent from India or is mentally incapacitated from attending to his or her affairs, by the husband or wife who is not so absent or mentally incapacitated and where both the husband and wife are absent from India or are mentally incapacitated from attending to their affairs, by any other person competent to act on behalf of the husband or wife or both;

(c) in the case of a company, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by a person competent to act on his behalf.

Explanation: For the purposes of this sub-section, “principal officer”,—

(i) in relation to a company, means the secretary, manager or managing-director of the company;

(ii) in relation to any association, means the secretary, treasurer, manager or agent of the association.

and includes any person connected with the management of the affairs of the company or the association, as the case may be, upon whom the competent authority has served a notice of his intention of treating him as the principal officer thereof.

7. Filing of statement in cases where vacant land held by a person is situated within the jurisdiction of two or more competent authorities

(1) Where a person holds vacant land situated within the jurisdiction of two or more competent authorities, whether in the same state or in two or more states to which this Act applies, then, he shall file his statement under sub-section (1) of section 6 before the competent authority within the jurisdiction of which the major part thereof is situated and thereafter all subsequent proceedings shall be taken before that competent authority to the exclusion of the other competent authority or authorities concerned and the competent authority, before which the statement is filed, shall send intimation thereof to the other competent authority or authorities concerned.
Where the extent of vacant land held by any person and situated within the jurisdiction of two or more competent authorities within the same state to which this Act applies is equal, he shall file his statement under sub-section (1) of section 6 before any one of the competent authorities and send intimation thereof in such form as may be prescribed to the state government and thereupon, the state government shall, by order, determine the competent authority before which all subsequent proceedings under this Act shall be taken to the exclusion of the other competent authority or authorities and communicate that order to such person and the competent authorities concerned.

Where the extent of vacant land held by any person and situated within the jurisdiction of two or more competent authorities in two or more states to which this Act applies is equal, he shall file his statement under sub-section (1) of section 6 before any one of the competent authorities and send intimation thereof in such form as may be prescribed to the central government and thereupon, the central government shall, by order, determine the competent authority before which all subsequent proceedings shall be taken to the exclusion of the other competent authority or authorities and communicate that order to such person, the state governments and the competent authorities concerned.

8. Preparation of draft statement as regards vacant land held in excess of ceiling limit

On the basis of the statement filed under section 6 and after such inquiry as the competent authority deem fit to make the competent authority shall prepare a draft statement in respect of the person who filed the statement under section 6.

Every statement prepared under sub-section (1) shall contain the following particulars, namely:

(i) the name and address of the person;
(ii) the particulars of all vacant lands and of any other land on which there is a building, who or not with a dwelling unit therein, held by such person;
(iii) the particulars of the vacant lands which such person desires to retain within the ceiling(sic)
(iv) the particulars of the right, title or interest of the person in the vacant lands; and
(v) such other particulars as may be prescribed.

The draft statement shall be served in such manner as may be prescribed on the person concerned together with a notice stating that any objection to the draft statement shall be preferred within thirty of the service thereof.

The competent authority shall duly consider any objection received, within the period (sic) in the notice referred to in sub-section (3) or within such further period as may be specified competent authority for any good and sufficient reason from the person on whom a copy of the statement has been served under that sub-section and the competent authority shall, after giving objector a reasonable opportunity of being heard, pass such orders as it deems fit.

9. Final statement

After the disposal of the objections, if any, received under sub-section (4) of section 8, the competent authority shall make the necessary alterations in the draft statement in accordance with the orders passed on the objections aforesaid and shall determine the vacant land held by the person concerned in excess of the ceiling limit and cause a copy of the draft statement as so altered to be served in the manner referred to in sub-section (3) of section 8 on the person concerned and where such vacant land is held under a lease or a mortgage, or hire-purchase agreement or an irrevocable power of attorney, also on the owner of such vacant land.

10. Acquisition of vacant and in excess of ceiling limit

(sic) of the statement under section 9 on the person concerned the competent (sic) giving the particulars of the vacant land held by such person in excess of the ceiling limit and stating that—

(i) such vacant land is so he acquired by the concerned state government and

(ii) the claims of all persons interested in such vacant land may be made by them personally or by their agents giving particulars of the nature of their interests in such land, to be published for the information of the general public in the official gazette of the state concerned and in such other manner as may be prescribed.

After considering the claims of the persons interested in the vacant land, made to the
competent authority in pursuance of the notification published under sub-section (1), the competent authority shall determine the nature and extent of such claims and pass such orders as it deems fit.

(3) At any time after the publication of the notification under sub-section (1), the competent authority may, by notification published in the official gazette of the state concerned, declare that the excess vacant land referred to in the notification published under sub-section (1) shall, with effect from such date as may be specified in the declaration, be deemed to have been acquired by the state government and upon the publication of such declaration, such land shall be deemed to have vested absolutely in the state government free from all encumbrances with effect from the date so specified.

(4) During the period commencing on the date of publication of the notification under sub-section (1) and ending with the date specified in the declaration made under sub-section (3)—

(i) no person shall transfer by way of sale, mortgage, gift, lease or otherwise any excess vacant land (including any pan thereof) specified in the notification aforesaid and any such transfer made in contravention of this provision shall be deemed to be null and void; and

(ii) no person shall alter or cause to be altered the use of such excess vacant land.

(5) Where any vacant land is vested in the state government under sub-section (3), the competent authority may, by notice in writing, order any person who may be in possession of it to surrender or deliver possession thereof to the state government or to any person duly authorised by the state government in this behalf within thirty days of the service of the notice.

(6) If any person refuses or fails to comply with an order made under sub-section (5), the competent authority may take possession of the vacant land or cause it to be given to the concerned state government or to any person duly authorised by such state government in this behalf and may for that purpose use such force as may be necessary.

**Explanation:** In this section, in sub-section (1) of section 11 and in sections 14 and 23, “state government”, in relation to—

(a) any vacant land owned by the central government, means the central government;

(b) any vacant land owned by any state government and situated in a union territory or within the local limits of a cantonment declared as such under section 3 of the Cantonments Act, 1924, means that state government.

**11. Payment of amount for vacant land acquired**

(1) Where any vacant land is deemed to have been acquired by any state government under sub-section (3) of section 10 such state government shall pay to the person or persons having any interest therein—

(a) in a case where there is any income from such vacant land, an amount equal to eight and one-third times the net average annual income actually derived from such land during the period of five consecutive years immediately preceding the date of publication of the notification issued under sub-section (1) of section 10; or

(b) in a case where no income is derived from such vacant land, an amount calculated at a rate not exceeding—

(i) ten rupees per square metre in the case of vacant land situated in an urban agglomeration falling within category A or category B specified in Schedule I; and

(ii) five rupees per square metre in the case of vacant land situated in an urban agglomeration falling within category C or category D specified in that schedule.

(2) The net average annual income referred to in clause (a) of sub-section (1) shall be calculated in the manner and in accordance with the principles set out in Schedule II.

(3) For the purpose of clause (b) of sub-section (1), the state government shall—

(a) divide, by notification in the official gazette, every urban agglomeration situated within the state into different zones, having regard to the location and the general use of the land situated in an urban agglomeration, the utility of the land in that urban agglomeration for the orderly urban development thereof and such other relevant factors as the circumstances of the case may require; and
(b) fix, subject to the maximum rates specified in that clause, the rate per square metre of vacant land in each zone, having regard to the availability of vacant land in the zone, the trend of price rise of vacant land over a period of twenty years in the zone before the commencement of this Act, the amount invested by the government for the development of the zone, the existing use of vacant land in the zone and such other relevant factors as the circumstances of the case may require.

(4) Different rates may be fixed under clause (b) of sub-section (3) for vacant lands situated in different zones within each urban agglomeration.

(5) Notwithstanding anything contained in sub-section (1) where any vacant land which is deemed to have been acquired under sub-section (3) of section 10 is held by any person under a grant, lease or other tenure from the central government or any state government and—

(i) the terms of such grant, lease or other tenure do not provide for payment of any amount to such person on the termination of such grant, lease or other tenure and the resumption of such land by the central government or the state government, as the case may be; or

(ii) the terms of such grant, lease or other tenure provide for payment of any amount to such person on such termination and resumption, then-

(a) in a case falling under clause (i), no amount shall be payable in respect of such vacant land under sub-section (1); and

(b) in a case falling under clause (ii), the amount payable in respect of such vacant land shall be the amount payable to him under the terms of such grant, lease or other tenure on such termination and resumption or the amount payable to him under sub-section (1), whichever is less.

(6) Notwithstanding anything contained in sub-section (1) or sub-section (5), one amount payable under either of the said sub-sections shall, in no case, exceed two lakhs of rupees.

(7) The competent authority may, by order in writing determine the amount to be paid in accordance with the provisions of this section as also the person, or, where there are several persons interested in the land, the persons to whom it shall be paid and in what proportion, if any.

(8) Before determining the amount to be paid, every person interested shall be given an opportunity to state his case as to the amount to be paid to him.

(9) The competent authority shall dispose of every case for determination of the amount to be paid as expeditiously as possible and in any case within such period as may be prescribed.

(10) Any claim or liability enforceable against any vacant land which is deemed to have been acquired under sub-section (3) of section 10 may be enforced only against the amount payable under this section in respect of such land and against any other property of the owner of such land.

12. Constitution of urban land tribunal and appeal to urban land tribunal

(1) The state government may, by notification in the official gazette, constitute one or more urban land tribunals or tribunals.

(2) The tribunal shall consist of a sole member who shall be an officer of the rank of a commissioner of a division or a member of the board of revenue.

(3) The tribunal shall have jurisdiction over such area as the state government may, by notification in the official gazette, specify.

(4) If any person is aggrieved by an order of the competent authority under section 11, he may, within thirty days of the date on which the order is communicated to him, prefer an appeal to the tribunal having jurisdiction over the area in which the vacant land (in relation to which the amount has been determined) is situated or where such land is situated within the jurisdiction of more than one tribunal to the tribunal having jurisdiction over the area in which a major part of such land is situated or where the extent of such land situated within the jurisdiction of two or more Tribunals is equal to any of those tribunals:

Provided that the Tribunal may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(5) In deciding appeals the tribunal shall exercise all the powers which a civil court has and follow the
same procedure which a civil court follows in deciding appeals against the decree of an original court under the Code of Civil Procedure, 1908.

13. Second appeal to High Court
Subject to the provisions of the Code of Civil Procedure 1908, applicable to appeals from original decrees, an appeal shall lie to the High Court from the decision of the Tribunal under section 12.

14. Mode of payment of amount
(1) The state government shall, within a period of six months from the date of the order of the competent authority determining the amount to be paid under section 11, or, in a case where an appeal has been preferred against such order under section 12 or under section 13, within a period of six months from the date of the final appellate order, pay the amount referred to in section 11 to the person or persons entitled thereto.

(2) Twenty-five percent, of the amount or twenty-five thousand rupees, whichever is less, shall be paid in cash and the balance in negotiable bonds redeemable after the expiry of twenty years carrying an interest at the rate of five percent, per annum with effect from the date on which the vacant land is deemed to have been acquired by the state government under sub-section (3) of section 10.

15. Ceiling limit on future acquisition by inheritance, bequest or by sale in execution of decrees, etc
(1) If, on or after the commencement of this Act, any person acquires by inheritance, settlement or bequest from any other person or by sale in execution of a decree or order of a civil court or of an award or order of any other authority or by purchase or otherwise, any vacant land the extent of which together with the extent of the vacant land, if any, already held by him exceeds in the aggregate the ceiling limit, then, he shall, within three months of the date of such acquisition, file a statement before the competent authority having jurisdiction specifying the location, extent, value and such other particulars as may be prescribed of all vacant lands held by him in that state and in such other state and also specifying the vacant lands within the ceiling limit which he desires to retain.

(2) The provisions of sections 6 to 14 (both inclusive) shall, so far as may be, apply to the statement filed under this section and to the vacant land held by such person in excess of the ceiling limit.

16. Certain persons to file statements when the Act is adopted subsequently by any State
(1) Where any person holds any vacant land in any state to which this Act does not apply in the first instance but which subsequently adopts this Act under clause (1) of Article 252 of the Constitution and the extent of such land together with the extent of the vacant land, if any, already held by him in any other state to which this Act applies in the first instance, exceeds in the aggregate the ceiling limit, then, he shall, within three months of the commencement of this Act in the State first mentioned, file a statement before the competent authority having jurisdiction specifying the location, extent, value and such other particulars as may be prescribed of all vacant lands held by him in that state and in such other state and also specifying the vacant lands within the ceiling limit which he desires to retain.

(2) The provisions of sections 6 to 14 (both inclusive) shall, so far as may be, apply to the statement filed under this section and to the vacant land held by such person in excess of the ceiling limit.

17. Power to enter upon any vacant land
The competent authority or any person acting under the orders of the competent authority may, subject to any rules made in this behalf and at such reasonable times as may be prescribed, enter upon any vacant land or any other land on which there is a building with such assistance as the competent authority or such person considers necessary and make survey and take measurements thereof and to any other act which the competent authority or such person considers necessary for carrying out the purposes of this Act.

18. Penalty for concealment, etc., of particulars of vacant land
(1) If the competent authority, in the course of any proceedings under this Act, is satisfied that any person has concealed the particulars of any vacant land, or of any other land on which there is a building, whether or not with a dwelling unit therein, held by him or furnished inaccurate particulars of such land or of the user thereof, it may, after giving such person an opportunity of being heard in the matter, by order in writing direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, a sum which shall
not be less than, but which shall not exceed twice, the amount representing the value of the vacant land or of such other land or both, as the case may be, in respect of which the particulars have been concealed or in respect of which inaccurate particulars as aforesaid have been furnished.

(2) Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue.

19. Chapter not to apply to certain vacant lands

(1) Subject to the provisions of sub-section

(2) nothing in this Chapter shall apply to any vacant land held by—

(i) the central government or any state government, or any local authority or any corporation established by or under a central or provincial or state Act or any government company as defined in section 617 of the Companies Act, 1956;

(ii) any military, naval or air force institution:

(iii) any bank.

Explanation: In this clause, “bank” means any banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949, and includes—

(a) the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;

(b) the State Bank of India constituted under the State Bank of India Act, 1955;

(c) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(d) a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

(e) the Industrial Finance Corporation of India, established under the Industrial Finance Corporation Act, 1948, the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956, the Unit Trust of India, established under the Unit Trust of India Act, 1963, the Industrial Development Bank of India Act, 1964, the Industrial Credit and Investment Corporation of India, the Industrial Reconstruction Corporation of India and any other financial institution which the central government or the state government concerned may, by notification in the official gazette, specify in this behalf:

(iv) any public charitable or religious trust (including wakf) and required and used for any public charitable or religious purposes:

Provided that the exemption under this clause shall apply only so long as such land continues to be required and used for such purposes by such trust;

(v) any co-operative society, being a land mortgage bank or a housing co-operative society, registered or deemed to be registered under any law relating to co-operative societies for the time being in force:

Provided that the exemption under this clause, in relation to a land mortgage bank, shall not apply to any vacant land held by it otherwise than in satisfaction of its dues;

(vi) any such educational, cultural, technical or scientific institution or club [not being a corporation established by or under a central or provincial or state Act referred to in clause (i) or a society referred to in clause (viii)] as may be approved for the purposes of this clause by the state government by general or special order, on application made to it in this behalf by such institution or club or otherwise:

Provided that no approval under this clause shall be accorded by the state government unless the government is satisfied that it is necessary so to do having regard to the nature and scope of the activities of the institution or club concerned, the extent of the vacant land required bona fide for the purposes such institution or club and other relevant factors;

(vii) any society registered under the Societies Registration Act, 1860, or under any other corresponding law for the time being in force and used for any non-profit and non(sic) commercial purpose: (viii) a foreign state for the purposes of its diplomatic and consular missions or for such other official purposes as may be approved by the central government or for the residence of (sic) members of the said missions:

(ix) the United Nations and its specialised agencies for any official purpose or for the residence(sic) of the members of their staff:
(x) any international organisation for any official purpose or for the residence of the members the staff of such organisation:

Provided that the exemption under this clause shall apply only if there is an agreement between (sic) Government of India and such international organisation that such land shall be so exempted.

(2) The provisions of sub-section (1) shall not be construed as granting any exemption in fav(sic) of any person, other than an authority, institution or organisation specified in sub-section (1), (sic) possesses any vacant land which is owned by such authority, institution or organisation or who owns a vacant land which is in the possession of such authority, institution or organisation:(sic)

Provided that where any vacant land which is in the possession of such authority, institution organisation, but owned by any other person, is declared as excess vacant land under this Chapter, su(sic) authority, institution or organisation shall, notwithstanding anything contained in any of the foregoi(sic) provisions of this Chapter, continue to possess such land under the State Government on the same ter(sic) and conditions subject to which it possessed such land immediately before such declaration.

Explanation: For the purposes of this sub-section, the expression “to possess vacant land” mean to possess such land either as tenant or as mortgagee or under a hire-purchase agreement or under irrevocable power of attorney or partly in one of the said capacities and partly in any other of the s(sic) capacity or capacities.

20. Power to exempt
(1) Notwithstanding anything contained in any of the foregoing provisions of this chapter -

(a) where any person holds vacant land in excess of the ceiling limit and the State Government is satisfied, either on its own motion or otherwise, that, having regard to the location of such land, the purpose for which such land is being or is proposed to be used and such other relevant factors as the circumstances of the case may require, it is necessary or expedient in the public interest so to do, that government may, by order, exempt, subject to such conditions, if any, as may be specified in the order, such vacant land from the provisions of this chapter.

(b) where any person holds vacant land in excess of the ceiling limit and the state government, either on its own motion or otherwise, is satisfied that the application of the provisions of this chapter would cause undue hardship to such person, that government may by order, exempt subject to such conditions, if any, as may be specified in the order, such vacant land from the provisions of this chapter:

Provided that no order under this clause shall be made unless the reasons for doing so are recorded in writing.

(2) If at any time the state government is satisfied that any of the conditions subject to which any exemption under clause (a) or clause (b) of sub-section (1) is granted is not complied with by any person, it shall be competent for the state government to withdraw, by order, such exemption after giving a reasonable opportunity to such person for making a representation against the proposed withdrawal and thereupon the provisions of this chapter shall apply accordingly.

21. Excess vacant land not to be treated as excess in certain cases
(1) Notwithstanding anything contained in any of the foregoing provisions of this chapter, where a person holds any vacant land in excess of the ceiling limit and such person declares within such time, in such form and in such manner as may be prescribed before the competent authority that such land is to be utilised for the construction of dwelling units (each such dwelling unit having a plinth area not exceeding eighty square metres) for the accommodation of the weaker sections of society, in accordance with any scheme approved by such authority as the state government may, by notification in the official gazette specify in this behalf, then, the competent authority may, after making such inquiry as it deems fit, declare such land not to be excess land for the purposes of this chapter and permit such person to continue to hold such land for the aforesaid purpose, subject to such terms and conditions as may be prescribed including a condition as to the time limit within which such buildings are to be constructed.

(2) Where any person contravenes any of the conditions subject to which the permission has been granted under sub-section (1), the competent authority shall, by order, and after giving such person an opportunity of being heard declare such land to be excess land.
and thereupon all the provisions of this chapter shall apply accordingly.

22. Retention of vacant land under certain circumstances

(1) Notwithstanding anything contained in any of the foregoing provisions of this chapter, where any person demolishes any building on any land held by him or any such building is destroyed or demolished solely due to natural causes and beyond the control of human agency and as a consequence thereof, in either case, the land on which such building has been constructed becomes vacant land and the aggregate of the extent of such land and the extent of any other vacant land held by him exceeds the ceiling limit then, he shall, within three months from the date of such demolition or destruction file a statement before the competent authority having jurisdiction specifying the location, value and such other particulars as may be prescribed of all the vacant lands held by him.

(2) Where on receipt of a statement under sub-section (1) and after such inquiry as the competent authority may deem fit to make, the competent authority is satisfied that the land which has become vacant land is required by the holder for the purpose of redevelopment in accordance with the Master Plan, such authority may, subject to such conditions and restrictions as it may deem fit to impose, permit the holder to retain such land in excess of the ceiling limit for such purpose and where the competent authority is not so satisfied and docs not so permit, the provisions of sections 6 to 14 (both inclusive) shall so far as may be, apply to the vacant land held by such person in excess of the ceiling limit.

23. Disposal of vacant land acquired under the Act

(1) It shall be competent for the state government to allot, by order, in excess of the ceiling limit any vacant land which is deemed to have been acquired by the state government under this Act or is acquired by the state government under any other law, to any person for any purpose relating to or in connection with, any industry or for providing residential accommodation of such type as may be approved by the state government to the employees of any industry and it shall be lawful for such person to hold such land in excess of the ceiling limit.

Explanation: For the purposes of this section -
(a) where any land with a building has been acquired by the state government under any other law

and such building has been subsequently demolished by the state government, then, such land shall be deemed to be vacant land acquired under such other law:

(b) ‘industry’ means any business, profession, trade, undertaking or manufacture.

(2) In making an order of allotment under sub-section (1), the State Government may impose such conditions as may be specified therein including a condition, as to the period within which the industry shall be put in operation or, as the case may be, the residential accommodation shall be provided for:

Provided that if, on a representation made in this behalf by the allottee the state government is satisfied that the allottee could not put the industry in operation, or provide the residential accommodation, within the period specified in the order of allotment, for any good and sufficient reason, the state government may extend such period to such further period or periods as it may deem fit.

(3) Where any condition imposed in an order of allotment is not complied with by the allottee, the state government shall, after giving an opportunity to the allottee to be heard in the matter, cancel the allotment with effect from the date of the non-compliance of such condition and the land allotted shall revest in the state government free from all encumbrances.

(4) Subject to the provisions of sub-sections (1), (2) and (3), all vacant lands deemed to have been acquired by the State Government under this Act shall be disposed of by the state government to subserve the common good on such terms and conditions as the state government may deem fit to impose.

(5) Notwithstanding anything contained in sub-sections (1) to (4), where the state government is satisfied that it is necessary to retain or reserve any vacant land, deemed to have been acquired by that government under this Act, for the benefit of the public, it shall be competent for the state government to retain or reserve such land for the same.

24. Special provisions regarding disposal of vacant lands In favour of certain persons

(1) Notwithstanding anything contained in section 23, where any person, being the owner of any vacant land, had leased out or mortgaged with possession such land or had given possession of such land under a hire-purchase agreement to any other person and as
a consequence thereof he has no vacant land in his possession or has vacant land in his possession less in extent than the ceiling limit, and where the land so leased or mortgaged or given possession of is deemed to have been acquired by the state government under this chapter, then, such person shall be entitled to make an application to the state government in such form and containing such particulars as may be prescribed within a period of three months from the date of such acquisition for the assignment to him -

(a) in a case where he has no land in his possession of so much extent of land as is not in excess of the ceiling limit; or

(b) in a case where he has land in his possession less in extent than the ceiling limit, of so much extent of land as is required to make up the deficiency:

Provided that nothing in this sub-section shall be deemed to entitle a person for the assignment of land in excess of the extent of the land leased or mortgaged with possession or given possession under a hire-purchase agreement as aforesaid by such person.

(2) On receipt of an application under sub-section (1), the state government shall, after making such inquiry as it deems fit, assign such land to such person on payment of an amount equal to the amount which has been paid by the state government for the acquisition of the extent of land to be assigned.

Provided that where the competent authority exercises within the period aforesaid the option to purchase such land the execution of the sale deed shall be completed and the payment of the purchase price thereof shall be made within a period of three months from the date on which such option is exercised.

(3) For the purpose of calculating the price of any vacant land under sub-section (2), it shall be deemed that a notification under sub-section (1) of section 4 of the Land Acquisition Act, 1894 or under the relevant provision of any other corresponding law for the time being in force, had been issued for the acquisition of such vacant land on the date on which the notice was given under sub-section (1) of this section.

26. Notice to be given before transfer of vacant lands

(1) Notwithstanding anything contained in any other law for the time being in force, no person holding vacant land within the ceiling limit shall transfer such land by way of sale, mortgage, gift, lease or otherwise except after giving notice in writing of the intended transfer to the competent authority.

(2) Where a notice given under sub-section (1) is for the transfer of the land by way of sale, the competent authority shall have the first option to purchase such land on behalf of the state government at a price calculated in accordance with the provisions of the Land Acquisition Act, 1894 or of any other corresponding law for the time being in force and if such option is not exercised within a period of sixty days from the date of receipt of the notice, it shall be presumed that the competent authority has no intention to purchase such land on behalf of the state government and it shall be lawful for such person to transfer the land to whomsoever he may like:

Provided that where the competent authority exercises within the period aforesaid the option to purchase such land the execution of the sale deed shall be completed and the payment of the purchase price thereof shall be made within a period of three months from the date on which such option is exercised.

(3) For the purpose of calculating the price of any vacant land under sub-section (2), it shall be deemed that a notification under sub-section (1) of section 4 of the Land Acquisition Act, 1894 or under the relevant provision of any other corresponding law for the time being in force, had been issued for the acquisition of such vacant land on the date on which the notice was given under sub-section (1) of this section.

27. Prohibition on transfer of urban property

(1) Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of sub-section (3) of section 5 and sub-section (4) of section 10, no person shall transfer by way of sale, mortgage, gift, lease for a period exceeding ten years, or otherwise, any urban or urbanisable land with a building (whether constructed before or after the commencement of this Act) or a portion only of such building for a period of ten years of such commencement or from the date on which the building is constructed, whichever is later except with the previous permission in writing of the competent authority.
(2) Any person desiring to make a transfer referred to in sub-section (1), may make an application in writing to the competent authority in such form and in such manner as may be prescribed.

(3) On receipt of an application under sub-section (2), the competent authority may, after making such inquiry as it deems fit, by order in writing, grant or refuse to grant the permission applied for:

Provided that the competent authority shall not refuse to grant the permission applied for unless it has recorded in writing the reasons for doing so and a copy of the same has been communicated to the applicant.

(4) Where within a period of sixty days of the date of receipt of an application under this section the competent authority does not refuse to grant the permission applied for or does not communicate the refusal to the applicant, the competent authority shall be deemed to have granted the permission applied for.

(5) (a) Where the permission applied for is for the transfer of the land with the building or, as the case may be, a portion only of such building referred to in sub-section (1) by way of sale, and the competent authority is of the opinion that such permission may be granted, then, the competent authority shall have the first option to purchase such land with building or a portion only of such building on behalf of the state government at such price as may be agreed upon between the competent authority and the applicant or, in a case where there is no such agreement, at such price calculated in accordance with the provisions of the Land Acquisition Act, 1894 or of any other corresponding law for the time being in force.

(b) If the option referred to in clause (a) is not exercised within a period of sixty days from the date of receipt of the application under this section, it shall be presumed that the competent authority has no intention to purchase such land with building or a portion only of such building on behalf of the state government and it shall be lawful for such person to transfer the land to whomsoever he may like:

Provided that where the competent authority exercises within the period aforesaid the option to purchase such land with building or a portion only of such building, the execution of the sale deed shall be competent and the payment of the purchase price thereof shall be made within a period of three months from the date on which such option is exercised.

(6) For the purpose of calculating the price of the land and building or, as the case may be, a portion only of such building under clause (a) of sub-section (5), it shall be deemed that a notification under sub-section (1) of section 4 of the Land Acquisition Act, 1894 or under the relevant provision of any other corresponding law for the time being in force had, been issued for the acquisition of that land and building or, as the case may be, a portion only of such building on the date on which the application was made under sub-section (2).

28. Regulation of registration of documents in certain cases

Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clauses (a) to (e) of sub-section (1) of section 17 of the Registration Act, 1908, purports to transfer by way of sale, mortgage, gift, lease or otherwise any land or any building (including any portion thereof) -

(a) in the case of any transfer referred to in Section 26, no registering officer appointed under that Act shall register any such document unless the transferor produces before such registering officer evidence to show that he has given notice of the intended transfer to the competent authority under that section and, where such transfer is by way of sale, the period of sixty days referred to in sub-section (2) of that section has elapsed;

(b) in the case of any transfer referred to in Section 27, no registering officer appointed under that Act shall register any such document unless the transferor produces before such registering officer the permission in writing of the competent authority for such transfer or satisfies the registering officer that the period of sixty days referred to in sub-section (4) of that section has elapsed.

29. Regulation of construction of buildings with dwelling units

No person shall construct any building with a dwelling unit having a plinth area -

(a) where the building proposed to be constructed is situated in an urban agglomeration falling within category A or category B specified in Schedule 1, in excess of three hundred square metres;
(b) where the building proposed to be constructed is situated in an urban agglomeration falling within category C or category D specified in Schedule 1, in excess of three hundred square metres:

30. Demolition and stoppage of buildings in certain cases and appeal

(1) Where the construction of a building has been commenced on or after the commencement of this Act, and is carried on and completed in contravention of the provisions of section 29, the competent authority having jurisdiction over the area in which the building is situated may make an order directing that such construction shall be demolished, either wholly or partly, or modified by the person at whose instance the construction has been commenced and is being carried on and completed, to the extent such demolition or modification does not contravene the provisions of that section within such period (not being less than fifteen days and more that thirty days from the date on which a copy of the order of demolition with a brief statement of the reasons therefor has been delivered to that person) as may be specified in the order for the demolition or modification:

Provided that no order for the demolition or modification shall be made unless the person has been given by means of a notice served in such manner as the competent authority may think fit, a reasonable opportunity of showing cause why such order shall not be made:

Provided further that, where the construction has not been completed, the competent authority may, by the same order or by a separate order, whether made at the time of the issue of the notice under the first proviso or at any other time, direct the person to stop the construction until the expiry of the period within which an appeal against the order for the demolition or modification, if made, may be preferred under sub-section (2).

(2) Any person aggrieved by an order of the competent authority made under sub-section (1) may prefer an appeal against the order to the tribunal having jurisdiction over the area in which the building is situated within the period specified in the order for the demolition or modification of the construction to which it relates.

(3) Where an appeal is preferred under sub-section (2) against the order for the demolition or modification, the tribunal may stay the enforcement of that order on such terms, if any, and for period as it may think fit:

Provided that, where the construction of any building has not been completed at the time of the making of the order for the demolition or modification, no order staying the enforcement of the order for the demolition or modification shall be made by the tribunal unless security, sufficient in the opinion of the tribunal, has been given by the appellant for not proceeding with such construction pending the disposal of the appeal.

(4) The provisions of sub-section (5) of section 12 and of section 13 shall apply to or in relation to an appeal preferred under sub-section (2) as they apply to or in relation to an appeal preferred under sub-section (4) of section 12.

(5) Save as provided in this section, no court shall entertain any suit, application or other proceeding for injunction or other relief against the competent authority to restrain him from taking any action or making any order in pursuance of the provisions of this section.

(6) Where no appeal has been preferred against an order for the demolition or modification made by the competent authority under sub-section (1), or where an order for the demolition or modification made by the competent authority under that sub-section has been confirmed on appeal, whether with or without variation, the person against whom the order has been made shall comply with the order within the period specified therein, or, as the case may be, within the period, if any, fixed by the tribunal or the High Court on appeal and on the failure of the person to comply with the order within such period, the competent authority may himself cause the construction to which the order relates to be demolished or modified and the expenses of such demolition or modification shall be recoverable from such person as an arrear of land revenue.

Chapter V: Miscellaneous

31. Powers of competent authority

The competent authority shall have all the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely -

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;
(c) receiving evidence on affidavits;
(d) requisitioning any public record or copy thereof from any court or office;
(e) issuing commissions for the examination of witnesses or documents; and
(f) any other matter which may be prescribed.

32. Jurisdiction of competent authorities and Tribunals in special cases

Where under sub-section (2) or sub-section (3) of section 7, the state government or the central government, as the case may be, determines the competent authority or where, for the reason that the extent of the vacant land granted within the jurisdiction of two or more tribunals is equal, an appeal has been preferred to any one of the tribunals under sub-section (4) of section 12, then, such competent authority or tribunal, as the case may be, shall, notwithstanding that any portion of the vacant land to which the proceedings before the competent authority or the appeal before the tribunal relates, is not situated within the area of its jurisdiction, exercise all the powers and functions of the competent authority or Tribunal, as the case may be, having jurisdiction over such portion of the vacant land under this Act in relation to such proceedings or appeal.

33. Appeal

(1) Any person aggrieved by an order made by the competent authority under this Act, not being an order under section 11 or an order under sub-section (1) of section 30, may, within thirty days of the date on which the order is communicated to him, prefer an appeal to such authority as may be prescribed (hereinafter in this section referred to as the appellate authority):

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such orders thereon as it deems fit as expeditiously as possible.

(3) Every order passed by the appellate authority under this section shall be final.

34. Revision by state government

The state government may, on its own motion, call for and examine the records of any order passed or proceeding taken under the provisions of this Act and against which no appeal has been preferred under section 12 or section 30 or section 33 for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of such procedure and pass such order with respect thereto as it may think fit:

Provided that no such order shall be made except after giving the person affected a reasonable opportunity of being heard in the matter.

35. Power of state government to issue orders and directions to the competent authority

The state government may issue such orders and directions of a general character as it may consider necessary in respect of any matter relating to the powers and duties of the competent authority and thereupon the competent authority shall give effect to such orders and directions.

36. Power to give directions to state government

(1) The central government may give such directions to any State Government as may appear to the central government to be necessary for carrying into execution in the state any of the provisions of this Act or of any rule made thereunder.

(2) The central government may require any state government to furnish such returns statistics, accounts and other information, as may be deemed necessary.

37. Returns and reports

The competent authority shall furnish to the state government concerned such returns, statistics, accounts and other information as the State Government may, from time to time, require.

38. Offences and punishments

(1) If an person who is under an obligation to file a statement under this Act fails, without reasonable cause or excuse, to file the statement within the time specified for the purpose, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.

(2) If any person who, having been convicted under sub-section (2) continues to fail, without reasonable cause or excuse, to file the statement, he shall be punishable with fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(3) If any person who is under an obligation to file a statement under this Act files a statement which he
knows or has reasonable belief to be false he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(4) If any person contravenes any of the provisions of this Act for which no penalty has been expressly provided for, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

39. Offences by companies

(1) Where an offence under this Act has been committed by a company every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this section.—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm means a partner in the firm.

40. Indemnity

No suit or other legal proceeding shall lie against the government or any officer of government in respect of anything, which is in good faith done or intended to be done by or under this Act.

41. Cognisance of offences

No Court shall take cognisance of any offence punishable under this Act except on complaint in writing made by the competent authority or any officer authorised by the competent authority in this behalf and no court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any such offence.

42. Act to override other laws

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or any custom, usage or agreement or decree or order of a court, tribunal or other authority.

43. Court-fees

Notwithstanding anything contained in the Court-fees Act, 1870, every application, appeal or other proceeding under this Act shall bear a court-fee stamp of such value as may prescribed.

44. Certain officers to be public servants

Every officer acting under, or in pursuance of, the provisions of this Act or under the rules made thereunder shall be deemed to be a public servant within the meaning of Sec. 21 of the Indian Penal Code.

45. Correction of clerical errors

Clerical or arithmetical mistakes in any order passed by any officer or authority under this Act or errors arising therein from any accidental slip or omission may at any time be corrected by such officer or authority either on his or its own motion or on an application received in this behalf from any of the Parties.

46. Power to make rules

(1) The central government may, by notification in the official gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the cultivation or growing of plant which will not be agriculture under clause (A) of the Explanation to clause (o) of section 2;

(b) the period within which the statement may be filed under section 6;

(c) the form of intimation under sub-sections (2) and (3) of section 7;

(d) the particulars to be mentioned in the statement referred to in sub-section (1) of section 6, sub-section (2) of Section 8, sub-section (1) of section 15 and sub-section (1) of section 16;

(e) the manner of serving the draft statement under sub-section (3) of section 8;
(f) the manner of publishing the notification under sub-section (1) of section 10;

(g) the time within which the competent authority shall dispose of a case under sub-section (9) of section 11;

(h) the time during which the competent authority or any person acting under the orders of such authority may enter upon any vacant land under section 17;

(i) the time within which and the form and the manner in which a declaration under sub-section (1) of section 21 shall be made before the competent authority;

(j) the terms and conditions subject to which a person permitted under sub-section (1) of section 21 may hold land in excess of the ceiling limit;

(k) the particulars to be mentioned in the statement referred to in sub-section (1) of section 22;

(l) the form in which an application under sub-section (1) of section 24 may be made and the particulars to be mentioned in such application;

(m) the form and the manner in which an application for transfer of land may be made under sub-section (2) of section 27;

(n) the powers of the competent authority under clause (f) of section 31;

(o) the appellate authority under sub-section (1) of section 33;

(p) the value of the court-fee stamp to be affixed on an application, appeal or other proceedings under section 43;

(q) the other matter which is to be, or may be, provided for by rules under this Act.

(3) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

47. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the central government, may by order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.
The Urban Land (Ceiling And Regulation) Repeal Act, 1999
[Act number 15 of 1999]
[March 18, 1999]

Preamble
An Act to repeal the Urban Land (Ceiling and Regulation) Act, 1976.
BE it enacted by Parliament in the fiftieth year of the Republic of India as follows:

1. Short title, application and commencement
   (1) This Act may be called the Urban Land (Ceiling and Regulation) Repeal Act, 1999.
   (2) It applies in the first instance to the whole of the States of Haryana and Punjab and to all the union territories;
       and it shall apply to such other state which adopts this Act by resolution passed in that behalf under clause (2)
       of Article 252 of the Constitution.
   (3) It shall be deemed to have come into force in the states of Haryana and Punjab and in all the union territories
       on the 11th day of January, 1999 and in any other state which adopts this Act under clause (2) of Article 252
       of the Constitution on the date of such adoption; and the reference to repeal of the Urban Land (Ceiling and
       Regulation) Act, 1976 shall, in relation to any state or union territory, mean the date on which this Act comes
       into force in such state or union territory.

2. Repeal of Act 33 of 1976
The Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as the principal Act) is hereby repealed.

3. Savings
   (1) The repeal of the principal Act shall not affect -
       (a) the vesting of any vacant land under sub-section (3) of section 10, possession of which has been taken over by
           the state government or any person duly authorised by the state government in this behalf or by the competent
           authority;
       (b) the validity of any order granting exemption under sub-section (1) of section 20 or any action taken thereunder,
           notwithstanding any judgment of any court to the contrary;
       (c) any payment made to the state government as a condition for granting exemption under sub-section (1) of
           section 20.
   (2) Where -
       (a) any land is deemed to have vested in the state government under sub-section (3) of section 10 of the principal
           Act but possession of which has not been taken over by the state government or any person duly authorised by
           the state government in this behalf or by the competent authority; and
       (b) any amount has been paid by the state government with respect to such land, then, such land shall not be
           restored unless the amount paid, if any, has been refunded to the state government.

4. Abatement of legal proceedings
All proceedings relating to any order made or purported to be made under the principal Act pending immediately
before the commencement of this Act, before any court, tribunal or other authority shall abate:
Provided that this section shall not apply to the proceedings relating to sections 11, 12, 13 and 14 of the principal
Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the state
government or any person duly authorised by the state government in this behalf or by the competent authority.

5. Repeal and saving
   (1) The Urban Land (Ceiling and Regulation) Repeal Ordinance, 1999 (Ord. 5 of 1999) is hereby repealed.
   (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to
       have been done or taken under the corresponding provisions of this Act.
Madhya Pradesh *Patta* Act, 1984

Act number 15 of 1984 (India)

Slum Dwellers Protection Act

(Amended in May 1998)

**Section 3: Settlement of land**

3(1) Notwithstanding anything contained in any law for the time being in force, the land occupied by a landless person in any urban area on the 31st day of May 1998 shall subject to the provisions of sub-section (2) be deemed to have been settled in his favour on the said date. (Tenure is allotted in the joint names of the head of the household and spouse, subject to the provision that single woman or single man headed households are not precluded from having full tenure rights.)

3(2) The authorised officer may either settle the land in actual occupation of the landless person not exceeding 450 sqft in leasehold rights in his favour or any other land up to 450 sqft.

3(3) The leasehold rights accrued under sub-section (1) shall not be transferable by sub-lease or in any other manner whatsoever except by inheritance.

3(4) If the landless person to whom leasehold rights have accrued in respect of any land under this Act, transfers such land in contravention of the provisions of sub-section (3), the following consequences shall ensue, namely (i) the lease shall stand cancelled on the date of such transfer; (ii) such transfer shall be null and void; (iii) no leasehold rights shall accrue to the transferee in respect of such land.

**Section 4: Restoration of possession**

4(1) If any landless person to whom leasehold rights have accrued in the land under section 3 is dispossessed from that land or any part thereof otherwise than in due course of law, the authorised officer shall on an application made to him by the said landless person within six months from the date of dispossession restore such possession...

**Section 5: Penalty**

5(1) Any person who - (i) wrongfully dispossesses or attempts to dispossess an occupier of a dwelling house; or (ii) recovers or attempts to recover rent in any manner from an occupier of a dwelling house shall be punished with rigorous imprisonment which shall not be less than three months....

**Section 11 of Rules under the Act: Residents’ association**

A residents association has been formed which consists of men and women not less than the age of 18 years from the community. A residents association shall consist of a minimum of seven and a maximum of 15 members. Not less than 50 percent of the total members of a residents association shall be from the scheduled castes, the scheduled tribes or other backward classes. Not less than one-third of the total number of members shall be women according to Section 11. Every person who is a resident of the locality and who is not less than 18 years of age shall be entitled to contest the election for a member of the resident association.
Basic services to the urban poor

**Guidelines - 2005**

Guidelines for the projects on basic services to the urban poor (BSUP), to be taken up under Jawahar Lal Nehru National Urban Renewal Mission (JNNURM)

1. **Need for sub-mission on basic services to the urban poor (BSUP) under Jawahar Lal Nehru National Urban Renewal Mission (JNNURM)**

   As per 2001 population census, 285.35 million people reside in urban areas. It constitutes 27.8 percent of the total population of the country. In post-Independence era while population of India has grown three times, the urban population has grown five times. The rising urban population has also given rise to increase in the number of urban poor. As per 2001 estimates, the slum population is estimated to be 61.8 million. The ever-increasing number of slum dwellers causes tremendous pressure on urban basic services and infrastructure. In order to cope with massive problems that have emerged as a result of rapid urban growth, it has become imperative to draw up a coherent urbanisation policy/strategy to implement projects in select cities on mission mode.

2. **Mission statement**

   Reforms driven, fast track, planned development of identified cities with focus on efficiency in urban infrastructure/services delivery mechanism, community participation and accountability of the urban local bodies (ULBs) towards citizens.

3. **Mission strategy**

   3.1. Planned urban perspective frameworks for a period of 20-25 years (with 5 yearly updates) indicating policies, Programmes and strategies of meeting fund requirements would be prepared by every identified city. This perspective plan would be followed by preparation of the Development plans integrating land use with services, urban transport and environment management for every five-year plan period. In this context, a city development plan (CDP) would be required before the city can access mission funds.

   3.2. Cities will be required to prepare detailed project reports for undertaking projects under identified areas.

   3.3. Private sector participation in development, management and financing of urban Infrastructure would be clearly delineated.

   3.4. Funds for identified cities would be released to the designated state nodal agency, which in turn would leverage additional resources from the state government, their own funds, funds of implementing agencies and funds from the financial institutions/private sector/capital market and external aid. A revolving fund would be created to take care of operation and maintenance of various assets created under the mission.

4. **Mission objectives**

   4.1. Focused attention to integrated development of basic services to the urban poor in the cities covered under the Mission.

   4.2. Provision of basic services to urban poor including security of tenure at affordable prices, improved housing, water supply, sanitation and ensuring delivery through convergence of other already existing universal services of the Government for education, health and social security. Care will be taken to see that the urban poor are provided housing near their place of occupation.

   4.3. Secure effective linkages between asset creation and asset management so that the basic services to the urban poor created in the cities, are not only maintained efficiently but also become self-sustaining over time.

   4.4. Ensure adequate investment of funds to fulfill deficiencies in the basic services to the urban poor.

   4.5. Scale up delivery of civic amenities and provision of utilities with emphasis on universal access to urban poor.

5. **Duration of the mission**

   The duration of the Mission would be seven years beginning from the year 2005-2006. During this period, the Mission will seek to ensure sustainable development of select cities. An evaluation of the experience of implementation of the mission would be undertaken before the commencement of eleventh five-year plan and if, necessary, the Programme calibrated suitably.
6. **Scope of mission programme**

The main thrust of the sub-mission on basic services to the urban poor will be on integrated development of slums through projects for providing shelter, basic services and other related civic amenities with a view to provide utilities to the urban poor.

7. **Mission components**

The sub-mission on basic services to the urban poor will cover the following:

(a) **Admissible components**

i. Integrated development of slums, i.e., housing and development of infrastructure projects in the slums in the identified cities.

ii. Projects involving development/improvement/maintenance of basic services to the urban poor.

iii. Slum improvement and rehabilitation projects.

iv. Projects on water supply/sewerage/drainage, community toilets/baths, etc.

v. Houses at affordable costs for slum dwellers/urban poor/EWS/LIG categories.

vi. Construction and improvements of drains/storm water drains.

vii. Environmental improvement of slums and solid waste management.

viii. Street lighting.

ix. Civic amenities, like, community halls, child care centres, etc.

x. Operation and maintenance of assets created under this component.

xi. Convergence of health, education and social security schemes for the urban poor.

**NOTE:** Land cost will not be financed except for acquisition of private land for schemes/projects in the north eastern states and hilly states, viz., Himachal Pradesh, Uttaranchal and Jammu & Kashmir.

(b) **Inadmissible Components:** Projects pertaining to the following will not be considered:

i) Power

ii) Telecom

iii) Wage employment Programme & staff component

iv) Creation of fresh employment opportunities

**Note:** The DPRs will have to be prepared by the implementing agencies for funding under the mission including specific project components, viz, health, education and social security. However, the schemes of health, education and social security will be funded through convergence of schemes and dovetailing of budgetary provisions available under the Programmes of respective sectors (health, human resource development, social justice and empowerment and labour, etc.), but will also be monitored by the ministry of urban employment and poverty alleviation in so far as urban poor are concerned.

8. **Sub-mission coverage**

8.1. Keeping in view the paucity of resources and administrative constraints in taking up all cities and towns under this sub-mission, only selected cities will be taken up, as per norms/criteria mentioned below.

**Category number**

‘A’ cities with 4 million plus population as per 2001 census population

‘B’ cities with 1 million plus but less than 4 million population

‘C’ selected cities (of religious/historic and tourist importance)

8.2. List of these cities is at Annexure-A

8.3. The national steering group may consider addition or deletion of cities/towns under Category-C (other than state capitals). Total number of cities under the mission shall, however, remain about the same i.e. 60.

9. **Agenda of reforms**

9.1. The main thrust of the revised strategy of urban renewal is to ensure improvement in urban governance so that the urban local bodies (ULBs) and para-statal agencies become financially sound with enhanced credit rating and ability to access market capital for undertaking new Programmes and expansion of services. In this improved environment, public-private participation models for provisioning of various services would also become feasible. To achieve this objective, state governments, urban local bodies and parastatal agencies will be required to accept implementation of an agenda of reforms. The proposed reforms shall broadly fall into two categories:

i) Mandatory reforms

ii) Optional reforms

9.2. List of mandatory and optional reforms is at Annexure-B.

9.3. National Steering Group may add additional reforms to the identified reforms.
10. Memorandum of agreement (MoA)
The state governments and the ULBs/Parastatals will be required to execute a memorandum of agreement (MoA) with the Government of India indicating their commitment to implement the identified reforms. The MOA would also spell out specific milestones to be achieved for each item of reform. Signing of this tripartite MOA will be a necessary condition to access central assistance. This tripartite MoA would be submitted along with detailed project reports (DPRs). The central assistance will be predicated upon the state governments and the ULBs/parastats agreeing to the reforms platform.

11. National Steering Group under JNNURM
11.1. To steer the mission objectives, a national steering group will be constituted. The composition of the national steering group will be as follows:

National steering group
Minister for urban development — chairman
Minister for urban employment & poverty alleviation — co-chairperson
Secretary (UEPA) — member
Secretary, Planning Commission — member
Secretary (Expenditure) — member
National technical adviser — member
Secretary (urban development) — member-convener

11.2. The national steering group may consider addition or deletion of cities/towns under Category C (other than state capitals). The total number of cities under the mission shall, however, remain around the same.

11.3. Under sub-mission on the BSUP, a high level Committee will be set up under the chairmanship of Minister (UEPA).

Mission directorate
There shall be a mission directorate under the charge of joint secretary under ministry of urban employment and poverty alleviation for ensuring effective co-ordination with state governments and other agencies for expeditious processing of the project proposals. The joint secretary in-charge of the mission directorate would be designated as mission director. The national technical adviser would also be kept associated with the mission directorate.

Appraisal of projects
The detailed project reports would be scrutinised by the technical wing(s) of the ministry or specialised/technical agencies to be outsourced for the purpose before placing such proposals for sanction by central sanctioning and monitoring committee.

Depending upon the cost of the projects under the sub-mission on the BSUP, ministry of urban employment and poverty alleviation will ensure approval of competent authorities as envisaged in the ministry of finance (department of expenditure) O.M.No. 1(26)-E.II(A)/2002 dated 21.12.2002 as amended from time to time.

Sanction of projects under the mission
There would be a central sanctioning and monitoring committee in the ministry of urban employment and poverty alleviation for sanctioning the projects submitted by identified states, which would comprise:

Secretary (UEPA) — chairman
Secretary (UD) — member
Principal adviser (HUD), Planning Commission — member
Joint Secretary & FA — member
Chief Planner, TCPO — member
Adviser, CPHEEO — member
CMD, HUDCO — member
Joint Secretary (UEPA) — member-secretary

The Committee would assign priority in sanctioning projects of housing and development of infrastructure, basic services and other related civic amenities.

Projects with private sector participation will be given priority over projects to be executed by the ULBs/parastatals themselves, as this will help leverage private capital and bring in efficiency.

Advisory group
In addition, at the national level, an advisory group would be constituted for the mission/sub-mission. The Group would be headed by a technical adviser drawn from civil society with proven experience in mobilising collective action for reforms in urban governance. The group would enable the mission to create similar voluntary technical corps in each city identified for the missions/sub-mission. It would encourage private sector participation, citizen’s involvement in urban governance at grassroots level and transparency in municipal governance.

State Level steering committee
In order to decide projects and their priorities for inclusion in the National Urban Renewal Mission programme, there would be a state level steering committee with following composition:

i. Chief Minister of the state/ — chairman
   Minister for urban development/Minister for housing of the state
ii. Minister, urban development/ — vice-chairman
   minister housing of the state
iii. Concerned mayors/chairpersons of the ULBs – member
iv. Concerned MPs/MLAs – member
v. Secretary, Finance of the state government – member
vi. Secretary (PHE) of the state government – member
vi. Secretary (municipal administration/affairs) – member
vii. Secretary (housing) of the state government – member
viii. Secretary (UD)/LSG/municipal affairs – member-secretary

Nodal agency
The scheme would be implemented through a state level nodal agency designated by the state government. The nodal agency would, inter-alia, perform following functions:

a. Appraisal of the projects submitted by the ULBs/para-statal agencies;
b. Obtaining sanction of state level steering committee for seeking assistance from central government under JNNURM;
c. Management of grants received from the central and state government;
d. Release of funds to the ULBs/para-statal agencies either as grant, or soft loan or grant cum loan.
e. Management of revolving fund;
f. Monitoring physical and financial progress of sanctioned projects;
g. Monitor implementation of reforms as committed in the MoA.

Revolving fund
Under sub-mission on the basic services to the urban poor (BSUP), wherever state level nodal agency releases the central and state funds to the implementing agencies as soft loan or grant-cum-loan, it would ensure that at least 10 percent of the funds released are recovered and ploughed into the revolving fund. This fund will be utilised to meet operation & maintenance expenses of the assets created under the Sub-Mission. At the end of the mission period, the revolving fund may be graduated.

The state basic services to the urban poor fund
Financing pattern
Financing of projects under the mission would be as under:
- Grant
- Category of cities
- Central share
- State/ULB/parastatal share, including
- Beneficiary contribution

Cities with four million plus population as per 2001 census fifty-fifty percent
Cities with million plus but less than 4 million population as per 2001 census fifty percent fifty percent
Cities/towns in North Eastern States and Jammu & Kashmir ninety percent ten percent
Other Cities 80 percent:20 percent

Note: The percentage is on the total project cost. The central assistance, as aforesaid, would be the maximum assistance available under the JNNURM. The central assistance provided under the mission can be used to leverage market capital, if and where required.

Mobilisation of state share
If necessary, internal resources of implementing agencies, Member of Parliament local area development and member of legislative assembly local area development funds may be substituted for institutional finance or for state/ULB/parastatal share. However, MPLAD/MLALAD fund would not substitute beneficiary contribution.

In case any mission project is also approved as externally aided project (EAP), the EAP funds can be passed through as ACA to the state government as funds contributed by the state / ULBs / FIs and mission funds can be used as Government of India contribution.

Beneficiary contribution
Housing should not be provided free to the beneficiaries by the state government. A minimum of 12 percent beneficiary contribution should be stipulated, which in the case of SC/ST/BC/OBC/PH and other weaker sections shall be 10 percent.

In order to enable cities to prepare city development plan, detailed project reports (DPRs), training & capacity building, community participation, information, education and communication (IEC), a provision of five percent of the grant (central and state) or the actual requirement, whichever is less, would be set apart for cities covered under the mission.

In addition, not more than five percent of the grant (central and state) or the actual requirement, whichever is less, may be used for administrative and other expenses (A&OE) by the states.

Release of funds
The funds would be released as far as possible in four instalments by the ministry of urban employment and
poverty alleviation as additional central assistance (100 percent grant in respect of central share) to the state government or its designated state level agencies. The first instalment of 25 percent will be released on signing of the memorandum of agreement by the state government/ULB/parastatal for implementation of the JNURM projects. The balance amount of assistance shall be released as far as possible in three instalments upon receipt of utilisation certificates to the extent of 70 percent of the central fund and also that of state/ULB/parastatal share, and subject to achievement of milestones agreed for implementation of mandatory and optional reforms at the state and ULB level as envisaged in the memorandum of agreement. Outcomes of Jawahar Lal Nehru National Urban Renewal Mission on completion of the mission period of seven years, it is expected that the ULBs will achieve the following outcomes:

- Modern and transparent budgeting, accounting, financial management systems, designed and adopted for all urban services and governance functions;
- City-wide framework for planning and governance will be established and become operational;
- All urban poor people will be able to obtain access to a basic level of urban services;
- Financially self-sustaining agencies for urban governance and service delivery will be established, through reforms to major revenue instruments;
- Local services and governance will be conducted in a manner that is transparent and accountable to citizens;
- E-governance applications will be introduced in core functions of the ULBs resulting in reduced cost and time of service delivery processes.
- Monitoring progress of projects sanctioned under the mission with a view to fine-tuning and calibrating activities, evaluation of experience under the mission will be carried out before continuation in the eleventh plan. A provision of five percent of the grant will be earmarked under the ministry's budget for undertaking evaluation of the mission.
- Ministry of urban employment & poverty alleviation will periodically monitor the scheme.
- State level nodal agency would send quarterly progress report to the ministry of urban employment & poverty alleviation.
- Upon completion of the project, nodal agency through the state government, would submit completion report in this regard.
- Central sanctioning & monitoring committee may meet as often as required to sanction and review/monitor the progress of projects sanctioned under the mission.
- Monitoring of progress of implementation of reforms may be outsourced to specialised/technical agencies.

Annexure-A
List of Identified cities/urban agglomerations (UAs) under sub-mission on basic services to the urban poor (BSUP)

Serial number
City name of the state population (in lakh)

a) Mega Cities/UA
1. Delhi 128.77
2. Greater Mumbai, Maharashtra 164.34
3. Ahmedabad, Gujarat 45.25
4. Bangalore, Karnataka 57.01
5. Chennai, Tamil Nadu 65.60
6. Kolkata, West Bengal 132.06
7. Hyderabad, Andhra Pradesh 57.42

b) Million-plus Cities/UA
1. Patna, Bihar 16.98
2. Faridabad, Haryana 10.56
3. Bhopal, Madhya Pradesh 14.58
4. Ludhiana, Punjab 13.98
5. Jaipur, Rajasthan 23.27
6. Lucknow, Uttar Pradesh 22.46
7. Madurai, Tamil Nadu 12.03
8. Nashik, Maharashtra 11.52
9. Pune, Maharashtra 37.60
10. Cochin, Kerala 13.55
11. Varanasi, Uttar Pradesh 12.04
12. Agra, Uttar Pradesh 13.31
13. Amritsar, Punjab 10.03
14. Visakhapatnam, Andhra Pradesh 13.45
15. Vadodara, Gujarat 14.91
16. Surat, Gujarat 28.11
17. Kanpur, Uttar Pradesh 27.15
18. Nagpur, Maharashtra 21.29
19. Coimbatore, Tamil Nadu 14.61
20. Meerut, Uttar Pradesh 11.61
21. Jabalpur, Madhya Pradesh 10.98
22. Jamshedpur, Jharkhand 11.04
23. Asansol, West Bengal 10.67
24. Allahabad, Uttar Pradesh 10.42
25. Vijayawada, Andhra Pradesh 10.39
26. Rajkot, Gujarat 10.03
27. Dhanbad, Jharkhand 10.65
28. Indore, Madhya Pradesh 16.40
c) **Identified cities/UAs with less than one million population**

1. Guwahati, Assam 8.19
2. Itanagar, Arunachal Pradesh 0.35
4. Raipur, Chhattisgarh 7.00
5. Panaji, Goa 0.99
6. Shimla, Himachal Pradesh 1.45
7. Ranchi, Jharkhand 8.63
8. Thiruvananthapuram, Kerala 8.90
9. Imphal, Manipur 2.50
10. Shillong, Meghalaya 2.68
11. Aizawal, Mizoram 2.28
12. Kohima, Nagaland 0.77
13. Bhubaneswar, Orissa 6.58
14. Gangtok, Sikkim 0.29
15. Agartala, Tripura 1.90
16. Dehradun, Uttarakhand 5.30
17. Bodh Gaya, Bihar 3.94
18. Ujjain, Madhya Pradesh 4.31
19. Puri, Orissa 1.57
20. Ajmer-Pushkar, Rajasthan 5.04
21. Nainital, Uttarakhand 2.20
22. Mysore, Karnataka 7.99
23. Pondicherry, Pondicherry 5.05
24. Chandigarh, Punjab & Haryana 8.08
25. Srinagar, Jammu & Kashmir 9.88
26. Haridwar, Uttarakhand 2.21
27. Mathura, Uttar Pradesh 3.23
28. Nanded, Maharashtra 4.31

All state capitals and capitals of two union territories with legislatures are proposed to be covered. The national steering group may add or delete cities/towns under category-C other than the state capitals. However, the total number of category-C cities under JNNURM will be kept at a reasonable level.

**Annexure-B**

**Urban reforms may include:**

**Mandatory Reforms:**

**Urban Local Body Reforms (at ULB Level)**

i) Adoption of modern, accrual-based double entry system of accounting in the urban local bodies.

ii) Introduction of system of e-governance using IT applications like GIS and MIS for various services provided by the ULBs.

iii) Reform of property tax with the GIS, so that it becomes major source of revenue for the ULBs and arrangements for its effective implementation so that collection efficiency reaches at least 85 percent within the mission period.

iv) Levy of reasonable user charges by the ULBs/parastatals with the objective that full cost of operation and maintenance is collected within the Mission period. However, cities/towns in the north-east and other special category states may recover at least 50 percent of operation and maintenance charges initially. These cities/towns should graduate to full O&M cost recovery in a phased manner.

v) Internal earmarking within local body budgets for basic services to the urban poor.

vi) Provision of basic services to urban poor including security of tenure at affordable prices, improved housing, water supply, sanitation and ensuring delivery of other already existing universal services of the government for education, health and social security.

**State Level Reforms**

i) Implementation of decentralisation measures as envisaged in the seventy fourth Constitutional Amendment. States should ensure meaningful association/engagement of the ULBs in planning function of parastatals as well as delivery of services to the citizens.

ii) Rationalisation of stamp duty to bring it down to no more than 5 percent within the mission period.

iii) Enactment of community participation law to institutionalise citizen participation and introducing the concept of the area sabha in urban areas.

iv) Assigning or associating elected ULBs into “city planning function” over a period of five years; transferring all special agencies that deliver civic services in urban areas and creating accountability platforms for all urban civic service providers in transition.

**Optional reforms**

i) Repeal of the Urban Land Ceiling and Regulation Act.

ii) Amendment of Rent Control Laws balancing the interest of landlords and tenants.

iii) Enactment of Public disclosure law to ensure preparation of medium-term fiscal plan of ULBs and release of quarterly performance information to all stakeholders.

iv) Revision of bye-laws to streamline the approval process for construction of buildings, development of sites, etc.

v) Simplification of legal and procedural frameworks for conversion of agricultural land for non-agricultural purposes.
vi) Introduction of property title certification system in the ULBs.

vii) Earmarking at least 20-25 percent of developed land in all housing projects (both public and private agencies) for the EWS/LIG category with a system of cross subsidisation.

viii) Introduction of computerised process of registration of land and property.

ix) Revision of bye-laws to make rain water harvesting mandatory in all buildings to come up in future and for adoption of water conservation measures.

x) Bye-laws on reuse of recycled water.

xi) Administrative reforms, i.e., reduction in establishment by bringing out voluntary retirement schemes, non-filling up of posts falling vacant due to retirement etc., and achieving specified milestones in this regard.

xii) Structural reforms

xiii) Encouraging public-private partnership.

NOTE: States/ULBs will be required to implement all the mandatory reforms and optional reforms within the mission period. The states/ULBs need to choose at least two optional reforms each year for implementation. The details of reforms which have already been implemented and/or proposed to be taken up should be included in the detailed project reports.
Integrated Housing & Slum Development Programme

Guidelines - 2005

1. Introduction

1.1 Integrated Housing & Slum Development Programme (IHSDP) aims at combining the existing schemes of VAMBAY and NSDP under the new IHSDP Scheme for having an integrated approach in ameliorating the conditions of the urban slum dwellers who do not possess adequate shelter and reside in dilapidated conditions.

1.2 The scheme is applicable to all cities and towns as per 2001 census except cities/towns covered under Jawahar Lal Nehru National Urban Renewal Mission (JNNURM).

1.3 The scheme seeks to enhance public and private investments in housing and infrastructural development in urban areas.

2. Objectives

The basic objective of the Scheme is to strive for holistic slum development with a healthy and enabling urban environment by providing adequate shelter and basic infrastructure facilities to the slum dwellers of the identified urban areas.

3. Coverage

3.1 The scheme will apply to all cities/towns, excepting cities/towns covered under JNNURM. The target group under the scheme is slum dwellers from all sections of the community through a cluster approach.

3.2 Allocation of funds among states will be on the basis of the states’ urban slum population to total urban slum population in the country.

3.3 States may allocate funds to towns/cities basing on similar formula. However, funds would be provided to only those towns and cities where elections to local bodies have been held and elected bodies are in position.

3.4 The State Governments may prioritise towns and cities on the basis of their felt-need. While prioritising towns, States would take into account existing infrastructure, economically and socially disadvantaged sections of the slum population and difficult areas.

4. Components

4.1 The components for assistance under the scheme will include all slum improvement/ upgradation/ relocation projects including upgradation/new construction of houses and infrastructural facilities, like, water supply and sewerage. Cost of land for such projects will not be provided under the programme and has to be borne by the state government. In case the project is to be undertaken on private land, which is to be acquired by the state, cost of land may also be part of the project costing only in the case of the north eastern states and the hilly states of Himachal Pradesh, Uttarakhand and Jammu & Kashmir.

4.2 Title of the land: Title of the land should preferably be in the name of the wife and alternatively jointly in the names of husband and wife. In exceptional cases, title in the name of male beneficiary may be permitted.

4.3 A&OE: Not more than 5 percent of the total allocation of funds under the scheme for A&OE purposes for preparation of project reports and for administrative purposes which may be distributed among Ministry and States/UTs/Implementing Agencies.

4.4 Ceiling cost for dwelling unit: will be @ Rs.80,000 per unit for cities other than those covered under the Jawahar Lal Nehru National Urban Renewal Mission (JNNURM). This ceiling cost will, however, be reviewed after one year. For special category/hilly states and difficult/far flung areas, 12.5 percent additionality will be permissible over and above the prescribed ceiling cost per dwelling unit.

4.5 Selection of beneficiaries: By SUDA/DUDA/ULBs/government nodal agency authorised by the state government.

4.6 Minimum floor area of dwelling unit: Not less than 25 sq mtrs area and preferably two room accommodation plus kitchen and toilet should be constructed.
4.7 **Infrastructure development and maintenance in the slums:** State governments should ensure a separate provision for upkeep and maintenance of the public assets created under the scheme.

4.8 **Beneficiary contribution:** Housing should not be provided free to the beneficiaries by the state government. A minimum of 12 percent beneficiary contribution should be stipulated, which in the case of SC/ST/BC/OBC/PH and other weaker sections shall be 10 percent.

4.9 **Admissible components**

i) Provision of shelter including upgradation and construction of new houses.

ii) Provision of community toilets.

iii) Provision of physical amenities like water supply, storm water drains, community bath, widening and paving of existing lanes, sewers, community latrines, street lights, etc.

iv) Community infrastructure like provision of community centres to be used for pre-school education, non-formal education, adult education, recreational activities, etc.

v) Community primary health care centre buildings can be provided.

vi) Social amenities like pre-school education, non-formal education, adult education, child health and primary health care including immunisation, etc.

vii) Provision of model demonstration projects.

viii) Sites and services/houses at affordable costs for the EWS and LIG categories.

ix) Slum improvement and rehabilitation projects.

x) Land acquisition cost will not be financed except for acquisition of private land for schemes/projects in the northeastern states and hilly states, viz., Himachal Pradesh, Uttarakhand and Jammu and Kashmir.

Note: The DPRs will have to be prepared by the implementing agencies for funding under the IHSDP including specific project components, viz., health, education and social security. However, the schemes of health, education and social security will be funded through convergence of schemes and dovetailing of budgetary provisions available under the Programmes of the respective sectors (health, human resource development, social justice and empowerment and labour, etc.), but will also be monitored by the ministry of urban employment and poverty alleviation in so far as urban poor are concerned.

4.10 The scheme may be converged with other state sectoral and departmental Programmes relating to achieving social sector goals similar to those envisaged in this scheme.

5. **Financing pattern**

5.1 The sharing of funds would be in the ratio of 80:20 between the central government and state government/ULB/parastatal. States/implementing agencies may raise their contribution from their own resources or from beneficiary contribution/financial institutions.

5.2 For special category states, the funding pattern between Centre and the states will be in the ratio of 90:10.

5.3 Funds from the MPLAD/MLALAD could be canalised towards project cost and to that extent state share could be suitably reduced. However, the MPLAD/MLALAD fund would not substitute beneficiary contribution.

5.4 The scheme will be implemented through a designated state level nodal agency.

5.5 In case externally aided project (EXP) funds are available, these can be passed through as ACA to the state government as funds contributed by the state/ULBs/FIs.

6. **Release of central assistance**

6.1 Central assistance (grant) released will go directly to the nodal agencies identified by the state government as additional central assistance.

6.2 Release of the central share to nodal agency will depend on availability of state share and submission of utilisation certificates in accordance with the provisions of general financial rules (GFRs).

6.3 The criteria for release of funds are as under: State share has to be deposited in a separate account to become eligible for the central grant. Fifty percent of the central grant will be released to the state nodal agency after verification of the state share, and on signing the tripartite memorandum of agreement. Second installment will be released based on the progress.

7. **Incentives**

7.1 After due assessment of status of implementation of activities for which incentives are sought,
central sanctioning committee /state level coordination committee may sanction/recommend additional central grant upto a maximum of 10 percent to incentives implementing agencies as indicated below:

- For adoption of innovative approaches and adoption of proven and appropriate technologies.
- For information, education and communication (IEC)
- For training and capacity building relating to project/ scheme.
- For preparation of detailed project reports.
- For bringing about efficiencies in the projects.

8. State level nodal agency

8.1 The state government may designate any existing institution as nodal agency for implementation of the scheme.

8.2 The nodal agency will be responsible for the following:
- Inviting project proposals from the ULBs/ Implementing agencies;
- Techno-economic appraisal of the projects either through in-house expertise or by outside agencies through outsourcing;
- Management of funds received from the central and state governments;
- Disbursement of the funds as per the financing pattern given in the guidelines;
- Furnishing of utilisation certificates, in accordance with the provisions of the GFRs, and quarterly physical and financial progress reports to the ministry of urban development;
- Maintenance of audited accounts of funds released to the ULBs and implementing agencies.

9. Project appraisal

9.1 Urban local bodies and implementing agencies will submit detailed project reports to the designated State Level nodal agencies for appraisal.

9.2 The state level nodal agency will forward the appraised projects to ministry of urban employment and poverty alleviation for consideration of the CSC/state level coordination committee, as the case may be.

10. State level coordination committee (SLCC)

10.1 The composition of the state level coordination committee (SLCC) will be decided by the states.

10.2 The SLCC will ensure the following:
- Examine and approve project reports submitted by the local bodies/implementing agencies taking into account the appraisal reports;
- Periodically monitor the progress of sanctioned projects/ schemes including funds mobilisation from financial institutions.
- Review the implementation of the scheme keeping in view its broad objectives and ensure that the Programmes taken up are in accordance with the guidelines laid down.
- Review the progress of urban reforms being undertaken by the ULBs/ implementing agencies.

10.3 The SLCC shall meet as often as required but shall meet quarterly to review the progress of ongoing projects and for sanction new projects.

11. Central sanctioning committee

11.1 The composition of the central sanctioning committee (CSC) will be as per the VAMBAY Scheme with following composition:
- Secretary, UEPA - chairperson
- Joint Secretary (UEPA) - member
- JS&FA - member
- JS(UD) - member
- CMD, HUDCO - member
- Director(UPA) - convener

11.2 The CSC will examine and approve the projects relating to the housing and integrated projects on housing and infrastructure development, submitted by the state nodal agencies on the recommendations of the state level co-ordination committee.

11.3 The state level co-ordination committee will examine and approve the projects relating to providing only basic amenities/ improvement of infrastructure to the slum dwellers.

12. Agenda of reforms

The main thrust of the revised strategy of urban renewal including providing basic services to the urban poor (BSUP) is to ensure improvement in urban governance
so that urban local bodies (ULBs) and para-statal agencies become financially sound with enhanced credit rating and ability to access market capital for undertaking new programmes and expansion of services. In this improved environment, public-private participation models for provisioning of various services would also become feasible. To achieve this objective, state governments, urban local bodies and para-statal agencies will be required to accept implementation of an agenda of reforms. The proposed reforms shall broadly fall into two categories:

i) Mandatory reforms

ii) Optional reforms

List of mandatory and optional reforms is at Annexure. National Steering Group may add additional reforms to the identified reforms.

The state governments, ULBs and para-statal agencies will be required to execute a memorandum of agreement (MoA) with the Government of India committing to implement the reform programme. MoA would also spell out specific milestones to be achieved for each item of reform. Signing of this tri-partite MoA will be a necessary condition to access central assistance.

13. Monitoring

- Ministry of urban employment and poverty alleviation will periodically monitor the scheme through designated officer of the ministry for each state/UT;
- State level nodal agency would send quarterly progress report to the ministry of MoUEPA;
- The SLCC/CSC would ensure quarterly monitoring of various projects recommended/sanctioned under the Programme.

14. Training and capacity building
The central and state governments will make continuous efforts for training and up-gradation of the skills of the personnel responsible for the project and the elected representatives. The state government may organise suitable training as well as capacity building programmes through reputed institutions in the field. The same will form part of DPR to be submitted by the implementing agency.

15. Miscellaneous
15.1 It will be the responsibility of the urban local bodies/Implementing agencies to keep an inventory of assets created and also to maintain and operate the assets and facilities created.

15.2 The implementing agencies at the ULB/implementing agency level will be required to open and maintain separate bank account for each project in a commercial bank for receipt and expenditure of all money to be received and spent. The ULBs/implementing agencies should maintain registers for utilisation of funds separately for central and state shares and loan from financial institutions.

15.3 The nodal agency will maintain institution-wise and project-wise accounts under the scheme.

15.4 Projects taken up under the on-going schemes under VAMBAY during the last five years beginning from 2001-2002 will continue to be funded as per the existing guidelines of VAMBAY Scheme till completion of those projects. Further, till the IHSDP Scheme is put in place, even fresh proposals may be taken up under VAMBAY for the year 2005-06.

15.5 Ministry of urban employment and poverty alleviation, in consultation with the ministry of finance, may effect changes in the scheme guidelines, other than those affecting the financing pattern as the scheme proceeds, if such changes are considered necessary.

Annexure
Urban reforms
Urban reforms may include: Mandatory reforms: Urban Local Body Reforms (at ULB Level)

i) Adoption of modern, accrual-based double entry system of accounting in urban local bodies.

ii) Introduction of system of e-governance using IT applications like GIS and MIS for various services provided by the ULBs.

iii) Reform of property tax with the GIS, so that it becomes major source of revenue for the urban local bodies (ULBs) and arrangements for its effective implementation so that collection efficiency reaches at least 85 percent within the Mission period.

iv) Levy of reasonable user charges by ULBs/Parastatals with the objective that full cost of operation and maintenance is collected within the Mission period. However, cities/towns in the northeast and other special category states may recover at least 50 percent of operation and maintenance charges initially. These cities/towns should graduate to full O&M cost recovery in a phased manner.

v) Internal earmarking within local body budgets for basic services to the urban poor.
vi) Provision of basic services to urban poor including security of tenure at affordable prices, improved housing, water supply, sanitation and ensuring delivery of other already existing universal services of the government for education, health and social security.

State level reforms
i) Implementation of decentralisation measures as envisaged in the 74th Constitutional Amendment. States should ensure meaningful association/engagement of the ULBs in planning function of parastatals as well as delivery of services to the citizens.

ii) Rationalisation of stamp duty to bring it down to no more than 5 percent within the Mission period.

iii) Enactment of community participation law to institutionalise citizen participation and introducing the concept of the Area Sabha in urban areas.

iv) Assigning or associating elected ULBs into “city planning function” over a period of five years; transferring all special agencies that deliver civic services in urban areas and creating accountability platforms for all urban civic service providers in transition.

Optional reforms
i) Repeal of the Urban Land Ceiling and Regulation Act.

ii) Amendment of Rent Control Laws balancing the interest of landlords and tenants.

iii) Enactment of Public Disclosure Law to ensure preparation of medium-term fiscal plan of the ULBs and release of quarterly performance information to all stakeholders.

iv) Revision of bye-laws to streamline the approval process for construction of buildings, development of sites, etc.

v) Simplification of legal and procedural frameworks for conversion of agricultural land for non-agricultural purposes.

vi) Introduction of property title certification system in the ULBs.

vii) Earmarking at least 20-25 percent of developed land in all housing projects (both Public and private agencies) for the EWS/LIG category with a system of cross subsidisation.

viii) Introduction of computerised process of registration of land and property.

ix) Revision of bye-laws to make rain water harvesting mandatory in all buildings to come up in future and for adoption of water conservation measures.

x) Bye-laws on reuse of recycled water.

xi) Administrative reforms, i.e., reduction in establishment by bringing out voluntary retirement schemes, non-filling up of posts falling vacant due to retirement etc., and achieving specified milestones in this regard.

xii) Structural reforms

xiii) Encouraging public-private partnership.

NOTE: States/ULBs will be required to implement the mandatory reforms and optional reforms within the mission period. The states/ULBs need to choose at least two optional reforms each year for implementation. The details of reforms, which have already been implemented and/or proposed to be taken up should be included in the detailed project reports.
The Valmiki Ambedkar Awas Yojana (VAMBAY) was launched by Government of India in 2001-02 to provide shelter or upgrade the existing shelter for people living below poverty line in urban slums which will help in making cities slum free.

This scheme has an objective to provide shelter and upgrade the existing shelter for below poverty line families in urban slums. The scheme is shared on 50:50 basis with states. Preference is given to women headed households. The government will release subsidy on a 1:1 basis with loan. Also a national city sanitation project under one title of “Nirmal Bharat Abhiyan” is an integral sub component of VAMBAY in which 20% of total allocation under VAMBAY wil be used.

VAMBAY is a national level housing scheme of the ministry of urban employment & poverty alleviation, Government of India for the benefit of the slum dwellers. The objective of VAMBAY is primarily to provide shelter or upgrade the existing shelter for people living below poverty line in urban slums in a march towards the goal of cities without slums and for enabling healthy urban environment. The target group under VAMBAY is all slum dwellers in urban areas who are below the poverty line including members of economically weaker section (EWS) who do not possess pucca shelter.

VAMBAY is a centrally sponsored Scheme shared on a 50:50 basis, which envisages an annual subsidy of Rs 1000 crores from ministry of urban employment & poverty alleviation, Government of India, to be matched by an equal amount of long term loan from HUDCO to be availed against state government guarantee.

The Ministry of urban employment & poverty alleviation, Government of India, has sanctioned Rs. 75 Lakhs to Building Materials & Technology Promotion Council (BMTPC), an autonomous body of the ministry, for construction of 125 VAMBAY houses as demonstration housing project using cost effective building materials and construction techniques.

Two million housing programme
The Government of India is implementing two million housing units programme since 1998, which envisages construction of 20 lakh additional houses every year. Out of the 20 lakh houses, 13 lakhs are to be constructed in rural areas and seven lakh in urban area. Under this programme, every year HUDCO has been entrusted with the task of providing loan assistance to facilitate the construction of six lakh houses in rural houses & four lakh in urban areas.

There is at present no housing scheme in the central sector for the urban poor. There are two central sector programmes targeted towards the urban poor, namely, SJSRY and NSDP. SJSRY attempts to provide employment in order to bring the urban poor above the poverty line while NSDP is basically a programme for the environmental improvement of urban slums. The urban poverty alleviation strategy is incomplete without a significant component pertaining to housing delivery for the slum dwellers.

In order to fill this gap in a major policy initiative, the prime minister announced a new centrally sponsored scheme called the Valmiki Ambedkar Awas Yojana (VAMBAY) on the August 15, 2001 to ameliorate the conditions of the urban slum dwellers living below poverty line.

The objective of VAMBAY is primarily to provide shelter or upgrade the existing shelter for people living below the poverty line in urban slums in a march towards the goal of slumless cities with a healthy and enabling urban environment. The target group under VAMBAY will be all slum dwellers in urban areas who are below the poverty line including members of EWS who do not possess adequate shelter.

Another very important basic amenity for slum dwellers especially in congested metropolitan cities is the lack of rudimentary toilet facilities. A new national city sanitation project under the title of the “National Bharat Abhiyan” is an integral sub component of VAMBAY. 20% of the total allocation under VAMBAY will be used for the same at the rate of Rs 200 crore as loan from HUDCO and Rs
200 crore as subsidy. The state governments/local bodies of course will be free to supplement this amount with their own grant or subsidy as the case may be. The average cost of community toilet seat has been estimated to be Rs 40,000/- per seat. Therefore, a 10-seat or a 20-seat toilet block meant for men, women and children with separate compartments for each group and special design features will cost around Rs four lakhs or Rs eight lakhs respectively. Each toilet block will be maintained by a group from among the slum dwellers who will make a monthly contribution of about Rs.20 or so per family and obtain a monthly pass or family card.

During the financial year, 2001-02, a limited sum of Rs 100 crore was made available out of the savings of the ministry of urban development. However, during the Tenth Plan period when VAMBAY launched, the annual allocation was Rs 1000 crores, which matched with a long-term loan by HUDCO of Rs 1000 crore on a 1:1 basis. The rate of interest of this loan will be the same as the rate of interest charged by HUDCO for EWS housing. State government has the option to mobilise its matching portion of 50% from other sources, such as their own budget provision, resources of local bodies, loans from other agencies, contributions from beneficiaries or NGOs, etc. In all cases, however, the Government of India subsidy will only be released after the states' matching share of 50% has been released. Both the subsidy and the loan (when it is required) will be released by HUDCO. The funds will be released by HUDCO either to the State Urban Development Agency (SUDA), District Urban Development Agency (DUDA) or any other agency designated by the state government.

Integrated low cost sanitation scheme
The Government of India, ministry of urban affairs and employment and ministry of welfare alongwith HUDCO have joined hands in taking up a major programme for integrated low cost sanitation for conversion of dry latrine system into water borne low cost sanitation system and at the same time liberating the manual scavengers through appropriate rehabilitation measures. In addition, HUDCO has also been extending assistance to basic sanitation schemes.

The Government of India has programme for complete eradication of manual scavenging in the country. HUDCO's contribution to integrated low cost sanitation system, therefore, would have a major significance.

The implementation of VAMBAY will be dovetailed and synergised with other existing programmes such NSDP and SJSRY. The availability of drinking water, sanitation and drainage facilities should be ensured under these programmes. On an average, 25% of the funds under the scheme will be spent for providing water and sanitation facilities including approximately 20% of the amount for community sanitation project – Nirmal Bharat Abhiyan.

Selection of beneficiaries will be made by SUDA/ DUDA in consultation with the local authorities. Help of reputed NGOs may be enlisted. They will also formulate projects, prepare estimates and submit the same for sanction to the state government, which will in turn recommend them to the Government of India for release of funds allocated for each state.

In selecting the beneficiaries the following reservation/percentage will be followed:

1. SC/ST - not less than 50%
2. Backward classes - 30%
3. Other weaker sections - 15% (OBC, BC, etc.)
4. Physical & mentally disabled & handicapped persons and others.

After identification of the beneficiaries, the latter must be provided title as a pre-condition for the loan or subsidy. This may be done by the state government/local body either by regularisation in-situ or by relocation. The title to the land should be in the name of the husband and wife jointly or preferable in the name of the wife. Till the repayment of the loan, if any, the house built with VAMBAY funds along with the land shall be mortgaged to the State government / implementing agency. It may please be noted that no provision is made for land acquisition in VAMBAY. No hard and fast type/design is prescribed for VAMBAY dwelling units. However, the plinth area of a new house should normally be not less than 15 sq. mts.

The upper financial limit for construction of VAMBAY units normally will be Rs 40,000/- with provision for sanitary toilet also. However, for metro cities with more than 1-month population, it will be Rs 50,000/- and mega cities (Delhi, Mumbai, Kolkata, Chennai, Hyderabad and Bangalore) it will be Rs 60,000/- per unit. In hilly and difficult areas this ceiling may be enhanced by 12.5%. A portion, say 20% of the funds may be used also for upgrading existing dwelling units in slums. The upper limit for upgradation of an existing unit shall not be more than 50% of the ceiling specified for construction of a new house. The norms for town & country planning of the state government and the rules and bye-laws of the local bodies should, of course, be kept in view.
Night shelter
The Government of India and HUDCO have introduced a scheme of providing night shelters for pavement dwellers and thereby improving the living conditions of the pavement dwellers.

It envisages a minimum level of basic infrastructure facilities such as community toilets and bathing units, drinking water facilities in addition to dormitory sleeping accommodation and locker facilities for which a nominal amount is charged from the beneficiaries.

Monitoring of VAMBAY will be done by the State Government and status report submitted to GOI regularly.

Entitlement of State/UT under VAMBAY will be initially determined on the basis of slum population in the State or UT. The state government are required to allocate the share for cities and towns within the State/UT also on the same norm i.e. in proportion to the slum population as a percentage of the total slum population of the State.

The detailed proposals with cost estimates will be processed and submitted by HUDCO to a committee headed by the secretary, department of urban employment & poverty alleviation, Ministry of Urban Development & Poverty Alleviation. If, however, sufficient proposals under VAMBAY are not forthcoming from some of the states, the balance funds can be reallocation to other states, which have submitted their proposals.
(Draft) National Urban Housing and Habitat Policy- 2005

Ministry of urban employment and poverty alleviation
Government of India, Nirman Bhawan, New Delhi
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ANNEXURES : I - IV
1. Preamble
The need for policy
1.1 Shelter is one of the basic human needs just next to food and clothing. Need for a National Housing and Habitat Policy emerges from the growing requirements of shelter and related infrastructure. These requirements are growing in the context of rapid pace of urbanisation, increasing migration from rural to urban centres in search of livelihood, mismatch between demand and supply of sites and services at affordable cost and inability of most new and poorer urban settlers to access formal land markets in urban areas due to high costs and their own lower incomes, leading to a non-sustainable situation. This policy intends to promote sustainable development of habitat in the country, with a view to ensure equitable supply of land, shelter and services at affordable prices.

Urbanisation and development
1.2 Urbanisation and development go together and rapid pace of development leads to rapid growth of urban sector. Urban population of India is likely to grow from 285.3 million in 2001 (Census 2001) to 360 million in 2010, 410 million in 2015, 468 million in 2020 and 533 million in 2025 (Annexure-I), as per the projections based on historical growth pattern of population (1901 – 2001).

1.3 India is undergoing a transition from rural to semi-urban society. Some States (Maharashtra, Mizoram, Tamilnadu and Goa), as per Census 2001, have already attained urbanisation level of 35 to 50%. As per the projections based on historical growth pattern (1901 – 2001), nearly 36% of India’s population is likely to be urbanised by 2025. However, since the current pace of development (with around 7% growth of GDP) is particularly high and will increase further with growing investments, the actual growth of urban population is likely to be more than these projections.

1.4 The decadal growth rate of urban population in India is significantly higher than rural population, being 23.9 and 20.0 during 1981 – 1991 and 21.4 and 18.0 during 1991-2001 respectively. Average annual rate of change (AARC) of total population in India during 2000-2005 is estimated at 1.41% as compared to 2.81% for urban and 0.82% for rural sectors (Annexure-II). AARC for urban areas during 2025-30 will increase to 2.25% whereas AARC for total population will decline to 0.77% during the same period, as per United Nations estimates (1999).
1.5 Although India is undergoing rapid pace of development, job opportunities are not growing in the same proportion. This is largely attributed to a near stagnation of employment in agriculture during 1993-2000, although employment in the services such as trade, hotel, restaurant, transport, insurance, communication, financial, real estate and business services have shown significant increase in a range of 5-6%. (NSSO- Different Rounds). This factor contributes to rapid pace of urbanisation.

**Rural to urban shift of labour force**

1.6 The share of agriculture in the total workforce has shown considerable decline from 60% in 1993-94 to 57% in 1999-2000. The share of primary sector is likely to decline further to 37% in 2030 (see Annexure-III). This means a large number of rural workforces will migrate to urban areas in search of jobs in secondary and tertiary sector. It is important for them to have access to employment, shelter and related services failing which they will contribute to mushrooming growth of slums and substandard habitat.

1.7 The growth of rural population is declining constantly. As per the UN (1999) estimates, average annual rate of change of total rural population will decline from 0.82% during 2000-2005 to (-) 0.40% during 2025-30. This indicates the shift of agricultural workforce to other sectors.

**Regional balance**

1.8 In this context of rural to urban shift in the labour force distribution and rapid pace of urbanisation, there is a need to ensure a balanced regional growth along with suitable supply of land, shelter and employment opportunities with the overall focus to divert flow of migrants across various urban centres and contain concentration of urban population in mega/metro cities.

**In-situ urbanisation**

1.9 At the same time, it is also important to promote in-situ urbanisation to reduce overall pace of rural to urban migration. This again has to among others focus on supply of land, shelter, related infrastructure and employment opportunities among rural areas. Budget speech for union budget 2005-06 included a special reference to provision of urban amenities in rural areas through expansion of unorganised enterprises around existing clusters of individual activities and services as well as formation of new clusters. These activities under PURA shall promote four connectivities namely, physical, electronic, knowledge and economic to hinterland of selected clusters.

**Role of housing**

1.10 Housing, besides being a very basic requirement for the urban settlers, also holds the key to accelerate the pace of development. Investments in housing like any other industry, has a multiplier effect on income and employment. It is estimated that overall employment generation in the economy due to additional investment in the housing/construction is eight times the direct employment (IIM-Ahmedabad Study, 2000). The construction sector provides employment to 16% of the work force (absolute number 146 lakh-1997). It is growing at the rate of 7%. Out of this, the housing sector alone accounts for 85.5 lakh workers. However nearly 55% of them are in the unskilled category. Skill upgradation would result in higher income for the workers. Housing provides employment to a cross-section of people which importantly include poor. Housing also provide opportunities for home-based economic activities. At the same time, adequate housing also decides the health status of occupants. Therefore, on account of health and income considerations, housing is a very important tool to alleviate poverty and generate employment.

**Housing requirements**

1.11 Magnitude of housing requirements is linked to pattern of growth, settlement status and overall shelter quality. The cities and towns, which are growing at faster rate need to develop and deliver a faster and greater supply of housing.

Growth of slums in India has been at least three times higher than the growth of urban population, leading to sizeable number of urban population living in the slums. As per TCPO estimate 2001, 21.7 percent urban population lives in slums. Housing activities are to be planned according to the growth pattern of different settlements/cities. Second area of concern for adequate housing is the upgradation of existing houses including access to minimum services. As per Planning Commission estimates, the total requirement of urban housing during the 10th Plan period (2002-2007) works out to 22.44 million dwelling units in urban areas consisting of urban housing backlog of 8.89 million dwelling units at the beginning of 10th Plan (2002) and additions of new housing of 13.55 million dwelling units.
**Magnitude of poverty**

1.12 Adequacy of housing is directly linked to magnitude of poverty. Extreme lack of housing in terms of tenure, structure and access to services. As per Planning Commission (1999-2000) estimate, 23.6% of urban population in India lives below poverty line. There is a strong correlation between slum and poverty.

As per Planning Commission estimation 67.1 million urban population in 1999-2000 lived below poverty line whereas the population living in slums in 2001 has been estimated by TCPO at 61.8 million. Therefore, adequate access to shelter and habitat is also linked to state of poverty. In quantitative terms, access to basic amenities in urban areas reflects 9% deficiency in drinking water, 26% in latrine and 23% in drainage (Census of India, 2001). However, the gap in qualitative terms could be much higher.

**Emergence of sustainable habitat**

1.13 In order to generate suitable strategies for housing and sustainable development of human settlements, this policy takes note of shelter conditions, access to services and opportunities for income and employment generation with particular reference to poor.

This policy also takes into account the growth pattern of settlements, the investment promotion opportunities, environmental concerns, magnitude of slums and sub-standard housing. This policy also examine the importance of sustainable urban structure which is able to (i) absorb urban population with suitable access to shelter, services and employment opportunities and (ii) also able to serve as service centre to their vast hinterland.

1.14 This policy re-affirms the importance of small and medium sized urban centres which have vast potential for future urban growth and also promoting a regional balance. These centres, as per Census 2001, constitute only 31% of urban population, although they constitute over 90% of cities and towns, being 3975. Our policy should be able to promote growth potential of these 3975 towns to divert rural to megacity/metro city migration and contain urban to urban migration in a desirable manner (Annexure-IV). At the same time, this policy also focuses on in-situ urbanisation of rural settlements so that connectivity at cluster level is improved for better provision of shelter, services and employment opportunities.

**Policies and programmes**

1.15 This policy is in continuation of public sector interventions and related developments of human settlement sector in India during a period of last 15 years which began with the Economic Liberalisation Policy of 1991, National Housing Policy, 1994, National Housing & Habitat Policy, 1998 and follow up of 74th Constitution Amendment of 1992. These policy initiatives focused on transition of Public Sector role as ‘facilitator’, increased role of the private sector, decentralisation, development of fiscal incentives and concessions, accelerated flow of housing finance and promotion of environment-friendly, cost-effective and pro-poor technology.

**Positive policy results**

1.16 The policy framework and subsequent development of programmes and schemes covering two-million housing, VAMBAY, NSDP, SJSRY, etc., have yielded fairly positive results in the area of housing and human settlements. There has been a quantum jump in the supply of serviced land, habitable shelter and related infrastructure. For example, in the first two years of the Tenth Plan period, financial assistance was provided (which was 93% of the targeted amount) for construction of 218764 dwelling units under VAMBAY scheme. Similarly, total number of beneficiaries under NSDP and SJSRY were 37.28 million and 31.77 million respectively during the same period. As per Census 2001, the period of 1991 to 2001 witnessed a net addition of 19.52 million dwelling units in the urban housing stock, amounting to average annual construction of 1.95 million houses.

The share of ownership housing in urban areas has increased from 63% in 1991 to 67% in 2001 (Census 2001). It is important to note that households having one room accommodation declined significantly in urban areas from 39.55 percent to 35.1 percent during the period 1991 to 2001 (Census 2001). This is a result of upward shift of accommodation and accelerated supply of housing stock.

1.17 This policy recognises that despite appreciable increase in the supply of housing and related infrastructure, the magnitude of backlog is fairly high. As per Planning Commission estimates, the difference of households over houses in 2002 was to the tune of 2.16 million dwelling units in urban areas.

This difference if added with the housing requirements to replace, upgrade or reconstruct houses to remove congestion, obsolescence and
unserviceable *kutcha* houses, leads to a fairly high backlog of 8.89 million dwelling units for urban areas only. This deficit and subsequent additions would need huge investments.

**Focus areas**

1.18 It is in this context that a housing and habitat policy is needed to focus on status of livelihood covering shelter and related infrastructure to promote sustainable development of habitat. In this regard, cities play significant role to operate as engines of economic growth and also rural development by providing linkages to their hinterland. At the same time, *in-situ* urbanisation has also to be promoted to improve connectivity of rural sector clusters by inter-alia providing shelter, services and income generating activities.

1.19 This policy takes note of government’s special focus on shelter for all and development of related infrastructure with a particular reference to poor and promotion of economic development, quality of life and safe environment. In this regard, Government of India has initiated NURM (National Urban Renewal Mission) with the objective to accelerate the supply of land, shelter and infrastructure taking into account the requirements of economic development with a particular reference to balanced regional development, poverty alleviation and rapid economic development.

1.20 NURM with the annual outlay of approximately Rs.5,500 crore in 2005-06 would support 60 cities (7 mega cities, 28 metro cities and 25 category ‘C’ cities) across the country in terms of investments into infrastructure gaps, taking the urban system from a non-conforming state to a conforming state with proper planning and all urban infrastructure in place – having roads, water, sanitation, sewerage, etc., after removing deficiencies. The mission approach will be reform based with releases being made subject to specified reform agenda. It will encourage private sector participation with the government providing viability gap funding through the mission to such housing and urban infrastructure projects. In addition to these 60 cities, urban infrastructure and slums would also be addressed in the remaining non-mission cities through specific programmes/schemes, which will also be reform based.

1.21 This policy seeks a solution to bridge the gap between demand and supply of housing and infrastructure to achieve a policy objective to increase supply at affordable prices. In this regard, specific initiatives are suggested to further reorient the public sector role as facilitator. At the same time, convergence of resources is also essential to provide synergy by involving various stakeholders in the supply of housing and infrastructure in the overall context of sustainable development of human settlements.

1.22 This policy also draws from the innovations in the area of housing and infrastructure in India and elsewhere. It also gives a menu of actionable points which interalia includes promotion of FDI (foreign direct investment), public-private-partnerships, securitisation and development of secondary mortgage markets, and encourage savings to accelerate supply of investible funds, pro-poor development of partnerships, conservation of natural resources, development of environment-friendly, pro-poor, investment-friendly and revenue-generating regulations and bye-laws, etc. The purpose is to guide various stakeholders to take well-planned, concerted, transparent, mutually-acceptable and pro-poor initiatives in a best possible manner.

1.23 This policy also plans further expansion of fiscal concessions and incentives to motivate, persuade and encourage various stakeholders to participate in the delivery of housing and infrastructure. However, the public sector shall continue its direct interventions to safeguard the interests of the poor and marginalised sections of the Indian society.

1.24 Finally, this policy tends to build synergy, convergence and integration of housing and related infrastructure interventions. This policy also aims to act as complementary to poverty alleviation, generation of income and employment to achieve overall objective of shelter for all and sustainable development of human settlements.

1.25 This policy dwells upon role of various stakeholders and specific actions pertaining to land, finance, legal and regulatory reforms, technology support and transfer, Infrastructure, sustainability concerns, employment issues in the building sector, slum Improvement and upgradation, social housing, etc. along with the Action Plan and follow up related aspects.

2. Aims

The housing and habitat policy aims at

(i) Creation of adequate housing stock both on rental and ownership basis.

(ii) Facilitating accelerated supply of serviced land and housing with particular focus to EWS and LIG
categories and taking into account the need for development of supporting infrastructure and basic services to all categories.

(iii) Facilitate upgradation of infrastructure of towns and cities and to make these comparable to the needs of the times.

(iv) Ensuring that all dwelling units have easy accessibility to basic sanitation facilities and drinking water.

(v) Promotion of larger flow of funds to meet the revenue requirements of housing and infrastructure using innovative tools.

(vi) Providing quality and cost effective housing and shelter options to the citizens, especially the vulnerable group and the poor.

(vii) Using technology for modernising the housing sector to increase efficiency, productivity, energy efficiency and quality. Technology would be particularly harnessed to meet the housing needs of the poor and also specific requirements of ‘green’ housing.

(viii) Guiding urban and rural settlements so that a planned and balanced growth is achieved with the help of innovative methods such as provision of urban amenities in rural areas (PUA) leading to in-situ urbanisation.

(ix) Development of cities and towns in a manner which, provide for a healthy environment, increased use of renewable energy sources and pollution free atmosphere with a concern for solid waste disposal, drainage, etc.

(x) Using the housing sector to generate more employment and achieve skill upgradation in housing and building activity, which continue to depend on unskilled and low wage employment to a large extent.

(xi) Removing legal, financial and administrative barriers for facilitating access to tenure, land, finance and technology.

(xii) Progressive shift to a demand driven approach and from a subsidy based housing scheme to cost recovery-cum-subsidy schemes for housing through a pro-active financing policy including micro-financing, self-help group programmes.

(xiii) Facilitating, restructuring and empowering the institutions at state and local governments to mobilise land and planning and financing for housing and basic amenities.

(xiv) Forging strong partnerships between private, public and cooperative sectors to enhance the capacity of the construction industry to participate in every sphere of housing and urban infrastructure.

(xv) Meeting the special needs of SC/ST/disabled/freed bonded labourers/ slum dwellers, elderly, women, street vendors and other weaker and vulnerable sections of the society.

(xvi) Involving disabled, vulnerable sections of society, women and weaker sections in formulation, design and implementation of the housing schemes.

(xvii) Protecting and promoting our cultural heritage, architecture, and traditional skills.

(xviii) Establishing a management information system in the housing sector to strengthen monitoring of building activity in the country.

3. Role of government and other agencies

3.1 The objectives of the Policy would be carried out through action-oriented initiatives at all levels of Government.

3.1.1 The central government would:

- take steps to bring in planning, housing, financial, regulatory, institutional and legal reforms.
- devise macro economic policies to enable flow of resources to the housing and infrastructure sector
- evolve plans, strategies and parameters for optimal use of available resources including land for sustainable development
- devise action plans for the provision and creation of adequate infrastructure facilities like water sources, connectivity and power supply
- develop and enforce appropriate ecological standards to protect the environment and provide a better quality of life in human settlements
- continue and pursue urban reforms with focus on revision of bye-laws, municipal laws, simplification of legal and procedural framework, initiation of partnership, reduction of municipal manpower, introduction of property title, introduction of regulators, implementation of urban street vendor policy, etc.
- provide fiscal concessions for housing, infrastructure, regulatory and monitoring mechanism to ensure that the concessions are correctly targeted and utilised
- develop convergence and integration between urban sector initiatives and financial sector reforms
- mobilise global resources (including FDI) in housing and urban infrastructure sectors
- advise and guide respective state governments to adopt and implement the National Urban Housing & Habitat Policy 2005 in a time bound manner
- strengthen a nationwide management information system (MIS) on house building activities to help in designing and developing housing programmes and also assist in decision making
- promote research and development, innovative building material, transfer of technology, energy efficient construction to these sectors

3.1.2 The state government would:
- prepare the state urban housing & habitat policy
- prepare long term programmes and short term strategies to tackle problems in housing and basic services and synergise the provision of adequate infrastructure facilities like water sources, connectivity, drainage, sewerage, sanitation, solid waste management and power supply
- review the legal and regulatory regime to give a boost to housing and supporting infrastructure
- Facilitate, restructure and empower the local bodies in regulatory and development functions
- amend the existing laws and procedures or promulgate legislation for the effective implementation of SUHHP with a particular reference to easy and affordable access to land by government/private sector
- promote and incentivise private sector and cooperatives in undertaking housing and infrastructure projects for all segments in urban areas
- Encourage NGOs/CBOs and Partnership with ULGs/Government bodies in housing, micro finance and infrastructure activities
- facilitate training of construction workers by converging other development programmes
- promote and incentivise decentralised production and availability of building material
- develop MIS at state and local levels
- R&D activities in the field of housing through appropriate capacity building programmes

3.1.3 The urban local governments/ development authorities would
- identify specific housing shortages and prepare local level urban housing action plans.
- promote planning of housing and industrial estates together with infrastructure services including roads, safe water supply, waste treatment and disposal, public transport, power supply, health, educational and recreational facilities, etc.
- promote participatory planning and funding based on potential of local level stakeholders
- devise programmes to meet housing shortages and augment supply of land for housing, particularly for the vulnerable group
- support private sector participation in direct procurement of land and subsequent development of housing
- devise capacity building programmes at the local level
- Implement central and state sector schemes and programmes pertaining to housing and infrastructure sector
- enforce effectively regulatory measures for planned development

3.2 The Housing finance institutions (HFIs) would
- reassess their strategies and identify potential areas for further expansion of their operations towards housing projects and slum improvement and upgradation and infrastructure
- promote innovative mechanism like mortgage guarantee and title insurance to augment fund for housing sector
- devise innovative lending schemes to cover poorer segments, which depend on the informal sector e.g. micro credit for housing to EWS and LIG of the population. The funding of these programmes could be done through NGOs/CBOs who could undertake the tasks of confidence building and mobilising small savings from the beneficiaries
- HFIs would also look at ploughing part of their resources towards financing slum improvement and upgradation programmes
- adopt a more flexible and innovative approach in their credit appraisal norms
- encourage EWS and LIG housing beneficiaries to take insurance cover

3.3 Public agencies / parastatals would
- revisit their method of working and redefine their role for facilitating land assembly, development and provision of infrastructure
- devise flexible schemes to meet the users’ requirement
- suitably involve private sector a to the advantage of the poor and the vulnerable sections and forge partnerships with the private sector and cooperatives
in the provision for housing
- use land as a resource for housing with a particular reference to economically weaker sections and low income groups
- reduce their dependence on budgetary support in a phased manner

3.4 Private and cooperative agencies would
- undertake an active role in terms of land assembly, construction of houses and development of amenities within the projects
- work out schemes in collaboration with the public sector institutions for slum reconstruction on cross subsidisation basis
- create housing stock on ownership and rental basis

4. Research & development organisations would
(i) undertake research to respond to the different climatic conditions with a focus on transition from conventional to innovative, cost effective and environment friendly technologies
(ii) develop and promote standards on building components, materials and construction methods including disaster mitigation techniques
(iii) Intensify efforts for transfer of proven technologies and materials
(iv) accelerate watershed development to conserve water, stop soil erosion and re-generate tree cover in order to improve the habitat

5. Specific action areas
5.1 Land
i. public agencies would continue to undertake land acquisition for housing and urban services along with more feasible alternatives like land sharing and land pooling arrangements, particularly in the urban fringes, through public and private initiative with appropriate statutory support. Statutory cover to land acquisition by/or for private builders for housing and urban infrastructure may also be considered subject to guidelines
ii. land assembly and development by the private sector would be encouraged
iii. the repeal of the Urban Land (Ceiling & Regulation) Act, 1976 is expected to ease the availability of land and development of suitable follow-up
iv. in the local plans, it is necessary to earmark a portion of land at affordable rates for housing for EWS & LIG. This could be for e.g. 20-25% in any new housing colony in public/private sector. This would also help in checking the growth of slums
v. an action plan needs to be initiated to provide tenurial rights either insitu or by relocation at affordable prices to urban slum dwellers with special emphasis on persons belonging to SC/ST/Weaker sections/physically handicapped
vi. urban Land needs to be planned to provide for rationalised and optimum density use
vii. while allotting house-sites/houses in urban areas developed by either state agencies or the private sector with finance from financial institutions/banks, some percentage as specified by the state government would be allotted to the families belonging to the Scheduled Castes/Scheduled Tribes communities, weaker sections, BC/OBC and physically handicapped

5.2 Finance
i. affordable finance is the next most critical input for housing and infrastructure services. It is imperative to develop a debt market for housing and infrastructure, fully integrated with the financial market, in the country
ii. a secondary mortgage has already been initiated by the National Housing Bank (NHB). HUDCO and other leading HFIs act as market makers and supporters. NHB would take necessary and adequate measures required to strengthen and develop a sound and sustainable secondary mortgage market. The government would provide a conducive and supportive fiscal and regulatory framework
iii. stamp Duty on the instruments of residential mortgage-backed securitisation (RMBS) across all the states would be rationalised (waived/reduced) on the lines of Gujarat, Tamil Nadu, Karnataka, West Bengal, etc. The central government would incentivise the state governments for undertaking such reform-oriented measures. Regulatory framework for banks to engage in RMBS transactions, both as originator and investor would be supportive
iv. housing is to be considered at par with infrastructure as far as funding and concessions are concerned, in order to encourage investment in these sectors
v. incentives are to be provided for encouraging investments by financial institutions, HFIs, mutual funds, companies, trusts and foreign institutional investors into rental housing
vi. for encouraging rental housing including building of service apartments, fiscal concessions in the form of imposition of flat rate of 10 percent of tax on the income on renting of new properties for first five years and depreciation allowance of 50 percent per year on investment made by employers in housing projects for employees, is recommended

vii. housing finance companies would develop innovative instruments to mobilise domestic saving in the country to meet their need for finance, along with resources from provident funds, insurance funds. Mutual funds in the real estate sector would also be encouraged as a means of finance. Provident fund managers would be persuaded to come forward to provide long term funds for housing at reasonable rates

viii. a National shelter fund with an initial contribution of Rs. 500 crore from the government is recommended to be created under the aegis of NHB to provide financial support to primary lending institutions to address the housing requirement of poor/EWS

Further it is recommended that additional resources for NSF be allowed to be raised through tax-free EWS housing bonds, on tap. An investment by general public in EWS housing bonds upto Rs.20,000 is recommended to be allowed as eligible deduction over and above the limits prescribed under Section 80 C of IT Act by incorporating a new section

ix. “a risk fund” with an initial corpus of Rs 500 crore (to be contributed by the government) under the aegis of NHB is recommended to be set up. To enlarge the corpus of risk fund, the housing finance institutions including commercial banks would be asked to contribute one percent of their incremental housing loans disbursed, on yearly basis. The contribution made by HFIs in this fund would be allowed complete tax exemption. For this purpose, it is recommended that government bring in the necessary legislation/guidelines for all lending institutions

x. private sector would be incentivised to invest a part of their profits for housing needs of the poor. Development authorities/private sector would be advised to earmark 20-25% in new Housing developments for EWS/LIG sections of population

xi. foreign direct investments, investment from non-resident Indians and persons of Indian origin would be encouraged in housing, real estate and infrastructure sectors. FIIs would also be allowed to invest in RMBS issues

taxi. in view of the limited domestic institutional capacity to fund fully the investment requirement, HFCs would be allowed to raise external commercial borrowings (ECBs) from the international markets in line with the guidelines of fully convertible commercial bonds (FCCB). This would enlarge resource base for housing sector as also bring in international stake holding

xiii. in the matter of resource mobilisation by HFCs, Section 80 C (xvi) (a) of IT Act may be amended to permit the benefit to all companies in public or private sector. This will widen the deposit base for HFCs in the private sector. Currently, the section allows subscription to deposit schemes of only a public sector company in housing finance

xiv. “real estate investment trusts (REITs)” / real estate mutual funds (REMF) would be recommended to be set up to serve as a mutual fund for real estate development. REITs through the pooling in of resources would allow individuals with small amounts of cash to take advantage of returns available from the buoyant housing and real estate market. Larger funds would thus, become available for investment in housing related projects

xv. to enable housing finance institutional mechanism to serve all segments of society in urban areas, constraints like non-availability of clear land title, absence of guarantee mechanism for weaker segments may be removed. Appropriate insurance scheme to cover disputes/default in title deeds may be introduced. One time premium in this regard may be shared by government and the primary lending institutions

xvi. to encourage primary lending institutions to enhance their credit flow to poor/EWS in urban and slum settlements, government may allow complete exemption of profit derived from the business of long term housing finance for these segments. In this context, the existing institutional mechanism as available through self-help groups/NGOs in N-E region and micro finance institutions would be actively involved in extending housing loans to poor and EWS

 xvii. to encourage HFCs to increase their lending for EWS and LIG categories which involves comparatively higher risk and operational costs, the benefit under Section 36 (1) (viia) of IT Act as available to banks, public finance institutions etc. may be extended to HFCs
xviii. the government would encourage public-private partnership (PPP) to undertake integrated housing projects. Tax incentives for such projects and provision of at least 20-25% of the houses for economically weaker sections and lower income groups; should be given

xix. financial Institutions would be encouraged to forge joint ventures to augment supply of funds for development of housing and related infrastructure

xx. plan funds and other assistance for housing and infrastructure would be dovetailed according to the action plan prepared and followed by the states

xxi. micro-financing especially for the poor residing in urban slums and squatter settlements should be encouraged. In this context, microcredit for housing should be given a strong push to provide formal finance to non-eligible segments of households who do not qualify norms for formal sector lendings

5.3 Legal and regulatory reforms

(i) In line with the union government's decision to repeal the Urban Land Ceiling Act, the states, other than those who have already repealed the State Act, may adopt the repealing Act

(ii) Procedures for sanctioning building plans would be simplified to eliminate delays through strict enforcement of rules and regulations along with simplified approval procedures to ensure that the system is made user friendly. A single window approach would be developed

Chartered registered architects would be allowed to sanction building plans, who would be responsible for enforcement of the norms. Professional responsibility would be vigorously enforced

(iii) the preparation of a Master Plan would be made time bound and be put in place before expiry of current plan. The laws and procedure for notification of new Master Plan would be simplified

(iv) Master Plans would make specific provision for the involvement of private sector, who should inevitably heap 20-25% of housing units reserved for EWS/LIG

(v) all states would be advised to adopt any “model municipal law” prepared by central government. Provisions relating to housing and basic services may be examined in line with the model law to make specific recommendations for implementation at the state and municipal level

(vi) rent control legislations in the states would be amended to stimulate investment in rental housing in line with a model rent control act as may be adopted by the union government along with such modification as may be necessary

(vii) FAR/FSI need to be optimised and increased wherever possible in relation to the adequacy of social and physical infrastructure services (e.g. water, drainage, solid waste management, electricity, road work, sewage system etc.)

(viii) considering the specific requirements of housing and urban infrastructure projects, a land policy would be drawn up. The provision in Land Acquisition Act 1894 to acquire land for private companies, has not been used so far in the interest of the real estate developer. The existing rules, guidelines, government orders would be reviewed and necessary directions with guidelines would be issued by the concerned governments

(ix) the concerned land policy and land-use regulations should provide statutory support for land assembly, land pooling and sharing arrangements

(x) NGOs and CBO would be promoted as part of P-P-P housing schemes

(xi) The Acts relating to the Insurance sector would be amended to facilitate mortgage insurance in the country

(xii) title insurance would be encouraged for housing to prevent fraudulent transactions

(xiii) SARFAESI Act would be made available to all HFCs for speedy foreclosure and faster recovery of NPAs

(xiv) the laws relating to housing cooperatives need amendment to facilitate housing cooperatives to take up slum rehabilitation projects

(xv) States will, as part of the Reform Agenda of Urban Reforms Incentive Fund (URIF)/National Urban Renewal Mission (NURM) be strongly advised to bring down and rationalise the scale of stamp duty on residential and non-residential properties to about 2-3%

(xvi) With the introduction of information technology, states would be persuaded to simplify registration procedures in the conveyance of immovable properties. The Indian Registration Act and the rules, circulars, guidelines and government orders issued by the respective state government would be amended within a time-
frame. The procedure of the process of registration would be made easy, and for that non-encumbrance certificate and other details would be readily available for any transaction of land.

(xvii) the land revenue records of the states and other governments would be computerised and put on GIS mode within a time frame.

(xviii) the present process of issue of stamp papers from collectorate, treasuries and stamp vendors would be modified to pay the stamp duty directly in the proper head of account of the state government in the specified bank.

(xix) property tax reforms (such as unit area method) would be undertaken.

(xx) the states would be persuaded to enact Apartment Ownership Legislations. In this regard, model byelaws may be framed by the union government.

(xxii) urban renewal of inner cities is becoming imperative. The Municipal laws/building byelaws and planning regulations may be amended to take care of upgradation. There would be an Urban Renewal Mission to take up urban renewal in a systematic manner for tackling deteriorating housing conditions, high magnitude of slums and the dilapidated structures in the cities. Restrictions imposed by CRZ and Rent Control Act would be reviewed.

(xxii) clean environment and quality of life in the settlements depend on various legislations and coordination among the regulatory authorities. There is a need to integrate policies regarding air and water pollution, solid waste disposal, use of solar energy, rain water harvesting, energy recovery from wastes and electricity supply in the planning process. Maintenance of internal feeder/distribution lines free from pollution would be the obligation of the developer/local bodies.

(xxiv) the notification issued by ministry of environment & forests dated 7.7.2004 is recommended to be reviewed in the context of provision of low income housing to exclude housing projects. There would also be provision in the notification under which the state/development agency or a builder (whosoever recover the external development charges for developing the trunk services) would only be made responsible for creation, maintenance and treatment of disposals; and for prevention of pollution which may be caused due to such reasons.

(xxvi) the definition of ‘developed land’ may be specified in order to encourage marketability of housing.

5.4 Technology support and its transfer:

i. technology support would continue to play a vital role in providing affordable shelter for the poor.

ii. bio-mass based housing would be encouraged to increase the life and quality of the shelter till it is possible to construct a house of more permanent nature considering the needs and geoclimatic conditions.

iii. the government would take an active lead in promoting and using building materials and components based on agricultural and industrial waste, particularly those based on fly ash, red mud, etc.

iv. use of wood has already been banned by CPWD. State PWDs need to take similar steps in this direction. Use of bamboo as a wood substitute and in other building components, would be encouraged.

v. in order to reduce energy consumption and pollution, low energy consuming construction techniques and materials would be encouraged.

vi. use of prefabricated factory made building components would also be encouraged, especially for mass housing, so as to achieve speedy, cost effective and better quality construction.

vii. enforcement of the code for disaster resistant construction technologies and planning would be made mandatory and this would be ensured by all state governments/UTs.

viii. through appropriate technological inputs, effectiveness of local building materials can be enhanced. Innovative building materials, construction techniques and energy optimising features would be made an integral part of curricula in architecture, engineering colleges polytechnics and training institutions.

ix. transfer of proven cost effective building materials and technologies, from ‘lab to land’, would be
intensified through the vast network of institutions

x. states would include the specifications of new building materials in their schedule of rates and promote them vigorously

xi. government would promote use of such innovative and eco-friendly materials through fiscal concessions and tax such materials which are high consumers of energy

xii standardisation of various building components, based on local conditions would be emphasised so as to get better quality products at competitive rates, through mass production.

5.5 Infrastructure

i. there is a need to find ways to achieve the required upgradation of infrastructure of towns and cities and to make these comparable to the needs of the times

ii. the areas that fall within the ambit of infrastructure in all human settlements encompass the provision and creation of a network of roads for safe and swift commuting, adequate and safe water supply, efficient waste treatment and disposal, convenient public transport, adequate power supply, a clean & healthy environment. Infrastructural amenities consist of educational facilities (School, Colleges, Universities, Research Institutes), recreational facilities (Parks, Public Gardens, Play Grounds, entertainment centres), sports fields and stadia, medical facilities (hospitals and allied health care), connectivity via rail, road, air and waterways and e-connectivity

iii. ‘public-private - partnership, approach for Infrastructure would be devised for the development of all the areas referred to in (ii) above. Macro-economic strategies would be devised to enable flow of resources including attracting private capital to the infrastructure sector

iv. the policy would also address issues to compensate investments made by the private sector through numerous innovative viable alternatives other than direct monetary compensation. A ‘habitat infrastructure action plan’ would be developed to prevent and plug losses, leakages and wastages that are existing in the system at various levels

v. All states would be encouraged to develop ‘habitat infrastructure action plan’ for all cities with a population of over 1,00,000

vi. specific initiatives would be taken to use provision of urban amenities in rural areas (PURA) at different locations in a participatory manner using contribution from various stakeholders. In this regards, feedbacks would be taken from demonstration projects being implemented by some of the states

vii. financial institutions, state governments and central government would encourage and support ‘local’ infrastructure development efforts being made by local authorities as well as by the private sector for the development of all areas referred to in (ii) above

viii. the central government would take steps to declare that infrastructure areas referred to in (ii) above be treated at par with infrastructure status under the income tax act (in order to attract private capital)

ix. steps would be taken to attract FDI as per government of India guidelines into infrastructure development at the local town and city levels

x. steps covering transparent and scientific monitoring and assessment system would be taken up to rationalise the Property tax collection and other revenue instruments at local levels and improving the fiscal management of the local administrations to improve revenue at local level to fund infrastructure as above

xi. urban transport has a strong impact on urban growth. An optimum mix of reliable and eco-friendly public transport systems would be planned to meet the city’s requirement

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<tr>
<th>Year</th>
<th>Urban</th>
<th>Rural</th>
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</thead>
<tbody>
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<td>2000 - 05</td>
<td>2.81%</td>
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<tr>
<td>2005 - 10</td>
<td>2.73%</td>
<td>0.43%</td>
</tr>
<tr>
<td>2010 - 15</td>
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<tr>
<td>2015 - 20</td>
<td>2.74%</td>
<td>(-) 0.90%</td>
</tr>
<tr>
<td>2020 - 25</td>
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</tr>
<tr>
<td>2025 - 30</td>
<td>2.25%</td>
<td>(-) 0.40%</td>
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</tbody>
</table>


Table-15
5.6 Sustainability concerns
i. no settlement can support unbridled consumption of natural resources, such as land, water, forest cover and energy. Norms for consumption of these resources and also conservation techniques would be specified and enforced.

ii. sustainable strategies would be devised for the maintenance of housing and infrastructure services.

iii. settlements would be planned in a manner which minimise energy consumption in transportation, power supply, water supply and other services.

iv. the urban services are inter-tuned with ecological and environmental growth of housing and settlements. Development strategy and regulatory measures would be combined to direct planned urban growth and services.

v. growth of a city beyond its capacity imposes unbearable strain on its services. City planners would lay down norms for development of urban sprawls and satellite townships.

vi. decongestion and decentralisation of metro and mega cities is urgent through development of regional planning linked with fast transport corridors for balanced growth.

vii. model bye-laws would be drawn up for use of renewable energy source particularly solar water heating systems in residential and commercial buildings.

viii. poverty and unemployment are detrimental to healthy growth of any settlement. states government and local authorities need to vigorously implement poverty alleviation and employment generating programmes. Development of income augmenting activities, expansion of the services sector and imparting of training and skill upgradation would be taken up.

5.7 Employment issues in the housing sector
i. the construction workers also need to be trained to keep up with the technological advancement in this sector.

ii. the construction industry is the biggest employer of women workers and is perhaps their biggest exploiter in terms of disparity in wages. The solution lies in skill upgradation and induction of women at supervisory levels and also encouraging women as contractors. Public agencies would take a lead in this. All training institutions must enrol women on a preferential basis.

iii. adequate provisions for the safety and health of women engaged in construction activities, which are hazardous in nature would be made by the authorities executing the project.

iv. support services like crèches and temporary accommodation would be provided by the implementing authority at the construction site.

v. a training and education cess would be levied on all construction projects except those being done on a self help basis. This amount could be spent on training and imparting new skills to the construction workers.

<table>
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<tr>
<th>Class/ Category</th>
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<th>No. of Towns</th>
<th>Urban Population (Percentage)</th>
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<td>&gt; 1 lakh</td>
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<td>68.67</td>
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<tr>
<td>II</td>
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<td>V</td>
<td>5,000 to 10,000</td>
<td>888</td>
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<tr>
<td>VI</td>
<td>&lt;5,000</td>
<td>191</td>
<td>0.23</td>
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<tr>
<td>All</td>
<td></td>
<td>4368</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: Census of India 2001  
Table-16
vi. concerned states would be advised to provide
decentralised training both for men and women.
Several schemes of government for imparting
training and skill enhancement could be
converged to integrate efforts in this direction

5.8 Slum improvement and upgradation
i. Slum improvement programmes for upgrading
the services, amenities, hygiene and environment
would be taken up

ii. slum reconstruction programmes for creating a
better environment would be encouraged by
schemes with cross subsidisation. These would be
based on the basis of audit of slum areas covering
health status, education, sanitation, environment,
employment status and income generation

iii. land sharing and pooling arrangements would be
resorted to in order to facilitate development of
land and improvement of basic amenities in slums

iv. transferable development rights and additional
FAR would be released as an incentive for
providing shelter to the poor. The private sector,
community based organisations (CBOs), non-
governmental organisations (NGOs) and self-
help groups would be involved in such activities

v. the land or shelter provided to the poor / slum
dweller would as far as possible be made non-
transferable for a period of ten years

vi. ‘land as a resource’ would be used while taking
up slum rehabilitation

vii. specific projects would be taken up based on
poverty alleviation strategies of National Urban
Renewal Mission (NURM)

viii. income generating activities in slums have a direct
bearing on housing and other environment issues.
The various development programmes would be
converged to cover the target group completely

ix. it is realised that there is a need for integrating
VAMBAY and NSDP. This process would be
completed. Hurdles faced by the states and
implementing agencies in any integrated scheme
would be removed. Issues like present unit cost,
area norms and subsidy would be reviewed and
would be revised upwardly, if necessary

x. formation of multi-purpose cooperative societies
of urban poor and slum dwellers would be
encouraged across the country for providing better
housing and environment to improve the quality
of life as well as for undertaking multifarious
activities for the economic and social development

6. Action plan / follow up

(i) The central government will support the states
to prepare a state level urban housing and habitat
policy and also specific action plans. This would
cover preparation of model Acts, legal and
regulatory reforms, fiscal concessions, financial
sector reforms and innovations in the area of
resource mobilisation, etc

(ii) in order to augment sustainable housing stock
with related infrastructure including water,
drainage and sanitation facilities, the action plans
and programmes will focus upon flow of funds
for housing, including various cost effective
shelter options, promotion of a planned and
balanced regional growth, creation of
employment, protection of weaker sections and
vulnerable groups, promotion of partnerships,
conservation of urban environment and
development of MIS

(iii) states will prepare a SUHHAP (state urban
housing and habitat action plan) giving a road
map of actions pertaining to

(a) institutional, legal, regulatory and financial
initiatives in relation to:

(i) supply of land
(ii) modification of Acts/Bye-laws
(iii) technology promotion
(iv) infrastructure provision
(v) slum improvement, etc.

<table>
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<th>Year</th>
<th>Total</th>
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<td>1091.78</td>
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<tr>
<td></td>
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<td>(71.03%)</td>
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<td>360.38</td>
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<td></td>
<td>(30.58%)</td>
<td>(69.42%)</td>
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<td>2015</td>
<td>1272.16</td>
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<tr>
<td></td>
<td>(32.27%)</td>
<td>(67.73%)</td>
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<tr>
<td>2020</td>
<td>1373.23</td>
<td>467.74</td>
<td>950.34</td>
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<td>(34.06%)</td>
<td>(65.94%)</td>
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<td>2025</td>
<td>1482.34</td>
<td>532.97</td>
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<td></td>
<td>(35.95%)</td>
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Source: Projections based on historical growth rate of Census (Draft) National Habitat Policy - 2005
Population figures from 1901-2001 using semi-log regression analysis
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Figures in Brackets indicate average annual growth rate (In percentages) for the period 1993-94 to 1999-2000.
Projections for the period 2000-2030 are made based on the average annual growth rate for 1993-2000.
(vi) SUHHAP would also cover actions to motivate, guide and encourage participatory approach including private sector, NGOs, CBOs, state parastatals and ULBs for institutionalising community sector and private sector resources along with the government resources.

(vii) A national commission on human settlements (NCHS) may if necessary be set up by government of India to:

(a) assess the status of ‘human settlements in India’ in terms of ‘sustainability’, ‘balanced regional development’, ‘shelter status’, access to basic services, nature and dimension of poverty

(b) review the progress made on the decentralisation process initiated by the 74th constitution amendment

(c) suggest inter-sectoral action plan to achieve housing and habitat related policy objectives

(d) carry out research, undertake field visits, meetings, etc. to gather information on (a), (b) and (c) above

(vi) Monitoring framework at state level may be set up to review implementation of SUHHDP

(vii) Urban housing and habitat development plan (UHHDP) shall be prepared at local level, which would be an integral part of ‘state urban housing and habitat development plan’

(viii) A high level monitoring committee at central government level would be set up to periodically review the implementation of National Urban Housing & Habitat Policy 2005

7. The ultimate goal of this policy is to ensure sustainable and inclusive development of human settlements including “shelter for all” and a better quality of life to all citizens using potential of all the stakeholders.
The Delhi Laws (Special Provisions) Bill, 2006

To make special provisions for the areas of Delhi for a period of one year and for matters connected therewith or incidental thereto.

WHEREAS phenomenal increase in the population owing to migration has put tremendous pressure on land and infrastructure in Delhi resulting in developments which are not in consonance with the Master Plan of Delhi 2001 and the building bye-laws;

AND WHEREAS keeping in view the perspective for the year 2021 and emerging new dimensions in urban development, the central government has proposed extensive modifications in the Master Plan for Delhi, which have been published and suggestions and objections have been received in respect thereof from the public, and the finalisation of the Master Plan 2021 is likely to take some more time;

AND WHEREAS the central government has constituted a committee of experts to look into the various aspects of unauthorised construction and misuse of premises and suggest a comprehensive strategy to deal with them;

AND WHEREAS a revised policy for relocation and rehabilitation of slum dwellers in Delhi is also under consideration of the central government;

AND WHEREAS a strategy is proposed to be prepared by the local authorities in Delhi in accordance with the National Policy for Urban Street Vendors;

AND WHEREAS action for violation of the provision of the Master Plan 2001 and building bye-laws, before a final view is taken in the matter by the government, is causing avoidable hardship and irreparable loss to a large number of people;

AND WHEREAS some time is required for making orderly arrangements in terms of the proposed Master Plan 2021;

AND WHEREAS it is expedient to have a law to provide temporary relief to the people of Delhi against such action for a period of one year within which various policy issues referred to above, are expected to be finalised;

BE it enacted by Parliament in the Fifty-seventh year of the republic of India as follows:

1. (1) this Act may be called Delhi Laws (special Provisions) Act 2006.

(2) It extends to Delhi.

(3) It shall cease to have effect on the expiry of one year from the date of its commencement, except as respects things done or omitted to be done before such cesser, and upon such cesser section 6 of the General Clauses Act 1897, shall apply as if this Act had been repealed by a Central Act.

2. (1) In this Act, unless the context otherwise requires:

a) “Building bye-laws” means bye-laws under Section 481 of the Delhi Municipal Corporation Act, 1957 or the bye-laws made under section 188, sub-section (3) of section 189 and subsection (1) of section 190 of the Punjab Municipal Act 1911, as in force in New Delhi or regulations made under subsection (1) of section 57 of the Delhi Development Act 1957, relating to buildings;

b) “Delhi” means the entire area of the National Capital Territory of Delhi except the Delhi Cantonment as defined in clause (11) of Section 2 of the Delhi Municipal Corporation Act 1957;

c) “Encroachment” means unauthorised occupation of government land or public land by way of putting temporary, semi-permanent or permanent structure for residential use or commercial use or any other use;

d) “Local authority” means the Delhi Municipal corporation established under the Delhi Municipal Corporation Act, 1957 or the New Delhi Municipal Council established under the New Delhi Municipal Council Act 1994 or the Delhi development authority established under the Delhi Development Act 1957, legally entitled to exercise control in respect of the areas under their respective jurisdiction;
e) “Master Plan” means the Master Plan for Delhi 2001 notified under the Delhi Development Act, 1957;

f) “Notification” means a notification published in the official gazette.

g) “Punitive action” means action taken by a local authority under the relevant law against unauthorised development and shall include demolition, sealing of premises and displacement of persons or their business establishment from their existing location, whether in pursuance of court orders or otherwise;

h) “Relevant law” means in case of
   i) The Delhi Development authority, the Delhi Development Act, 1957;
   ii) The New Delhi Municipal Corporation of Delhi, the Delhi Municipal Corporation Act, 1957; and

i) “Unauthorised development” means use of land or use of building or construction of building carried out in contravention of the sanctioned plans or without obtaining the sanction of plans, or contravention of the land use as permitted under the Master Plan or Zonal Plan, as the case may be, and includes encroachment.

The words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Delhi Development Act, 1957, the Delhi Municipal Corporation Act, 1957 and the New Delhi Municipal Council Act, 1994.

3. (1) Notwithstanding anything contained in any relevant law or any rules, regulations or bye-laws made thereunder, the central government shall within a period of one year of the coming into effect of this Act, take all possible measures to finalise norms, policy guidelines and feasible strategies to deal with the problem of unauthorised development with regard to the under-mentioned categories, namely:
   a) mixed land use not conforming to the Master Plan;
   b) construction beyond sanctioned plans; and
   c) encroachment by slum and jhuggi-jhonpri dwellers and hawkers and street vendors so that the development of Delhi takes place in a sustainable and planned manner.

(2) Subject to the provision contained in sub-section (1) and without prejudice to any judgment, decree or order of any court, status quo as on the first day of January 2006 shall be maintained in respect of the categories of unauthorised development mentioned in sub-section (1).

(3) All notices issued by any local authority for initiating action against the categories of unauthorised development referred to in sub-section (1), shall be deemed to have been suspended and no punitive action shall be taken during the said period of one year.

(4) Notwithstanding any other provision contained in this Act, the central government may, at any time before the expiry of one year, withdraw the exemption by notification in the official gazette in respect of one or more of the categories of unauthorised development mentioned in sub-section (2) or sub-section (3), as the case may be.

4. During the period of operation of this Act, no relief shall be available under the provisions of Section 3 in respect of the following categories of unauthorised development, namely:
   a) any construction unauthorisedly started or continued on or after the first day of January, 2006;
   b) commencement of any commercial activity in residential areas in violation of the provisions of the Master Plan of Delhi 2001 on or after the first day of January, 2006;
   c) encroachment on public land on or after the first day of January, 2006 except in those cases which are covered under clause (c) of sub-section (1); and
   d) removal of slums and jhuggi-jhonpri dwellers and hawkers and street vendors, in accordance with the relevant policies approved by the central government for clearance of land required for specific public projects.

5. The central government may, from time to time, issue such directions to the local authorities as it may deem fit, for giving effect to the provisions of this Act and it shall be the duty of the local authorities to comply with such directions.
Preamble

THE ACT is to provide for the constitutional guarantee of the right to housing for urban poor laid down as a basic fundamental right in article 21 of the constitution of India.

WHEREAS it is important for the State to improve the quality of life of every individual living in India and ensure life with dignity.

AND WHEREAS India has ratified the International Covenant on Economic, Social and Cultural Rights in 1966, and vowed to protect and respect the economic, social and cultural rights of each citizen.

AND WHEREAS the UN Commission on Human Rights adopted Resolution For Protection Against Forced Eviction on March 10, 1993 that declared forced eviction a gross violation of human rights.

AND WHEREAS it is expedient to enact a law relating to right to housing as it is necessary for every individual of the State to get adequate housing in case of shortage of available land and shelter, or migration, or demolition of the existing housing units.

It is hereby enacted as follows:

Chapter I

Preliminary

1. Short Title and Commencement:
   (1) this act may be called the right to housing act, 2006.
   (2) It extends to the whole of India.
   (3) It shall come into force on such date as the central government may, by notification in the official gazette, appoint.

2. DEFINITIONS: In this Act, unless the context otherwise requires:
   a) “Adequate housing” means every house should not measure less than 50 sqm in area with all basic amenities like water, electricity, sewerage, etc., both at the household and the community level with a separate kitchen space and individual toilets at the household level.
   b) “Basic amenities” means all facilities, such as work, health, education, sanitation, transport etc., which are required to lead a decent living for all individuals.
   c) “Settlement” means the provision of adequate housing for all those families who have either been born within the city or have come through migration in search of employment provided by the city through design or default in terms of the capital investment that is made in the city and gives rise to the work opportunities.
   d) “Resettlement” means resettlement of the housing units with all facilities given under the international and national norms before the process of eviction actually takes place.
   e) “Forced evictions” means any eviction done without due process of law such as mandatory issue of notice to the cluster, or removal of their houses against their will, presence of police force, or without adequately resettling them elsewhere.
   f) “Slum cluster” means densely populated areas without basic facilities.
   g) “Dweller” means any person who is in occupation of the house at the time of the provision of adequate housing.
   h) “Habitable area” means the area which is developed with a proper layout plan, with all infrastructural developments like roads, electricity transformers, water pipes, drainage and sewerage, school buildings, dispensaries, playgrounds, etc.
   i) “Livelihood” means adequate employment of the dwellers to provide a decent quality of life to all members of the family.
Chapter II
Right to housing

3. (1) Every citizen of India shall have the right to housing for the family.
   (2) The Right to Housing shall include:
   a) Treating housing for the poor as a “public purpose”, that is superior to all other “public” purposes.
   b) A minimum plot size of 50 sqm for settlement in terms of in-situ land reforms in a habitable area within the limits of the city.
   c) The settlement of the cluster should be done on habitable land within three km of the existing cluster in order to secure the livelihood opportunities of the evictees.
   d) The right to equal access to basic amenities at household level like drinking water connections, electricity connections, sewerage, and at community level like health facilities, schools, green spaces, public transport, child and welfare services and playgrounds.
   (3) The right to housing should also ensure the security of long-term tenure of the dwellers for a more secure life for future generations, against which the dwellers can also have access to credit, and such tenure must be compatible with the livelihood needs of the dwellers.
   (4) Provisions must be made in all city plans for setting aside adequate and affordable land for housing the urban poor as well as accommodating all migrants coming in search of livelihoods created by the city.
   (5) Special building codes may be established for providing adequate layouts and facilities in such settlements, and the land may be made available to specific organisations of the urban poor, such as cooperative societies and other associations.

Chapter III
Regularisation of slum clusters

4. i) The emergence of slums points to the failure of the State to provide adequate and affordable housing, hence such failure cannot be used as the basis for the removal of slums but must provide the legitimacy for regularising slum housing built at such low cost by the people themselves.
   ii) Slum clusters should be regularised with insitu upgradation with due land reforms wherein all dwellers will get minimum plot size with proper layout and other facilities in the same area of habitation.
   iii) No slum cluster should be removed unless there is a need as listed under Section 5 of the Act, and relocation must be with the voluntary consent of the dwellers.
   iv) Regularisation of the slum shall be done in consultation with the community and other representatives and through consensus.
   v) A minimum of six-months notice shall be given to the dwellers before regularisation of slums.
   vi) Reasonable charges, according to capacity to pay of the dwellers, may be levied for the land.

5. No slum cluster be removed unless:
   a) The geographical conditions of the slum cluster are not suitable for habitation.
   b) Slum is lying under high-tension wire or near any hazardous activity.
   c) Slums are on the edge of a big drain and living in unhygienic conditions.

Chapter IV
Process of resettlement

6. The municipality or the ward, in cooperation with representatives of the slum cluster, should inspect the slum cluster, to assess which slums can be regularised, and which need to be resettled. The inspection report shall be made public by publishing it in at least three dailies in vernacular medium and two English dailies within five days.

7. Objections shall be invited within a period of three months and proper public hearing of the objections be done by an independent authority according to procedure.

8. Complete survey of the number of dwellers shall be undertaken by the municipality after the hearing, as specified under section 7, with the help of local people.

9. The dwellers having any government document such as ration card, voters identity card, school fee slips, dispensary or hospital receipts, etc., proving residence for a minimum period of two years prior to the date of resettlement shall be resettled accordingly.

10. A notice shall be served to dwellers at least six months before they be removed.

11. For purposes of resettlement plots of land admeasuring at least 50 sqm should be allotted to all the dwellers, and they should be given sufficient time to construct their own houses according to their needs and capacity, prior to resettlement.
12. The dwellers should be allowed to occupy their new houses, complete with all basic amenities provided by the State, and not through private parties, before removing the existing cluster on the ground.

13. All families living in a cluster should be given the option for being resettled together, instead of being scattered to different resettlement colonies on the basis of lottery, in order to preserve social harmony and security.

14. The time of resettlement should not be in extreme weather conditions or during the school examinations.

Chapter V
Obligation of the state
15. The State shall ensure that due process of law has been met with. All housing and resettlement must be carried out in consultation with the local people.

16. The State shall raise all funds needed to provide people adequate and affordable land and housing.

17. The State shall from time to time make provision for the settlement of people with special needs, destitute women and children living on streets, which may include temporary or permanent structures constructed by the State for these people.

18. Special assistance be given to all slum dwellers in terms of easy loans for getting the plots and construction cost of houses, free school, no other taxes such as use and pay toilets be charged, etc…….

Chapter VI
Protection of tenants in slums against eviction
19. Every person living in the slum area as tenant shall be protected under this Act from eviction. The Act shall be applicable to the tenant equally.

Chapter VII
Appeals
20. (1) Any person aggrieved by any notice or order of resettlement agency may appeal to the administration.

(2) No appeal shall be decided under this section unless the aggrieved is given reasonable opportunity of being heard.

(3) All appeals shall be disposed off within one month of the appeal being made.

(4) No decision of the administration shall be final and shall be subject to appeal in court.

Chapter VIII
Penalty
21. The officer-in-charge shall be penalised if found guilty of not adhering to the provisions of this Act by the court.

22. No court inferior to that of a magistrate of the first class shall try any appeal.

Chapter IX
Service of notices
23. State shall make all possible provisions for ensuring the due process of law is compiled with. The order of eviction shall not be made until notices are issued to the evicted families at least six months in advance.

24. The notice shall contain details of the public purpose for which the land is required, why the cluster needs to be removed, where the inhabitants are going to be resettled, and what is the due process through which inhabitants can apply for relocation.

25. No notice is issued without the prior permission of the community representatives in a formal meeting arranged by the competent authority at daytime on a holiday.

26. Notices shall be issued only by the competent authority, which is engineering the removal of the families, or the competent authority responsible for resettlement of the evicted families.

27. Every notice issued by competent authority under this Act shall be signed by an officer authorised by the competent authority.

Chapter X
Miscellaneous
28. Central government may, by notification in the official gazette, make rules to carry out the purposes of this Act.

Provided the rules are published in at least three vernacular dailies and two English dailies and invite objections or suggestions and proper hearing is done on that account.
(Draft) **Housing for the Urban Poor Bill**

**Preamble**
Taking note of the Supreme Court decisions in Chameli Singh v/s State of UP and Shantistar Builders v/s N.K. Totome to the effect that the right to housing inheres in Article 21 of the Constitution of India.

Relying on the decision of the Supreme Court in Ahmedabad Municipal Corporation v/s Nawab Khan wherein it was laid down that the State has a constitutional duty to provide adequate facilities, opportunities and resources for shelter for weaker sections.

Reading the Universal Declaration of Human Rights and, in particular, Article 25(1) describing the right to adequate housing as a basic human right.

Relying on Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India has ratified, and which commits this country to take appropriate steps to ensure the realisation of the right to adequate housing.

Noticing that the ICESCR was interpreted by General Comment 7 on Forced Evictions which commits the States not to carry out forced evictions until all possible alternatives are explored, and condemns the practice of forced evictions as a gross violation of human rights.

Regretting the fact that a considerable part of the urban population lives in slums in utter misery.

Alarmed at the results of the 1991 census, which estimated the housing shortage in the country at 229 million units of which at least 90% was for the poor.

 Agreeing with the decision of the Constitutional Court of South Africa in the case of Government of the Republic of South Africa v/s Irene Grooboom, wherein it was said that rights ought not to exist on paper only and the State was held constitutionally liable to progressively realise the right to housing.

Recalling further that the Convention for the Elimination of all Forms of Discrimination Against Women, the Convention for the Rights of the Child and the Convention for the Elimination of Racial Discrimination, all having been ratified by India, commit this country to guarantee the right to housing.

Realising that the vast majority of the urban poor living in slums out of dire necessity ought not to be treated as mere encroachers, since a multitude of factors force the poor to the cities.

Recalling that the Urban Land Ceiling Act was enacted, *inter alia*, to make surplus urban land available for housing the poor.

Realising that these evictions can never be a solution to the urban problem; on the contrary this results in terrible suffering for the urban poor.

**Evictee**
Now therefore, in tune with this nation’s constitutional and international obligations and to bring succour to the millions of the urban poor; this Bill:

**Chapter I**

**Preliminaries**
1. (i) The Preamble shall be read as an aid to the interpretation of this Act.

(ii) This Act shall be called “Housing for the Urban Poor, Bill, 2004

(iii) This Act shall come into force on notification in the Government of India Gazette.

(iv) This Act shall extend to the whole of the territory of India.

**Chapter II**

**Definitions**
2. (i) “Slum” means any place of residence of the urban poor and unorganised labour, established on land either public or private.
(ii) “Progressive realisation of the right to adequate housing” means such scheme or plan which shall substantially improve the conditions of slums within a decade while simultaneously providing immediate relief to the most deprived sections.

(iii) “Housing” includes, but is not restricted to, land, sewage, electricity and water facilities.

(iv) “Basic services”

(v) “Amenities” means all facilities, such as work, health, education, sanitation, transport etc., which are required to lead a decent life for all individuals.

(vi) “Urban” means an area where the population is one lakh or above according to the latest census.

(vii) ‘Blighted area’ means an area within a municipality containing a majority of structures that have been extensively damaged or destroyed by a major disaster, or that, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, unsafe and unsanitary conditions which endanger lives or properties by fire or other hazards and causes, or that, by reason of location, in an area with inadequate street layout, incompatible land uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density, or other identified hazards to health and safety, are conducive to ill health, transmission of disease, juvenile delinquency and crime and are detrimental to the public health, safety, morals and general welfare.

(viii) ‘Relocation’ means an alternate site within a radius of seven km for the persons evicted.

(ix) ‘Rehabilitation’ means providing relocated persons with basic amenities, services including means of livelihood.

Chapter III

The right to housing

3. (i) The inhabitants living in blighted areas have a right to adequate housing.

(ii) The State has an obligation to progressively realise the right to adequate housing by providing adequate resources, facilities and opportunities for housing the urban poor.

(iii) The State and other authorities shall within a year of the coming into force of this Act frame or revise Master Plans and urban planning schemes to provide adequate land and other facilities for the urban poor after considering all relevant factors including the numbers of the urban poor and their places of employment.

(iv) In so doing the representatives of the evictees and civil society have equal rights of participation in the framing and revising of the plans and schemes.

(v) The State and other authorities shall frame schemes to progressively realise the right to adequate housing. Such schemes may provide for the payment of a reasonable amount by the beneficiaries, keeping in view their economic status.

(vi) In framing schemes to house the urban poor emphasis shall be given to the State providing land for housing coupled with credit for housing at subsidised rates.

Chapter IV

Rights against eviction

4. (i) All slums that are in existence as on the passing of this Act shall not be evicted.

(ii) No future slum shall be evicted by the State or any authority or person, unless there is a substantial, pressing, overriding public project which cannot reasonably be located elsewhere.

Explanation: The setting up of a new institution, of shopping complexes, commercial enterprises, recreation facilities, gardens, garbage disposal facilities, roads and the like shall not be considered a public project within the meaning of clause (ii) above.

(iii) Even when it is necessary to evict a slum only such households shall be evicted as are necessary for the implementation of the project. Such households are evicted, provided an alternate accommodation within seven km radius of the evicted site, which includes housing, basic services, amenities and reasonable compensation is given.

Chapter V

Right to regularisation in-situ

5. (i) All slums that fall under clause 4 (i) shall be regularised in-situ.

(ii) The states shall mobilise resources for the regularisation of slums. This will, however, not preclude the State from charging such reasonable amounts from the beneficiaries keeping in view their financial capacity.

(iii) Regularisation shall be done in collaboration with the beneficiaries and their representatives.

Chapter VI

Rights during eviction

6. (i) No slum falling under clause 4 (ii) shall be evicted unless the community is given notice at least six
months prior to the date of proposed eviction and heard on the proposed eviction.

(ii) Such notice shall set out in detail the reason for the eviction, the date of the proposed eviction, the relocation and rehabilitation scheme and other details as may be necessary. Such notice shall be published in a local newspaper circulated widely.

(iii) The State shall thereafter hear the evictee and in writing, either rescind, modify or confirm the eviction plan and the relocation and rehabilitation scheme. This may be done within a period of three months from the date of the notice.

(iv) The evictees shall have a right to all such information from the authorities connected with the eviction and the relocation and rehabilitation scheme. The authorities shall make all information available to the evictees/ civil society or their representatives within a period of 15 days in writing.

(v) All evictions shall be carried out humanely. No eviction shall be done in inclement weather, or in undue haste, or with force, or during school examinations.

(vi) The authorities shall finalise the relocation site with the facilities in place prior to the eviction.

(vii) The authorities shall put in place the benefits and facilities of the rehabilitation scheme prior to the eviction.

(viii) In deciding upon the relocation site care shall be taken by the authorities to provide the same within seven km of the existing site.

Chapter VII
Right to relocation
7. (i) The authorities shall provide transportation to the evictees at the new site for persons and household and other materials from the existing site with reasonable compensation.

(ii) All relocation schemes shall be framed in consultation with the evictees or their representatives.

(iii) No amount may be charged from the evictee for relocation.

Chapter VIII
Right to rehabilitation
8. (i) The Rehabilitation scheme shall provide inter alia, for a site with reasonably hygienic surroundings, a reasonable quantity of building material, electricity, water, sewage facilities, toilets, schools, dispensaries or hospitals and reasonable compensation and shall be framed so as to create at the relocated site at the

very minimum the same or similar situation as prevailing at the existing site.

(ii) All rehabilitation schemes shall be framed in consultation with the evictees.

(iii) No amount may be charged from the evictee for rehabilitation.

Chapter IX
The housing & Rehabilitation Commission
9. (i) The state shall set up a four member housing & rehabilitation commission consisting of director TCP, expert in urban planning representative of evictees and the NGOs working in the housing sector.

(ii) In case of dispute arising out of any of the provisions of this Act, complaints may be made to the commission whose decisions shall be binding on the State.

Chapter X
Allocation of resources and land
10. (i) The State shall reserve, raise and allocate adequate land resources for the practical and progressive realisation of the right to housing for the urban poor.

(ii) Resource allocation of land must be proportionately increased.

Chapter XI
Women’s right
11. (i) All documents relating to title, possession and the like and all compensation paid and all transactions entered into in respect of any of the provisions of this Act shall be made out in the name of the female head of the family in preference to the male, if such a female head exist.

Chapter XII
Homeless persons
12. (i) The State shall take such steps to construct one-third number of houses for the homeless and provide the same free to them in order to progressively realise the right to housing and to close the gap between demand and supply.

(ii) Till the above is substantially achieved the State shall open and operate shelters for the homeless providing therein free food to the beneficiaries.

Chapter - XIII
Urban land ceiling
13. (i) The repeal of the Urban Land Ceiling Act, 1999 is hereby repealed.
Chapter - XIV

Miscellaneous

14 (i) This Act has effect notwithstanding anything contained in any other Statute or provision having the force of law.

(ii) This Statute shall be included in XI Schedule of the Constitution of India.

(iii) This statute shall prevail over all other laws in force.

Chapter XV

Rule making power

15 (i) The central government may make rules to effectively implement the provisions of this Act including, but not limited to:

- The framing of schemes for the improvement and regularisation of slums in-situ.
- The framing of relocation schemes.
- The framing of rehabilitation schemes.
- The framing of schemes for homeless people.
- The framing of rules for housing and rehabilitation commission.

Chapter - XVI

Penalties

16. (i) A breach of the provisions of this Act shall be a cognisable offence in respect of which the punishment or conviction shall be up to one year simple imprisonment and a fine which may extend to Rs. 5 lakh.
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Eviction Watch India presents the magnitude of the problem of forced evictions and associated economic and human costs rendered by such inhuman actions. The initial chapters of the volume present the findings of an enquiry into large-scale forced evictions in seven major cities of India: Delhi, Mumbai, Chennai, Kolkata, Hyderabad, Visakhapatnam and Ahmedabad. The articles included in the volume are contributed by professors, lawyers, professionals, journalists, planners, architects and activists recommending for a comprehensive pro-poor planning process to incorporate all inhabitants within the legal framework. It undertakes a critical appraisal of changing trends in laws, court judgments, housing policies and legislations. The volume presents a critical review of the Jawaharlal Nehru Urban Renewal Mission and draws on various legal and ethical maxims to stop the practice of forced evictions.

This volume is brought out with the hope to facilitate the establishment of a larger network and linkages with housing rights organisations to strengthen and consolidate solidarity with the urban poor struggle groups across the country. The Human Rights Law Networks (HRLN), in collaboration with several other organisations is advocating the right to housing initiative through various workshops, campaigns and legal interventions.

The book is essential reading for anyone interested in the community development programmes including the policymakers, planners, lawyers and human rights activists as also those who are concerned of the magnitude of the housing problem in the country.

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