



The Challenge of Slums and Forced Evictions

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Access to adequate housing is at the core of this paper, which adopts the notion of the right to housing defined in the late 1980s by the Indian National Campaign on Housing Rights as “the right for every woman, man and child to a secure place to live in peace and dignity” (Kothari, 2003: 2). Thus, access to adequate housing –as opposed to exclusion from it– encompasses both decent physical shelter and secure residential status.

1. Facts: Shortage of Decent Housing and Recurrent Evictions

1.1. Shortage of decent housing

Indian cities, especially the largest ones, are faced with an acute shortage in decent housing, which has resulted in congestion and lack of comfort for urban households (precarious, sub-standard structures as well as lack of amenities), and in the growth of poor and illegal settlements. The extent

of the urban population living in slums provides a synthetic indicator of this:

- As per the 2001 census⁶², 43 million people, representing 23% of the population of cities with over 50,000 inhabitants, lived in slums. This proportion increases in the largest cities: 19% in Chennai and Delhi, 33% in Kolkata, and 54% in Mumbai. However, the 2001 Census (Box 13) underestimates the effective number of slums and slum dwellers, as towns below 50,000 population and clusters with less than 60 households were not covered.
- Subsequently, the Committee on Slum Statistics/ Census (GOI, 2010b) took into account all the 5161 towns and cities and estimated their slum population (in clusters of at least 60 households) at 75.3 million, accounting for 26.3% of the total urban population. The projection for 2011 is 93 million.

⁶² At the time of writing, the 2011 Census tables on slums, and on houses & household amenities, were not available.

- As per the more comprehensive definition of UN-HABITAT (Box 12), India's urban slum population was estimated at 158.42 million by mid-year 2001, or 55% of the total urban population.

In 2008-09, 43% of the dwellings in slums were not fully consolidated (i.e. were *katcha* or semi-*pacca*), and 50% of the dwellings in the sub-category of non-notified slums likewise. (NSSO, 2010b and Box 14). Over the years, the consolidation of structures, the addition of a storey and the development of a rental sector have contributed to increasing residential density in settlements already congested, as evidenced by the following figures. According to the 2001 Census, 37% of urban households had only one room for living, this proportion rising to 39% in Delhi, 41% in Chennai and to 65% in Mumbai. In 2002, the per capita floor area available was 4.6 sq.m. in slums as against 8.4 sq.m in other urban areas (NSSO, 2004).

Unequal access to urban land is further exemplified by the situation in big cities. In Mumbai (Municipal Corporation) in 2001, 6.5 million slum dwellers, accounting for about half of the population, occupied only 8% of its area. In Delhi in 1998, before the massive demolition drive targeting illegal slums, squatter settlements housed 3 million inhabitants, accounting for 27% of the total urban population, but occupying less than 6% of the land (Kundu, 2004).

Most often the lack of adequate housing structures and amenities is combined with the lack of secure tenure – slums correspond then to the “squatter settlements” (Box 15) targeted by eviction operations. Illegal occupation of vacant land and slum dwelling has often been the only option for the urban poor, as there was no affordable alternative in the formal sector. In addition to the conditions of makeshift housing, congestion, and sub-standard basic urban services, the squatters often resorted to occupying marginal land, such as insalubrious and/or dangerous sites not meant for construction due to ecological fragility or

industrial and health hazards and that were unlikely to attract the attention of developers in the immediate future. Such sites are found on river banks predisposed to flooding, low lying and marshy lands, industrial zones, industrial and urban waste dumping zones, along railway tracks, drains and canals or below high tension lines. Thus, out of about 49,000 slums estimated in urban India in 2008-09, 24% were located along *nallahs* and drains and 12% along railway lines. About 48% of the slums were usually affected by water logging during the monsoon (NSSO, 2010b). Therefore, slums dwellers are particularly vulnerable to industrial and natural disasters, as dramatically shown by the explosion of the Union Carbide pesticide factory in Bhopal in 1984, or the 2005 floods in Mumbai.

The presence in Indian large cities of many homeless people also deserves mention; among them children are the most vulnerable. Yet the homeless are largely undercounted by the Census (the first census to count them was in 1991). In Delhi they were estimated at between 100,000 and 200,000 in the mid 1990s, or 1 to 2% of the total urban population. Their number has increased dramatically following large-scale slum

Box 12. UN-HABITAT operational definition of slum

The operational definition of a slum recommended by a United Nations Expert Group Meeting (Nairobi, 28-30 October 2002) for international usage, defines a slum as an area that combines, to various extents, the following physical and legal characteristics (UN-HABITAT, 2003):

- inadequate access to safe water;
- inadequate access to sanitation and other infrastructure;
- poor structural quality of housing;
- overcrowding;
- insecure residential status.



Box 13. Definition: slums as per the Census of India

For the first time in 2001, the Census of India collected data about slum areas in cities/towns having a population of 50,000 or more based on the 1991 census, and identified as follows:

“All specified areas notified as ‘slums’ by State / Local Government and Union Territories (UT) Administration under any Act; All areas recognized as a ‘slum’ by State / Local Government and UT Administration which may have not been formally notified as a ‘slum’ under any Act; A compact area of a least 300 population or about 60-70 households of poorly built congested tenements, in an unhygienic environment usually with inadequate infrastructure and lacking in proper sanitary and drinking water facilities.”

A broader and simpler definition of slums was proposed for the Slum Census of 2011, namely: any compact housing cluster or settlement of at least 20 households with a collection of poorly built tenements which are mostly temporary in nature, crowded together usually with inadequate sanitary and drinking water facilities and unhygienic conditions.

demolitions: by 53% in Delhi between 2000 and 2008 (Tingal & Kumar Pandey, 2008). Major demolitions, with similar effects, also affected Mumbai and other metro cities.

The Working Group on Urban Housing with Focus on Slums estimated that 26.53 million houses were required to be constructed in urban areas during the period 2007-2012, essentially for Economically Weaker Section (EWS) and Low Income Group (LIG) sections (GOI, 2006a: 3).

Box 14. Definition of slums by National Sample Survey Office (NSSO)

The NSSO adopted the following definition for its round surveys:

“A slum is a compact settlement with a collection of poorly built tenements, mostly of temporary nature, crowded together usually with inadequate sanitary and drinking water facilities in unhygienic conditions”. Such an area was considered as a non-notified slum if a least 20 households lived in that area. Areas notified as slums by respective municipalities, corporations, local bodies or development authorities were treated as “notified slums.”

1.2. Extent of slum eviction in large metropolises

Since the 1990s, large Indian metropolises have experienced a restructuring of their urban space in line with the requirements of globalising cities. The implementation of urban projects, especially infrastructure expansion, urban renewal projects, and “beautification” operations, have resulted in many demolitions of poor or unauthorised settlements and forced evictions⁶³.

- In Mumbai, between November 2004 and March 2005, 90,000 houses were demolished, affecting around 450,000 persons in 44 localities. These estimates, by the Indian People’s Tribunal on Environment and Human Rights⁶⁴, may be compared to the official figures of less than 50,000 houses.
- In Kolkata, 77,000 people were displaced in 2004-2005 (as reported by COHRE)⁶⁵.
- In Delhi, in 2004-2006 slum demolitions in connection with the redevelopment of the river-front and the construction of the Athletes’ Village for the 2010 Commonwealth Games,

⁶³ See Habitat International Coalition – Housing and Land Rights Network – South Asia Regional Programme (HIC-HLRN, 2010 and 2011) and <http://www.hic-sarp.org/>.

⁶⁴ www.iptindia.org

⁶⁵ Centre on Housing Rights and Evictions: www.cohre.org.

Box 15. Slums and squatter settlements as defined by the law in India

The Slum Areas (Improvement and Clearance) Act of 1956 deems as slums, old, dilapidated and overcrowded housing sectors where the buildings “are in any respect unfit for human habitation” or that “are by reason of dilapidation, overcrowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, detrimental to safety, health or morals”. [Slum Areas (Improvement and Clearance Act) 1956, Chapter II].

This definition may apply to houses inhabited by tenants or proprietors with legal rights, as in the case of the old urban core of Delhi, which was notified as a slum area. This Act was first implemented in Delhi. Other states have later enacted their own Slum Areas Acts, with a definition of slums that may vary from state to state, but is usually based on similar notions.

There is no reference to the status of tenure (legal or illegal) in the Slum Areas Act. In contrast, the urban authorities and the judiciary designate as “squatters settlements” informal settlements on lands occupied and built upon without the permission of the land owning agency. These are the “illegal slums” locally called jhuggi-jhopri clusters in Delhi, jhopad patties in Mumbai and cherries in Chennai.

dramatically affected settlements along the embankments of the Yamuna river causing the eviction of about 300,000 people –including 200,000 people from February to May 2004⁶⁶.

2. Legal and Policy Framework

2.1. Urban and housing policies and the urban poor

During the two decades following the Independence of India (1947), policy makers and planners were still under the influence of Mahatma Gandhi’s advocacy for a village-centred model of development, and public policies displayed a strong anti-urban bias. Until the 1980s, urban housing was not part of the priorities set by the Five Year Plans, and the few public housing programmes launched by the central government with the support of the states were unable to meet the increasing housing needs of the urban population, especially of the poor. Because of the cost of construction, the modalities for selection of beneficiaries

and the final price for the dwellings, most of these programmes have benefited the middle classes (Milbert, 1988). Till the 1990s, the regulations imposed by state authorities had the perverse effect of slowing down construction activity in the formal sector, and of contributing indirectly to the proliferation of unauthorised colonies and squatter settlements. At the same time, urban poverty was largely perceived as a consequence of rural poverty, with the spectre of masses of poor migrants pouring into the major metropolises to crowd into slums, weighing down urban infrastructure and contributing to the decline of cities (Mukherji, 2006). Faced with this fear, until the early 1980s, authorities endeavoured to discourage migration by making big cities less attractive. Industrial development was strongly controlled through the license system; infrastructure and housing for the working classes were neglected; and slum demolition was a recurrent threat (Burra, 2005).

The Report of the National Commission on Urbanisation in 1988 and the first National

⁶⁶ Source: OMCT/HIC-HLRN, Joint Urgent Action Appeal, Case IND-FE050504. Delhi, Geneva, Cairo: World Organisation against Torture, Habitat International Coalition-Housing and Land Rights Network, 5 May 2004.



Housing & Habitat Policy (1994) marked a definite turn. The new urban development strategy was based around the concepts of decentralisation, deregulation and privatisation (GOI, 1988 & 1992). Its aims were to enhance the economic efficiency of cities, promote the development of their infrastructure and better respond to housing demand. Public-private partnerships, the strengthened role of the private sector and the principle of cost recovery were also encouraged, including in slum rehabilitation programmes and housing schemes for the poor. Several deregulation measures have altered the context of urban development, in particular: the deregulation of the cement sector, which boosted the construction sector; the abolition of the license system for the majority of industrial plants; and the repeal of the 1976 Urban Land (Ceiling and regulation) Act (imposing a ceiling on owned urban property) in 1999, with a view to stimulate land markets.

The major shift in the role of the government from being a provider of housing and amenities to being an enabler, while promoting public-private partnership, has been confirmed in the subsequent national urban policies and programmes, such as the 2005 Jawaharlal Nehru National Urban Renewal Mission (JNNURM). As part of JNNURM, the sub-mission “Basic Services to the Urban Poor” (BSUP), under the Ministry of Urban Housing and Poverty Alleviation⁶⁷, aims at ensuring equitable and inclusive city development, and attempts to stimulate housing activities through the provision of subsidized dwelling units in multi-storied complexes for the economically weaker sections. Critics have however expressed strong scepticism about achieving the integration of the urban poor through this programme (Mahadevia, 2006) and fear on the contrary further exclusion through more slum demolitions and displacement linked to the implementation of infrastructure projects

and a ‘sanitized’ vision of the cities (HIC-HLRN 2009).

“Affordable Housing for All” is the slogan of the third (and current) National Urban Housing and Habitat Policy (2007), which had to acknowledge that the efforts initiated earlier “have not been able to fully overcome the housing shortage situation particularly for the economically weaker sections (EWS) and low income groups (LIG)” (GOI, 2006a: 4-5). Therefore, one of the stated aims of this policy is “facilitating accessibility to serviced land and housing with focus on EWS and LIG categories” (Ibid: 14). To that end, the policy recommends earmarking 20% to 25% of the land to be made available at affordable rates for the EWSs and LIG. It further recommends to use land as a resource, including for slum rehabilitation. “The main suggestion is to use market mechanisms to raise resources for slum upgradation or redevelopment and increase the land supply through the use of Transfer of Development Rights⁶⁸ and increase in Floor Space Index⁶⁹ –which cities like Mumbai have begun to do (Mahadevia, 2009: 215). The policy further advocates the granting of tenurial rights to slum dwellers in situ or in relocation sites, and emphasizes the need to prepare a special action plan for slum dwellers.

The role of the private sector as developer and builder is strongly promoted, with the government being a regulator and facilitator. However, in this model, it is likely that housing for the poor will be developed in the urban peripheries, which would require an efficient and affordable mass public transport system to enable them to access employment centres located in more central parts of the city. Moreover, the cost of such model of housing is likely to remain out of the reach of “the recent low-income migrants not having adequate income and savings”, who

⁶⁷ <http://mhupa.gov.in/> & https://jnnurmmis.nic.in/jnnurm_hupa/index.html (accessed on 10-08-2010).

⁶⁸ Transfer of Development Rights, or TDR, is a certificate from the city administration given to the landowner (real estate developer or builder) for extra building space. It allows the builder to develop land and construct housing in another place in the city (with certain restrictions on the location such as in Mumbai) or to sell his rights to other builders.

⁶⁹ The Floor Space Index (FSI) or Floor Area Ratio is the ratio of the total floor area of buildings on a certain plot of land to the area of that plot.

“would continue to live in squatter settlements” (Ibid: 216).

Although the National Urban Housing and Habitat Policies provide the general agenda and main directives, under the Constitution of India and the federal system of government the states are assigned responsibility for land administration and land reforms, including urban development. Therefore each state needs to adopt the acts passed by the parliament and is free to frame its own laws and urban policies, including slum policies, except with regard to land owned by central government agencies. The National Capital Territory (NCT) of Delhi is a specific case: the central government retains the control on land, police, and law and order. Thus, the Delhi Development Authority (DDA), the agency responsible for monitoring the planned development of the capital city, is under the purview of the central government.

2.2. Slums and squatter settlements: historical and legislative background

Just after Independence (1947), the proliferation of slums in the capital city was considered a major issue. The Parliament enacted the Slum Areas (Improvement and Clearance) Act of 1956, a pioneering law that included measures for improving the old housing stock in certain cases, and demolition of dilapidated buildings in others (Box 15). The Act was first implemented in Delhi and extended to other states. It was not conceived to address the issue of unauthorised settlements, and “although [its] purpose was to improve the housing conditions, it has frequently been interpreted as giving licenses to demolition and eviction” (HIC-HLRN, 2004: 7). The attempt to prevent the proliferation of squatter settlements also led to the enactment of specific laws (such as the 2001 Amendment to the Maharashtra Slum Areas Act) and court judgements treating the latter as illegal encroachments and a cognizable offence (see below). The Slum Areas Act also introduced

a distinction between the notified and non-notified slums, likely to generate a new line of exclusion for the provision of basic services.

2.3. Main ad-hoc strategies implemented till date⁷⁰

Faced with the extent and persistence of slums and squatter settlements, the governments and town authorities have implemented various types of *ad hoc* interventions: provision of basic services as part of larger poverty alleviation programmes; resettlement on alternative sites, with housing or site-and-service programmes; and in-situ rehabilitation. These programmes may be initiated and funded by the central government or the state government, or sponsored by international organisations. However, these strategies concern only a section of the slum dwellers, while many others among those termed squatters have been the victims of demolition drives without any compensation; thus they address only the symptoms of housing poverty without solving the roots of the problem.

A Draft National Slum Policy was formulated by the Central Ministry of Urban Development and Poverty Alleviation in April 1999. It contained progressive features, such as the provision for granting land tenure rights to slum dwellers wherever feasible, and where this was not tenable, the provision for proper resettlement. But this policy was not approved by other government departments, especially those owning land on which many informal settlements had developed, such as the railways, port trusts and defence establishments (Burra, 2005). Consequently, the Government of India never endorsed this policy that became obsolete with the advent of the new strategy for “Slum-Free City Planning” in 2010 (see below).

Environmental improvement of urban slums

The improvement of the living conditions in the existing slums through the provision of basic services was initially a response of town

⁷⁰ Sources for this section include: Ali (1990), Banerjee (2002), Burra (2005), Dupont (2008), Dupont and Saglio-Yatzimirsky (2009), Risbud (2003, 2009).



authorities to sanitation and public health concerns. In 1972, the Central Government launched the Environmental Improvement of Urban Slums scheme, aimed at providing basic infrastructure in zones officially notified as slums. Other schemes with similar or more comprehensive objectives followed, influenced in particular by the Urban Basic Services scheme for the urban poor initiated by UNICEF worldwide in the 1980s. The 1996 National Slum Development Programme (NSDP), including a grant from the Central Government to the states and a loan component, pursued the same kind of strategy. Another centrally sponsored programme deserves mention – the Valmiki Ambedkar Awas Yojana (VAMBAY), launched in 2001 to facilitate the construction and improvement of dwelling units of people living below poverty line in urban slums. Lastly, the provision of ‘Basic Services to the Urban Poor’, with a focus on slums, is again part of the agenda of the 2005 JNNURM.

This pragmatic, although short-term, approach – improving the living conditions of slum dwellers where they are based rather than relocating or re-housing them – does not, however, guarantee them rights of occupancy, nor does it protect them from demolitions and evictions if the land-owning agency comes up with projects of “better public” utility on occupied sites. Certain states or cities (Bhopal in 1984, Mumbai in 1985) had however integrated the regularisation of land tenure in their slum up-grading programmes.

Resettlement schemes and site-and-service programmes – a focus on Mumbai and Delhi

A National Policy on Resettlement and Rehabilitation (R&R) of project affected persons was adopted in 2004, followed by a new National R&R Policy and an R&R Bill in 2007 (yet to be enacted). Although these policies have been elaborated by the Ministry of Rural Development, the Bill may apply to the involuntary displacement of people, including in the context of slum demolitions in urban areas due to the implementation of projects for public purpose.

The Bill may be considered as progressive since it aims “to provide a better standard of living and to make concerted efforts for providing sustainable incomes to the affected families”, and to “integrate rehabilitation concerns into the development planning and implementation process”.

Much before the formulation of a National R&R Policy, Maharashtra was the first state in India to enact resettlement legislation (in 1976, amended in 1986), and also the first state to have a specific policy for urban areas: the “Policy for Resettlement and Rehabilitation of Persons Affected by Urban Projects, to be taken up in the Mumbai Metropolitan Region under the [World Bank funded] Mumbai Urban Transport Project” (1997), which was extended to all urban centres in the state in 1998.

In Mumbai, like in Delhi, the removal of slums and squatter settlements is in principle limited to untenable sites or when land is required for projects of public utility. In site-and-service programmes, displaced families have been allotted plots in relocation sites theoretically provided with basic infrastructure, where they had to build their own dwelling. Secure land tenure is granted under the form of leasehold or license with restrictive conditions. Relocation in resettlement colonies without rehousing was the approach favoured by the Delhi authorities from the late 1950s till 2010 to deal with squatter settlements. It nonetheless required a financial contribution from eligible families (INR 7500 –US\$ 167– in the 1990s and 2000s). Moreover, the size of the plots was considerably reduced, from 80 sq.m. in the first scheme of 1960, to 18 sq. m. and even 12.5 sq. m. in the 1990s and the 2000s, which resulted in the recreation of over-crowded settlements –in fact one of the criteria characterising a slum area. Under the last resettlement scheme implemented in Delhi, from 1990 to 2008, around 65,000 squatter families were officially relocated⁷¹. In Mumbai, slum clearance policy was influenced from the

⁷¹ Source: Slum and Jhuggi-Jhopri Department, Municipal Corporation of Delhi.

1980s by the World Bank funded programmes, including later recommendations for resettlement *with* housing, usually in apartment blocks (resettlement in Chennai followed the same model). Lately, in 2010, the Government of Delhi modified its policy for the relocation of slum dwellers, with a shift towards the allotment of flats instead of plots.

The impact of R&R programmes (including in-situ rehabilitation, examined below) on slum eradication has been seriously limited by the eligibility criterion referring to a cut-off date of arrival in the settlement. Despite adjustments of this date in the long run, this principle has caused the eviction of large numbers of slum families without any compensation.

Resettlement programmes most often entail relocation in remote peripheral zones or sometimes in zones that are ecologically fragile. The long distances between the new sites and the previous ones negatively affect the access to employment and social networks, and more generally access to the city resources and opportunities (for Delhi, see Menon-Sen and Bhan, 2008). As a result, part of the allotted plots or flats have been resold by the slum families who could not afford the process of resettlement and its adverse impact on livelihoods, or they have been grasped by unscrupulous real estate agents.

In-situ rehabilitation – the example of Mumbai

In-situ up-grading or rehabilitation has been an approach recommended in several national policy documents, including the current strategy. In Mumbai, in-situ redevelopment and granting of secure tenure to rehabilitated slum dwellers was the preferential strategy in the 1990s, with the involvement of private builders as well as civil society organisations. The principle is to encourage private builders to construct multi-storey buildings for the slum families on the same site, using only part of the land, and to use the

rest of the land thus cleared for residential or commercial development on the open market, for their own profit. Additional incentives such as increased Floor Space Index and Transfer of Development Rights (TDR i.e. extra building space) are provided to the builders to cross-subsidise housing for the poor.

The first Slum Redevelopment Scheme was introduced in 1991 for slums located on private lands; it was revised and extended in 1995 to slums on land owned by institutions of the state government, with the ambition of providing 800,000 free tenements of 21 sq.m to 4 million slum dwellers. By mid 2009, about 105,000 housing units were built and occupied under the 1995 Slum Rehabilitation Scheme, accounting for around 12% of the initial objective⁷². One major difficulty was to find vacant public lands for the temporary transfer of slum families; furthermore, certain transit camps became ‘permanent’. The scheme was criticized for favouring the interests of the real estate lobby (Burra, 2005), for its corruption scams and opening the doors to a burgeoning land mafia (Weinstein, 2008), as well as for creating “vertical slums”.

2.4. The new strategy for “slum-free city planning”

A new strategy for Slum-Free City Planning – or the Rajiv Awas Yojana programme (RAY)⁷³, was initiated in 2010 as part of the JNNURM Basic Services to the Urban Poor sub-mission and the National Urban Poverty Reduction Strategy 2010-2020 (Mathur, 2009). The counterpart for towns which are not covered by JNNURM is the Integrated Housing and Slum Development Programme, that replaces the previous programmes (NSDP and VAMBAY).

The central approach of RAY is to redress the shortage of urban land, amenities and shelter that lead to the creation of slums.

⁷² Source: Slum and Rehabilitation Authority, Mumbai, Maharashtra Housing and Area Development Authority.

⁷³ Rajiv Awas Yojana. Guidelines for Slum-Free City Planning, Gvt of India, Ministry of Housing & Urban Poverty Alleviation. [<http://mhupa.gov.in/> & https://jnnurmmis.nic.in/jnnurm_hupa/index.html (accessed on 10-08-2010)]



“RAY for the slum dwellers and the urban poor envisages a ‘Slum-free India’ through encouraging states/union territories to tackle the problem of slums in a definitive manner. It calls for a multi-pronged approach focussing on:

1. Bringing the existing slums within the formal system and enabling them to avail of the same level of basic amenities as the rest of the town;
2. Redressing the failures of the formal system that lie behind the creation of slums; and
3. Tackling the shortages of urban land and housing that keep shelter out of reach of the urban poor and force them to resort to extra-legal solutions in a bid to retain their sources of livelihood and employment.” (GOI, 2010a: 1)

Its plan of action comprises two parts:

- The upgrading of existing slums along with property rights, including: infrastructure provision only, or slum redevelopment/rehabilitation programmes, or relocating of untenable slums (i.e. “those which are a ‘safety’ or ‘health hazard’ to the inhabitants or their neighbourhoods, even if redeveloped” – Ibid, 2010a: 2 & 18);
- Action to prevent new slums, including reservation of land and housing for the urban poor.

The plan of action gives primacy to a public-private-partnership model to build affordable housing. It also promotes community participation: for each slum identified, the decision-making process regarding its redevelopment plan “should necessarily be done with the involvement of the community”, “with the assistance from lead NGOs/CBOs” (Ibid, 2010a: 5 & 18).

This “new deal for the urban poor” (Mathur, 2009) involves a more comprehensive approach than the previous strategies, but the way in which it would be implemented, beyond its

‘good’ intentions, remains to be followed up. Although rental housing is envisaged, the focus on home ownership and its financial modalities raise concerns already evoked: the contribution and regular monthly instalments, to pay back housing loans, which are expected from the slum families may eventually result in excluding the poorest from the programmes, with a capture of the housing schemes by higher income groups (as observed in previous schemes targeting the lower income groups). Regrettably too, this policy document does not tackle some issues specific to squatter settlements, which stems from the interference of the judiciary.

2.5. The changing role of the courts vis-à-vis slums and squatters

India has an independent judiciary system, and the courts have emerged as an increasingly important actor in urban governance, especially through the Public Interest Litigation (PIL) procedure. Until the 1990s, the courts often passed stay orders that prevented forced evictions of slum dwellers (Ahuja, 1997) or passed judgements showing some understanding for the living condition of the poor and the responsibilities of municipal authorities, that summoned the latter to provide civic services to slum dwellers (Ghertner, 2008). Significantly, “the Supreme Court of India has (...), in various judgments, upheld the right to housing under the ambit of the right to life, the right to life with dignity, the right to clean drinking water and the right to livelihood.”⁷⁴ (Kothari et al., 2006: 17). Under the Constitution of India, the right to shelter is indeed recognised as a fundamental right, which springs from the right to residence under Article 19(1)(e) and the right to life under Article 21.

Reversing a span of progressive judgments, the Supreme Court and high courts have later passed a number of anti-poor sentences. Over the last decade, “judgements of the Indian judiciary have contributed to the violation of housing and land

⁷⁴ Francis Coralie vs Union Territory of Delhi, 1981; Chameli Singh and others vs State of UP, 1996 ; Olga Tellis vs Bombay Municipal Corporation”, 1985 (see Box 16).

Box 16. Some significant court cases in Mumbai and Delhi

In the 1980s, the “Olga Tellis vs Bombay Municipal Corporation” case (1985) marked a milestone. It took place in a context where human rights movements and the campaign for housing rights influenced the mobilization of civil society against forced evictions (Banerjee 2002). ‘Olga Tellis’ was a PIL case brought to the court in the defence of pavement dwellers’ rights to secure a place to live in. The judgment of the Supreme Court recognized the basic right to shelter of the slum and pavement dwellers as well as the right to livelihood as an integral part of the right to live, acknowledging also the necessary connection between place of residence and livelihoods for pavement and slum dwellers. But the right to shelter and livelihood was set up in competition with the right of pedestrians to use the pavement as a footpath, and given precedence. The Court further stated that the squatters’ homes could not be demolished during the rains and without adequate previous notice. Although the provision of alternative sites before eviction was not made mandatory in the order, it affected the implementation of slum policies in Mumbai in this direction.

The discourse of the courts hardened in the 2000s. Some judgments passed, especially in Delhi, have contributed to reinforcing the perception of slum dwellers as squatters, culprits of encroachment, evoking even the image of slum dwellers as pickpockets, without recognizing them as victims of failure in housing policy and urban development. The slums were then re-attributed as the source of problems and as a nuisance, and the “new nuisance discourse” used as “the primary mechanism by which slum demolition take place at present” in Delhi (Ghertner, 2008). The intervention by the judiciary in the last 18 years has undermined the Delhi slum policy to a large extent. In 1993, leasehold tenure for resettled squatter families at relocation sites was proscribed by a decision of the Delhi High Court, and to be replaced by a license system. Some key judgments, in the Almitra Patel vs Union of India case (Supreme Court, 2000) and the Okhla Factory Owners’ Association vs Government of NCT of Delhi case (Delhi High Court, 2002), further denied the obligation of the state to provide resettlement alternatives to the evicted families (Ramanathan 2006; Dupont and Ramanathan 2008).

In many cases the intervention of the courts was a response to petitioners representing the interests of industrialists or welfare resident associations, or more generally of upper and middle income groups, who put forward environmental and sanitation considerations through public interest litigation and asked for the removal of neighbouring slums, thus exacerbating the antagonism between the housing needs for the poor and the aspiration for a “clean and green” Delhi.

The intervention of the judiciary in favour of slum clearance proved to be more decisive in Delhi – the capital city, seat of the Central Government as well as the Supreme Court. Nevertheless, some recent judgments by the Delhi High Court showed more consideration for the plight of the slum and pavement dwellers. For instance, in the Jagdish and Others vs Delhi Development Authority (DDA) case (Delhi High Court, 2006), the judgment recalled the international binding instruments for the Indian State and the obligation of the human settlement policies to be in conformity with the international legislation; it further stressed:

- the statutory obligation of DDA to provide housing to the EWS as per the stipulation of the Master Plan for Delhi;

- the failure on the part of DDA to perform that statutory duty;
- and the entitlement of the EWS residents whose homes were demolished to be considered for allotment of a plot or a housing unit.

Last but not least, civil society organisations welcomed the “path breaking” judgment in favour of slum dwellers delivered by a division bench of the Delhi High Court on February 12, 2010 in the case *Sudama Singh vs Government of Delhi and other connected matters*. Dismissing the argument of the Delhi Government and the Municipal Corporation of Delhi that these jhuggi dwellers did not deserve to be relocated as they had set up their jhuggis on public roads and thus violated the ‘right of way’, the bench stressed that “jhuggi dwellers are not to be treated as secondary citizens. (...) They are the citizens who help rest of the city to live a decent life, they deserve protection and the respect of the rights to life and dignity which the Constitution guarantees them”. This judgment challenged other judgments by the same court, pointing to a conflict of judicial views.

rights, especially of the poor”, as denounced by housing rights movements (Kothari et al. 2006: 43; COHRE, 2008). Nonetheless, views that are more favourable to the right to shelter for the poor reappeared in some recent judgments (Box 16).

3. Current Political and Academic Debates – Policy and Research Questions

3.1. Which conditions for effective housing and slum policies?

There is a consensus to recognize that, till date, the poorest sections of the population gained very few benefits from the urban strategy that has been implemented since the 1990s. Thus, at the end of the Tenth Five-Year Plan (2002-2007), “99 per cent of the housing shortage of 24.7 million (...) pertains to the EWS and LIGs” (GOI, 2007: 3). There are however diverging views regarding the most appropriate way to overcome the housing shortage and the slum problem.

Which role for the market?

The underlying neo-liberal agenda of urban and housing policies (including RAY), and the emphasis on market forces, has been criticized by some civil society organisations and researchers (HIC-HLRN 2009; Mahadevia, 2006 and 2009,

Nijman 2008). They denounced the tendency of the state to pull back its role and responsibility regarding provision of land and housing for the economically weaker sections of society. In contrast, other academic circles advocate an even stronger role for the market (Annez et al., 2010). They argue that government intervention should make the market operate better and recommend measures to facilitate (i) private provision of dwelling units of lower standards affordable for slum dwellers; (ii) removal of regulatory constraints on land use; (iii) removal of barriers of titling and conversion of rural to urban land; and (iv) the clarification of property rights on frozen land.

Besides, the provision of free or highly subsidised housing for slum dwellers is criticized for creating perverse incentives. Appropriate community contributions in slum R&R is a principle which is also supported by some civil society organisations, such as the Mumbai based ‘Alliance’, in order to promote a more sustainable solution, and as a mechanism to strengthen the community’s empowerment, its community binding, self-respect and responsibility (Burra, 2005: 79).

Yet with regard to slum rehabilitation, depending too heavily on the private sector does not seem a tenable option, as the success of schemes using land as a resource relies on very high land prices.

When the real estate market stagnates or goes down, this type of investment is not attractive anymore for private builders. Moreover, in the case of in-situ redevelopment, builders are interested only in certain lucrative locations (Nijman, 2008).

Therefore, others such as Rakhi Mehra, co-founder of Micro Home Solution (www.microhomesolutions.com/), advocate a portfolio of housing solutions, including dormitories and rental, each with user contributions and based on ability to pay, rather than the “one-size-fits-all allotment model”. The argument is that only a variety of solutions can address the diverse needs of the urban poor, which are a highly-segmented group. In other terms, affordability and diversity should be combined.

Slum upgrading: problem or solution?

The argument in favour of slum upgrading could be summarized as follows. Slum settlements should be considered as habitat developed by the urban poor and for the urban poor, to support their livelihoods and living. Thus public policy should work to improve the conditions of this habitat, and aim at facilitating these processes instead of disturbing them. The investment made by the urban poor should not go to waste (see, among others, Our Inclusive Ahmedabad, 2010, Box 17).

Yet, there is legitimacy in the criticism of an approach that attempts to make slums a permanent feature of the cityscape: such an approach actually obliterates the distinction between the problem and the solution (Dewan Verma, 2002; Dupont and Ramanathan, 2009). Slums have no place within the concept of a planned city. The existence of slums is, then, an index of failure in the planning or execution of the plans. The under-achievement in generating housing stock for the EWS suggests that non-execution of the housing programme is one

identifiable reason for the proliferation of slums; and upgrading *in situ* would only make permanent the problems with the failure of planning, or execution of plans, for the city. In this view, the problem is then presented as the solution. This would discharge the state from its responsibilities, and would relegate residents of slums to conditions of living that are lower than would be admitted into any rational plan; moreover, it would perpetuate the extremely unequal access to land by the urban poor.

The divergence of arguments also highlights the complexity of slum-related issues, which require answers in the short and long-term.

3.2. Cumulative impoverishment generated by forced evictions

The effects of forced evictions⁷⁵ that accompany the slum clearance policy and R&R programmes raise serious concerns and questions that policy makers must not ignore. The lack of secure tenure in most slums or, in other words, the exclusion from the “legal” city, entails a risk of eviction leading to inadequate resettlement or homelessness, urban nomadism and further impoverishment. The most vulnerable are those families who are denied access to R&R programmes. With the destruction of the living space, several dimensions of impoverishment may combine or jointly strengthen each other, especially in homeless situations. The waning of any type of asset (human capital affected by early school drop-out, for example) can affect another type of asset in the future (financial, due to declining incomes) and thus compromise capabilities. In addition to the loss of the house and material belongings, forced eviction may entail cumulative effects through losses of rights and chain deprivations: deprivation of resettlement and rehabilitation entitlement, loss of house and address, loss of civic rights, bar to gain access to certain jobs or schools, and/or loss of actual or future incomes. All these jeopardize

⁷⁵ Following the United Nations’ human rights approach, forced eviction is defined as “the removal of individuals, families or communities from their homes, land or neighbourhoods, against their will, directly or indirectly attributable to the State” (OHCHR-UNOG 1996: Introduction).



the right to the city and the right to live with dignity. From tolerated squatters, the non-rehabilitated displaced families become second-class citizens and illegal city-dwellers.

Yet, slum families who could “benefit” from a resettlement scheme also suffer from the loss of livelihoods in relocated sites, usually situated on the city outskirts. Most often, and contrary to the principles stated in policy documents on slums, adequate urban services and infrastructure do not precede the resettlement of families and may take several years to be put in place. Impoverishment occurs because of the remoteness of urban resources and the lack of access to basic urban services and social facilities on the site, including health care and adequate schools. This shows the failure of planning, or the negligence of the public authorities’ towards these settlements. Additional costs thus include increased transportation costs, increased housing and maintenance expenses (including electricity and water bills), loss of jobs or lack of increase in salaries while expenses rise. Consequently, although resettlement programmes may strengthen the right to gain access to a secure place to live, on the other hand, they tend to erode the rights to economic and socio-cultural opportunities. This ensues from a restricted approach that treats housing in isolation, whereas there is a need to look at socio-economic and livelihood issues in an integrated manner.

Heavy losses and expenses following evictions affect all households in demolished slums, irrespective of whether they are entitled or not to a resettlement programme. In addition, excluded families that remain in an illegal situation by squatting once again in vacant plots, or by living on the pavements (because of their lack of means), expose themselves to the risk of further evictions. Repeated demolitions or acute residential insecurity promote processes of marginalisation, nomadisation and pauperisation, that reveals the inability of evicted families to rebuild their lives over time and recover from the shock of demolition (Dupont, 2010).

The processes analysed above question the “treatment” of slums and squatter settlements by governments and local authorities: in addition to these adverse effects, especially on children, the question raised is whether this treatment has in fact, deepened exclusion? Although policies may mention inclusiveness in their objectives, they generate new forms of exclusion through other mechanisms. Exclusion mechanisms stem, first of all, from the very design of most R&R programmes in urban areas, specifically their eligibility criteria: the application of a “cut-off” date of arrival in the settlement; and the financial contribution required from households. This restricted entitlement to R&R constitutes an obstacle to a sustainable response to the housing need of the urban poor. Secondly, *de facto* rights are further restricted by other exclusion mechanisms, which stem from the conditions under which the programmes are implemented, and result in the exclusion of a number of eligible families as well (Dupont, 2010). The exclusion of tenants from slum R&R schemes is also a common phenomenon. In fine, the process of rehabilitation or resettlement is not equal for all.

The destruction of squatter settlements without adequate rehabilitation leads to fresh illegal occupation of land, or to the expansion or densification of existing slums. This chain process has been quite common in Indian cities. Far from being urban poverty eradication programmes, slum clearance policies remain limited to being policies for the eradication of the symptoms of housing poverty in the most visible urban spaces. In fact, they further impoverish the large number of slum-dwellers who are excluded from R&R programmes. This questions the foundations of such public policies and the conditions of their implementation.

In the context of Indian cities, the “Slum-free City” slogan raises different expectations for different people: for the poor, this is the promise of better living –especially housing– conditions; for slum dwellers with no tenure rights, it evokes a threat of demolition without proper rehabilitation; for the real estate lobby and builders, there is an

expectation that the lands cleared from slums will be replaced by private housing estates, with a relaxation of regulations; and for the urban middle-classes, “Slum-free City” means getting rid of the sight of slums and ensuring their own comfortable living in a sanitised city. Furthermore, the word “slum” itself “is also dangerous because it confuses the physical problem of poor quality housing with the characteristics of the people living there” (Gilbert, 2007: 697), and is subsequently conducive to the undertaking of worst practices in relation to slum evictions.

3.3. Identification of “worst” practices

Reports prepared by the Housing and Land Rights Network (<http://www.hic-sarp.org/>), the National Human Rights Commission, the National Forum for Housing Rights, Indian People’s Tribunal on Environment and Human Rights (www.iptindia.org), the Centre on Housing Rights and Evictions (www.cohre.org) provide numerous illustrations of bad through to worst practices, involving violations of human rights by the Indian state, in the context of slum demolitions and forced evictions, or police harassment of houseless people, and in contravention of international laws. Such violations concern “not just the human rights to adequate housing, but also the human rights to livelihoods, health, education, water, food, culture, and the right to live with dignity”, the situation being much worse for women and children (Kothari et al., 2006: 57). To summarize, the state’s worst practices include repeated demolitions without any alternative option provided, without prior notification as mandated, without sufficient time given to the people to save their belongings before their houses are destroyed, and above all with the use of violence, including cases of setting fire to facilitate demolition.

This catalogue of violations of rights would not be complete without mentioning the context of the 2010 Commonwealth Games in Delhi: in

addition to forced eviction from slums (HIC-HLRN, 2011), anti-beggary laws (such as the Bombay Prevention of Begging Act, 1959) were used against homeless people, in order to ‘clear’ the city from their sight before the international event, which entailed arrests, detention in “beggar homes” similar to jails, and deportation outside the city – in short a clear denial of access to the city for the homeless, which was denounced by national as well as international NGOs and human rights organisations (Hazards Centre, 2010; HIC-HLRN, 2010; Amnesty International⁷⁶).

4. Initiatives Aiming at a Better Inclusion of Slum Dwellers in the City

Civil society organizations (CSOs) have been active in defending the rights of slum dwellers and the houseless, to make their voice heard, help them improve their living conditions and access to Resettlement and Rehabilitation (R&R) programmes, with however mixed results with regards to forced evictions. Other interesting initiatives have also emerged from the social enterprise sectors, from the funding agencies as well as from the government.

4.1. Human rights and housing rights movements

Some organizations –such as Habitat International Coalition–Housing and Land Rights Network, the National Forum for Housing Rights– articulate their actions through denunciations, protests and advocacy under the paradigm of human rights. They use the human rights framework that flows from the Indian Constitution (see above) and from the international human rights binding instruments that India has ratified, especially the International Covenant on Economic, Social and Cultural Rights that elaborates in the most comprehensive way the right to adequate housing and explicitly precludes the practice of forced evictions. Noting

⁷⁶ “India must address forced eviction and other human right abuses in Delhi during the Commonwealth Games”, Amnesty International Statement, 4/10/2010 (AI Index: ASA 20/029/2010), London.



that “*de jure* ratification of international legal instruments has not substantively translated into improved housing and living conditions nor quelled the pattern of forced evictions”, they further denounce “the vast schism between existing legal entitlements and the social reality of housing conditions in India today” (Kothari, 2003: 6). In other words, their endeavour is to make formal rights real, i.e. to transform them into substantive rights.

The Asian Coalition for Housing Rights, a network of grassroots organizations and NGOs, has also played a significant role since the end of the 1980s. Promoting community-to-community exchanges as a peer learning process, experiences and knowledge were shared through the network, such as the:

“formation of saving and credit groups of low-income women, (...) community-driven enumeration of local residents, surveys and mapping of slums, model houses as a mean of creating norms and standards that the poor themselves recommend to city decision makers, and negotiations with municipalities and local governments for secure land tenure, housing and infrastructure. These activities were designed to build community-based organisations of the urban poor. (...). Innovative and charismatic activities (...) were replicated and institutionalized as a strategy” (Patel et al., 2001: 47 & 56).

The Indian Alliance of an NGO, the Society for the Promotion of Area Resource Centre (SPARC) and two grassroots organizations, the National Slum Dwellers Federation (NSDF) and Mahila Milan (a decentralized network of savings’ collectives formed by women and pavement dwellers)⁷⁷, was particularly active in this network, and the above strategies have been implemented in Mumbai and some replicated in other Indian cities too (Boxes 18 & 20). This movement gained recognition by international institutions. The ‘Alliance’ also gained visibility in the academic world through

its regular articles in the journal *Urbanization and Environment* (Burra, 2005; Patel et al., 2001, 2002, 2009; Arputham and Patel, 2010).

4.2. Civil society organizations’ mobilisation

Some initiatives aim first at more transparency and providing a space for people affected by forced displacements to voice their opinions, protests and suggestions. The public hearing on habitat and livelihood displacement in Ahmedabad illustrates the same (Box 17). The types of actions and protests organised by CSOs against slum demolitions and inadequate resettlement also include public meetings, rallies, sit-ins, the holding back of the demolition squads, petitions with collection of signatures, legal petitions filed in the courts and also awareness campaigns (such as, in Delhi, the Campaign for the Right to Live with Dignity launched by Delhi Shramik Sanghathan, the Jagori-led “Stop eviction campaign”, and, in Mumbai the “Ghar bachao ghar banao Andolan” – ‘Save home, build homes’ movement), all of which can create empowerment and capacity building among affected people.

In Mumbai, the introduction of the Dharavi Redevelopment Plan in 2004 under a public-private partnership raised a strong opposition movement:

“activists from Dharavi’s residents’ associations, community-based organizations and other civil society groups have sought to engage the authorities in dialogue to address its many critical deficiencies. There has been some successes – for instance, the setting up of an expert committee with civil society representation by the officer in charge; acceptance of the need for a comprehensive household survey, and discussions about a more decentralized community-driven upgrading” (Arputham, Patel, 2010: 501).

CSOs’ mobilisation in this city further exemplifies initiatives aimed at strengthening community participation in the context of partnerships

⁷⁷ For further information about the “Alliance” (as it is called in short), see: <http://www.sparcindia.org>

developed in the 2000s between the local government, NGOs, CBOs and the private sector in slum R&R programmes. The NGOs, that initially came into play to compensate for government apathy in providing urban amenities and to help slum dwellers to fight against demolition and to access better resettlement conditions, got involved as developers in R&R schemes (Boxes 18 & 19).

Some key lessons emerged from these experiences, namely –

“the importance for low-income households and their communities of being organized and, if they have to be resettled, of being able to engage in the development of their resettlement and relocation (including its location) and to have a major role in determining the actual logistics of the move. Low-income settlements need strong, representative community organizations that can negotiate resettlement programmes that are acceptable to their members; that can make sure that provisions are made for

everyone affected by the resettlement, and that can oversee the move and be there to cope with difficulties in the site to which they move” (Patel & al., 2002: 170).

The role of NGOs and CBOs in coordinating the slum dwellers resistance and setting the conditions of their R&R proved rather effective in Mumbai, where pro-poor activists, including charismatic figures of the intelligentsia (Box 19) contributed to the campaigns’ success. As a result, slum dwellers are better organised and armed – as compared, for example, to their Delhi counterparts – to negotiate with other stakeholders, public as well as private, and assert their basic rights (Dupont & Saglio-Yatzimirsky, 2009; Kumar 2008). This also highlights the diversity of urban contexts.

Some experiences of resettlement described in this section underline the realignment of roles between state agencies and Non-Governmental Organizations (NGO) and Community-Based Organizations (CBO) with a critical engagement of the latter in partnerships where the role of

Box 17. Public hearing on habitat and livelihood displacement in Ahmedabad

A forum, named “Our Inclusive Ahmedabad” was set up by concerned citizens of Ahmedabad. It included members of the slum communities and street vendors’ groups, individuals working with the urban poor through NGOs, human right activists, academics, business people, entrepreneurs and lawyers. The Forum organised a public hearing on December 19th, 2009, to bring to the fore the various issues of urban development and displacement as experienced by the poor of the city of Ahmedabad, and also to generate ideas on alternatives in urban development that would include the lives and livelihoods of the poor. Before holding a structured public hearing, a jury of nine prominent residents of the city visited the people affected by displacements and held discussions with them to undertake a comprehensive view of reality. About 600 people participated in the public hearing to which government representatives were also invited.

This was the first such city level consultative process held in the city in the last two and a half decades. The depositions were collected in two segments: the first one focused on the stories of the victims of the displacements; and the second one involved presentations by specially invited people, on the possibilities of taking care of the poor in the city’s development projects.

The jury’s verdict included several conclusions the relevance of which goes beyond the context of Ahmedabad city and could be treated as general policy recommendations.

Sources: Our Inclusive Ahmedabad (2010) [URL: <http://www.spcept.ac.in/download/cuemisc/Public-Hearing-Report-2010.pdf>]

Box 18. Displacement from the railway tracks in Mumbai: an example of people managed resettlement

The improvement of Mumbai's rail transport is one component of the Mumbai Urban Transport Project, funded with a loan from the World Bank, with the Mumbai Metropolitan Regional Development Authority (MMRDA) as the project implementing agency. The project entailed the displacement of low-income squatter settlements situated along the railways tracks. The MMRDA entrusted the NGO SPARC and its Alliance partner, the CBO Railway Slum Dwellers Federation (RSDF), to monitor the R&R scheme.

The displacement of 60,000 people was carried out without coercion, between April 2000 and June 2001, first to transit accommodation and later to housing built by the Mumbai Housing and Area Development Authority. The long term engagement of SPARC and RSDF in mobilizing slum dwellers on railway lands since the 1980s and in supporting women to set up saving groups for relocation housing, proved to be crucial to quickly manage the resettlement process. The resettlement programme was thus underpinned by strong levels of community organization among the population to be relocated, including active women's participation. The community involvement consisted of: preparing the baseline socioeconomic survey of households to be moved (including hut-counting, rough mapping, numbering and a cadastral survey, a household survey and settlement profile), designing the accommodation into which they moved, and managing the relocation process, including the allocation of housing units, with a particular consideration for the regrouping of households. In the resettlement site attention was given to minimizing the costs for those who were relocated.

Importantly, the World Bank's clear R&R policy compelled the railway authorities to abide by these guidelines as a condition for obtaining the loan they needed to modernise their system.

Sources: Patel, d'Cruz C. and Burra (2002); Banerjee (2010).

the state is that of a "facilitator" – a position advocated by the Alliance. However, "the participatory approach is not an instant fix and takes long to take root and be effective, especially in a large heterogeneous population and with divergent interests" (Banerjee, 2010). In addition, in such a model of NGOs' intervention, there is a risk of blurring the roles of the various actors involved in slum R&R policies, and of introducing new vested interests (Dewan Verma, 2002). NGOs may also lack the necessary strengths and skills to endorse the increased responsibilities transferred to them. This concern was indeed stressed by the World Bank Inspection Panel (2005) as regards the implementation of the resettlement component of the Mumbai Urban Transport Project. Furthermore, the issue of eligibility criteria –the cut-off date that excludes many dwellers from the R&R programmes – remains un-addressed even in the successful

experiences of resettlement monitored by NGOs and CBOs. Working within the state policy framework, Civil Society Organizations' involvement in Resettlement and Rehabilitation programmes cannot achieve an entirely inclusive pattern.

The challenge is to scale up some of the good initiatives and practices at a level where it can influence policies and thus have a larger impact, while recognising at the same time that a single model and uniform packages are not likely to work – as suggested also by other ventures.

4.3. Initiatives by "social enterprises"

In the sector of "social enterprises", some initiatives aim at providing affordable housing options, such as "Micro-Home Solutions" who insist on the need to conceive a range of options to meet different needs

Box 19. The Chandivali resettlement project in Mumbai

This is an example of a resettlement process in Mumbai monitored by an NGO, Nivara Hakk Suraksha Samiti (NHSS), in the context of the eviction of slum dwellers from Sanjay Gandhi National Park (SGNP), following an order of the Bombay High Court in May 1997 in a PIL. Using the clout of its chairperson, a famous actress and former Member of Parliament, the NHSS approached the Government of Maharashtra and its Chief Minister to find an alternative site. Simultaneously, a private builder (Summer Corporation), proposed a piece of land for a resettlement project in the suburb of Chandivali, 10 km south of the SGNP. This 89 acre plot, located along a hilly scrub land, was at that time rented to a private quarrying company and had already raised controversies over its development potential as a residential zone.

The Housing Minister brought together the NHSS leaders and Summer managers, who agreed upon the construction of 25,000 flats of 21 sq.m, out of which 12,070 would be for the Park's slum dwellers. NHSS acted as the developer and its leader as the project's architect. The proposal was accepted by the High Court in 2000. The name of the resettlement complex, Sangarsh Nagar (the village of the struggle), reflects NHSS' vision of an achievement for the slum dwellers after years of judicial struggle.

The housing project was financed through the allotment of TDR to the builder, to subsidize free flats for the relocated families. The involvement of the NGO NHSS in the project was omnipresent in each and every step of the process, from the legal struggle and the survey of eligible families to the drawing of blueprints and the monitoring of construction; initially NHSS acted as the developer of the project. The monitoring and control of the slum dwellers' eligibility documents by forest officers took place within the NHSS welfare centre and under the NGO's supervision. In contrast, the role of the Slum Rehabilitation Authority (SRA) was limited to a few controls carried out by its engineers.

The relocation site is closer to the historical centre of Mumbai than the original slums, which is a unique feature for a resettlement project in this city. The construction of the complex started in 2005. The quality of construction for the blocks of flats and the provision of amenities planned by NHSS were far higher than the standards required by the SRA. However, in 2007, strong disagreement arose between NHSS and the private builder, who did not find it profitable and necessary to deliver such high quality construction for a slum rehabilitation project and finally appointed its own architect. Subsequently, the plans were considerably modified and the second lot of flats are of a lesser standard as compared to the first 5000 flats delivered according to NHSS plans.

This experience highlights the importance of NGO involvement, but also of political connections, in order to be able to propose an alternative resettlement project better suited to the needs of displaced slum dwellers – notwithstanding the environmental hazard. But it also shows the limits of the NGO's power to promote an improved housing model against the diverging financial interests of the private builder, in the constraining framework of public-private partnership scheme under the SRA.

Source: Vaquier (2010).

Box 20. Experiences with surveying and mapping Pune and Sangli slums on a geographical information system (GIS)

The NGO Shelter Associates and Baandhani (“building together”), an organization of women and men slum dwellers, worked together to collect information on each household in slum settlements in Pune and Sangli (Maharashtra) and to map this, along with infrastructure and service provision and each slum’s position within the city. This permitted data on slums to be superimposed on these cities’ development plans, by using a GIS. This provides an important information base for improving infrastructure and services within slums and for integrating slums into city-wide planning.

There are contrasting experiences in the use made by the two local governments of this information. In Pune the slum census project was stalled because of little interest among the municipal officers and engineers, strained relations between administrators, and ultimately because the Municipal Corporation stopped its funding. In contrast, in Sangli the municipal officers and engineers participated in the survey, and the involvement of the local government proved to be a key factor for the success of the experience.

This shows that the involvement of all three partners –the communities, NGOs and government– is essential to ensure the inclusion of slum settlements in mainstream urban planning and development.

Source: Joshi, Sen and Hobson (2002).

(www.microhomesolutions.com). Evoking its “traditional social responsibility”, the international Lafarge Group has also shown some interest in “projects to enable poor people to access to a higher quality habitat” as evidenced by a study recently sponsored by the Group – Affordable housing in India: Need and emerging solutions (Escale Responsable, 2010). Yet, these initiatives indicate a shift towards considering the poor as a market. They will involve loan instruments and thus create dependency on financial institutions; therefore, it raises concern about the main beneficiaries of this potential window of opportunities.

4.4. Monitoring by funding agencies

The international funding agencies (such as the World Bank and the Asian Development Bank) had influenced R&R policies in India, as their conditionality includes directives for adequate rehabilitation of the affected population. For example, the Operational Directive 4.30 of the

World Bank (1990) stipulates the following rules: involuntary displacement should be avoided or minimised; when it is unavoidable, a resettlement plan should be included in the initial project; community participation in planning and implementing resettlement should be encouraged; land, housing, infrastructure and other compensation should be provided to the affected population.

In 1993, an inspection panel was created as an independent mechanism to ensure accountability in Bank operations with respect to its policy and procedure; it intervenes on request of the affected people. In the Mumbai Urban Transport Project implemented by the MMRDA, the Bank suspended its funding based on the inspection panel report set up to investigate complaints to the Bank by project-affected population. The Panel found that most of the complaints were justified (World Bank Inspection Panel, 2005). Thus, operation directives of the World Bank and the Inspection Panel provide a commendable safeguard



mechanism to promote a resettlement process that is more respectful of the project-affected people's interests, as well as an evaluation mechanism allowing drawing lessons. Due to these safeguards, the Bank-financed projects often provide more guarantees for the affected people than other urban operations not financed by the Bank and involving forced evictions. This may create a discrepancy of treatment among the inhabitants of a same city, as in the case of Mumbai (World Bank Inspection Panel, 2005).

4.5. Government initiatives

E-governance may be a promising tool to promote better access to information and better transparency through the net. For instance, the recently established Delhi Urban Shelter Improvement Board, in force since July 2010 under the Government of the NCT of Delhi, posts on its website (<http://delhishelter.nic.in/>) a series of documents, including lists of allotted plots under resettlement schemes, lists of cancelled plots, important circulars, etc. Yet, sharing information and transparency are far from being the norm in urban projects, especially before their implementation. Thus, for the Mumbai Metro Rail Project-phase II, no information was shared even under the Right to Information, as it was refused with the argument that "sharing information would be a threat to the security of the nation".⁷⁸

The "Peer Experience and Reflecting Learning" (PEARL) under JNNURM also deserves mention. It is presented as an initiative "to support cities to actively pursue activities in implementation of projects and reforms" (...) "It is felt that cities identified under JNNURM, can network amongst themselves for cross learning and sharing of experiences, hence effectively managing their cities" (www.indiaurbanportal.in). This initiative includes on-line documentation of "best practices" in the field of housing for the poor, urban renewal and R&R. But what is presented as "best practices" from the point of view of the

urban authorities and implementing agencies may not be perceived in the same way by other stakeholders, especially the project affected persons. For instance, the Sabarmati River Front Development Project in Ahmedabad (launched in 2004) is documented on this portal as a best practice of urban renewal, while the findings of a seminar and a public hearing (Box 17) held in 2009 on development induced displacements evidenced, in contrast, many flaws and unsolved issues. As a step towards more comprehensive knowledge, the PEARL initiative could be improved by opening up a space for discussion, including contested views, on its website.

5. Barriers to Achieve a Better Inclusion of Slum & Pavement Dwellers

Different types of barriers and limits can be identified:

The first limit is institutional; it results from the distribution of power and responsibilities between the federal government and the state governments. The latter are in charge of land administration, including urban development and housing, but "the oversight exercised by the federal government is insufficient to ensure effective implementation of the existing strategies and policies to ensure the right to housing for all" (HIC-HLRN, 2009: 9); it is also insufficient to ensure that all the commitments of the Indian State ensuing from the ratification of international conventions and covenants are respected.

Social barriers prove to be very strong: class prejudices and existing stereotypes include perceptions of slums as centres of illicit activity, and slum dwellers as squatters, encroachers or criminals, thus as illegal residents as opposed to lawful citizens (Dupont and Ramanathan 2008; Kothari et al., 2006). Such perceptions, shared by the police, municipal officers and urban authorities, generate contempt and violence

⁷⁸ "India: Slum Dwellers Protest No Say On Mumbai Metro Phase II", 13 May 2009, <http://www.sacw.net/article912.html>



(Baviskar, 2003) and affect the poor migrants in general. They also pervade the discourse of urban governance: as long as the slum dwellers are perceived as illegal, they will not be considered as deserving recipients of the benefits of public policies.

The lack of accurate and updated knowledge about slum dwellers, and even more about pavement dwellers and houseless people, contributes, on the one hand, to prejudices and biased perceptions and, on the other hand, to the urban authorities' policy blindness.

In the planning of the city there are conflicting interests between all stakeholders, including divergent interests among the large and heterogeneous populations of slum and pavement dwellers. Their lack of empowerment and mobilization to push their cause along with conflicting uses of space, all these factors hinder a better inclusion of slum and pavement dwellers in the urban planning process.

Several deficiencies in the programmes for urban poverty alleviation have been already identified (GOI-Planning Commission, 2002; Mathur, 2009: 29-30). They include: frequent changes in the make-up and composition of the programmes, without, however any systematic evaluation; the failure of specific provisions in municipal laws for dealing with issues relating to the urban poor and the slums; a lack of capacity building mechanisms for municipal bodies; continuing uncertainty regarding institutional arrangements for slum improvement programmes and the lack of a coordination mechanism between local urban bodies along with an overall inability to provide a "place for the poor in the town planning process". To this can be added the capture of slum R&R programmes and housing schemes meant for EWS and LIG by higher income groups; and, not insignificantly, as the problem of corruption in the implementation of the programmes. To some extent, many of these deficiencies reflect a lack of commitment and the absence of political will.

6. Policy Recommendations⁷⁹

- Housing and slum policies should be based on a proper understanding of the processes of urbanization and migration toward the cities, as well as of the links between the development of informal settlements and the lack of affordable and adequate housing for the lowest income groups. The vital connection between the habitat of the urban poor and the access to their means of livelihood should also be taken into consideration. Therefore, R&R programmes and housing policies in general should be articulated to facilitate the access to employment opportunities, urban services and social amenities. Consequently too, the habitation of the urban poor should be well connected with affordable and efficient public transport systems.
- The deficiencies in urban poverty alleviation programmes should be addressed. Priority should be given to increasing land and housing supply for the urban poor, including public housing schemes. This should be supported by mechanisms to prevent the capture by higher income groups or the land mafia, and for controlling real estate speculation. Legislative backing for the allocation of land to the urban poor would be necessary. The earmarking of a significant share of the land and housing supply in public as well as private layouts/housing projects to EWS and LIG should be made a precondition to benefit from funds under the RAY programme.
- Housing policies should encompass a range of options, including dormitories, short- to long-term rental housing units, and not focus mainly on access to home ownership. They should also take into consideration historical, cultural and social realities. To address the specific and immediate needs of the homeless, sufficient and adequate shelters should be created, including separate shelters for women and children. However, this has to be understood

⁷⁹ This section includes some of the policy recommendations formulated by human right movements (such as HIC-HLRN) and civil society organisations (such as Our Inclusive Ahmedabad).

as emergency measures to avoid further impoverishment. It cannot be a substitute for poverty alleviation policies which must address the roots of the problem and encompass both rural and urban areas and their linkages.

- Although the diversity of needs has to be recognised, slum and housing policies should be based on the notion of universal entitlement and citizenship. Therefore, security of tenure should be provided to all slum dwellers, irrespective of their date of arrival in the city.
- Specification of a “cut-off date” of arrival in the settlement as an eligibility criterion for R&R programmes should be eliminated. This is not based on any substantial rationale and creates different citizenship’s entitlements in terms of rights to housing. Moreover, cut-off dates can sanction the demolition of houses thereby disenfranchising many vulnerable urban residents and generate further exclusion and impoverishment.
- More transparency and accountability and a truly participatory process at every step, with various stakeholders, should be embedded in urban policies and the implementation of urban projects. In the case of projects entailing displacement, an “eviction impact assessment” should be undertaken which includes social environmental and economic impacts, before any eviction is carried out.
- When displacement is unavoidable, the government must establish appropriate procedural safeguards in accordance with international law and international human rights standards.
- Human rights education and vocational training is essential at all levels - this would include present and future policy makers, town planners, police forces and officers in urban local bodies - in order to fight against prejudices vis-à-vis the urban poor and slum dwellers, to recognise their due place in the planning process and in policies, and to promote human rights consciousness. Outdated legislation like the Bombay Prevention of Begging Act of 1959, and other analogous laws, should be abolished, as they effectively criminalize the poor and the homeless and are used against them. Training in schools of planning and architecture should also pay more attention to low-cost housing, to be designed in consultation with the concerned residents.
- Responsibilities: Ensuring the right to adequate housing is not only a matter of public policies, but a shared responsibility of the state and the civil society. The latter can contribute to this task by seeking redress when necessary and using a human rights framework to that end.

Dupont Véronique.

The challenge of slums and forced evictions.

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