

# **Bulldozing Rights**

**A Report on the Forced Evictions and  
Housing Policies for the Poor in Mumbai**



**Indian People's Tribunal on Environment and Human Rights**

**June 2005**

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Committee for the Right to Housing (CRH)

Disability Rights Initiative

Girni Kamgar Sangharsh Samiti (GKSS)

Jopdi Bachao Parishad

Manav Mukti Morcha

National Alliance of Peoples Movements (NAPM)

Nirbhay Bano Andolan

Peoples Association for Training and Health (PATH)

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Youth for Unity and Voluntary Action (YUVA) and others

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**COVER PHOTO:** Little Mahendra watches as his house falls to the bulldozer at Mankhurd in New Mandala Slum (Courtesy - Ramesh Nair, Indian Express)

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May 19, 2005

Compassionate Prime Minister Dr. Manmohan Singh,

The Mumbai slum dwellers are a lamentable lot and remain a shock and shame to Indian fraternity culture and constitutional secularity. The Preamble and other articles like Article 14 and 51A declare, in no uncertain terms, every Indian's right to dignified life. Alas, the enclosed appeal to you by Medha Patkar makes out a gross violation of the slum dweller's human rights. I endorse with tears this trauma and the need to end it. You, as a Prime Minister, are a symbol and activist instrument to fulfill what the Constitution mandates and the Maharashtra Executive in its pachydermic indifference to the poor and favoritism towards the affluent proprietoriat. May I add my humble humanist plea for mercy from you and the Indian Executive immediately to save the miserables of Mumbai from the negative governmental terrorism? I hold this peroratory demand for your kind adoption to save and salvage the men, women and children who belong to Bharat but face a crisis of temporal life. I am hopeful of gracious response from you and from the Chief Minister of Maharashtra. I close with this note of optimism. Listen too to Vivekananda:

*Feel, my children, feel for the poor, the ignorant, the downtrodden;  
feel till the heart stops and the brain reels and you think you will go  
mad.*

Yours sincerely,

*V R Krishna Iyer*  
(V.R. KRISHNA IYER)

P.S : The words of Jawaharlal Nehru and of Gandhiji are a reinforcement of Indian National mission towards the lowliest, the least and the lost.

Encl : as above  
To,

Dr. Manmohan Singh  
Hon'ble Prime Minister of India  
7, Safdarjung Road  
New Delhi-110 001



**This report is dedicated to our friend and colleague Rajeev John George whose work in the field of housing rights for the poor has inspired many of us. He has been largely responsible for forming the National Forum for Housing Rights (NFHR), and played a critical role in the national campaign against forced evictions. In this Tribunal too we relied on his help, suggestions and inputs while conceptualising and executing the Tribunal. Unfortunately soon after the Tribunal, Rajeev passed away and it is in his memory and in solidarity with all those who struggle for housing rights that we dedicate this report.**

## **Victims' Voices**

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Narendra Panigrahi, Sathe Nagar, Mankhurd

**"This demolition is almost like the end. Everything is in complete chaos. In my presence, there have been demolitions 5-6 times. Congress rules the state and nation also. They made false promises to get all of us in trouble."**

Yasmeen Siddiqui from Indira Nagar, Kurla

**"We want our votes back."**

Mansood Alam, Ambujwadi, Malad

**"I would like to ask Ramdas Athavale, representative of Baba Saheb Ambedkar, if Baba Saheb ever thought of such action against the poor - for bulldozing them as it happened in Ambujwadi. Today also watchmen are insulting our women."**

### **Promise of the UPA Government to the Urban 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. 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.

(Page 12, CMP, May 2004)

## **Acknowledgements**

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Indian People's Tribunal (IPT) would like to state its appreciation and indebtedness towards all those organizations that were part of the organizing team for the Public Hearing, namely Aapli Mumbai, Apanalaya, Asha Ankur, Azad Mohalla Sangharsh Samiti, Bombay Urban and Industrial League for Development (BUILD), Centre for Enquiry into Health and Allied Themes (CEHAT), Committee for the Right to Housing (CRH), Disability Rights Initiative, Gimi Kamgar Sangharsh Samiti (GKSS), India Centre for Human Rights and Law, Jopdi Bachao Parishad, Manav Mukti Morcha, National Alliance of Peoples Movements (NAPM), Nirbhay Bano Andolan, People's Association for Training and Health (PATH), Prakashgrast Punarvasan aani Punarvikas Hakk Sangharsh Kruti Samiti (PPPHSKS), Shehar Vikas Manch, Youth for Unity and Voluntary Action (YUVA) and others. The Tribunal also thanks all the experts who deposed before the Tribunal – Mr. Khaimar (Ex-Deputy Commissioner, Demolitions), Maharukh Adenwala (Housing Rights Advocate) and Navtez (Housing Rights Activist).

This report would not have been possible without the dedicated help and generous information and inputs given by friends from YUVA – especially Raju Bhise, Mohan Chauhan, Amrita Goswami and Shweta Tambe and Members of Centre of Housing Rights and Evictions.

Darshini Mahadevia of School of Planning (Centre for Environmental Planning and Technology (CEPT), Clifton Rozario, Mr. Vidyadhar Phatak (Urban Planning and Management Consultant) and Neera Adarkar (architect and writer) - for their invaluable additions to the report, especially Darshini who lent her long experience on housing rights and helped us write the chapter on alternatives and solutions. We are very grateful to Puneet Shrivastava for transcribing the depositions in record time and to Karla Bookman and Pratibha Menon for their painstaking proof reading. Thanks to Naresh Fernandes and other journalist friends for their assistance with information, contacts and sourcing photographs. Eklavya Gupte for coming to our assistance and designing the report inspite of the very short time we gave him and Indian Express Newspaper for permitting us to use their photographs for the report.

The IPT was also fortunate to be able to get insights regarding background of the problem and possible solutions from, Mr. S.S. Tinaikar (Retd. Municipal Commissioner), Mr. Shirish Patel (Urban Planner and Architect), Mr. J.B. D'Souza (Retd. Chief Secretary, State of Maharashtra) and Mr. Nasser Munjee.

The release of this report is also an opportunity for the IPT to acknowledge the efforts of the members of the IPT secretariat namely - Priyanka Josson, Advocate Shakil Ahmed, Dr. Amita Bhide of Tata Institute of Social Sciences (TISS), Advocate D.Leena, Amarjit Singh and Maya Nair.

Finally this report would not have been possible without the courage and conviction of all those victims, experts, activists who came and deposed before this panel believing in the true spirit of accountable governance.

**NOTE:** Many of the facts and figures for this report have been obtained from primary, oral and newspaper sources. The IPT secretariat has formally written to the various government departments requesting for relevant facts and figures, however, till the report went to the press the Secretariat had received information only on the nature of land holding of the plots and the officers in each ward to approach in case of a complaint.

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### **Justice Hosbet Suresh**

Justice Suresh H. was born in Hosbet, Karnataka. He completed his B.A. from Mangalore University and M.A. and LL.B from Belgaum and later enrolled for his LL.M. with the University of Bombay. He started practice as a lawyer in 1953. In 1986 he was elevated to the High Court of Bombay. He held this position till he retired in 1991. He has headed innumerable commissions to look into human rights violations and is an integral part of the human rights movement in India. The most prominent of these commissions was the 'People's Verdict' one of the few unbiased and detailed reports on the Bombay 1993 riots and the other in 2004 on the 'Terror of Pota and other Security Legislation.' He has authored the book, Fundamental Rights as Human Rights.

### **Miloon Kothari**

Mr. Miloon Kothari an architect by profession has been actively involved in the issue of housing rights for more than two decades. Presently he is a special rapporteur of the United Nations Commission on Human Rights (UNCHR), on adequate housing as a component of the right to an adequate standard of living. He is affiliated to the Habitat International Coalition, New Delhi, India.

### **Kenneth Fernandes**

Kenneth Fernandes is the one of the founders and Coordinator of Asia Pacific Region, Centre of Housing Rights and Evictions. Currently he is based in Australia. He is also involved with the Asian Coalition on Housing Rights, Bangkok, Thailand. He has championed the cause of housing rights for the poor and contributed to several books on the same. As the Coordinator, COHRE, he has contributed to 'Reclaiming Housing Rights: Homeless Peoples' Participation is Essential' in the book "Homelessness, Human Rights and the Law Edition, February 2004". He has also written a book "How Communities Organise Themselves" which is a compilation of the proceedings of a series of fora, begun by Urban Resource Center, in which CBOs and NGOs came together to share their experiences and strategise on how to improve their situation.

### **Kalpana Sharma**

Kalpana Sharma, an prominent writer and social activist, she is currently the Chief of Bureau, The Hindu, a leading, national daily newspaper. She has authored several books, including the acclaimed "Rediscovering Dharavi: Stories from Asia's Largest Slum", a book that explores the vibrant informal sector that forms the backbone of Mumbai's economy.

### **Sanjeevani Kher**

Sanjeevani Kher, ex- assistant editor of Lok Prabha of Indian Express, is a freelance journalist. She has also been a television anchor for more than 30 years and is a member of the Censor Board for television and films. She is actively involved in the Pakistan- India Forum for Peace and Democracy. She is an active member of the Asiatic Library, and has published 12 books, which are mostly historical. She is a regular contributor of columns to several newspapers.

### **Salaam Bin Razzaq**

Salaam Bin Razzaq, a retired headmaster, is an acclaimed author from Maharashtra. An active social worker, he is the recipient of the Sahitya Academy Award 2004 for Short Stories. He had also been awarded for translation work by the Sahitya Academy four years ago, besides being the recipient of the Urdu Academy Award from Maharashtra, Uttar Pradesh and Bihar. He is the author of more than 10 books, including the award winning "Shikasta Buton Ke Darmiyan". He has also translated the famous Marathi novel "Mahin Ki Khari". He is a scriptwriter of telefilms. His upcoming telefilm is "Tere Saath" where he has written the dialogue and script.

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## **Introduction**

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The recent demolitions of slums in Mumbai which took place from November 2004 to February 2005 have rendered more than three lakh people homeless in a span of a few months, and constitute a gross violation of basic human rights. The government holds that it is merely removing "illegal" encroachments on public lands. But the ruthless manner in which the demolitions were conducted and the fact that even legal structures were demolished, has forced many poor people to ask whether they are being denied the right to live in Mumbai.

The Indian People's Tribunal (IPT) was approached by organizations working with the slum dwellers to investigate the legality of the demolitions as well as to look into the alternatives (if any) for poor people to obtain housing in the mega city of Mumbai.

The Indian People's Tribunal (IPT) on Environment and Human Rights was constituted by a people's mandate in 1993 to investigate gross human rights violations and cases of environmental degradation. The IPT process endeavors to inquire into the exact nature of a problem, and provide a true picture of the same. The IPT constituted a panel headed by Justice Suresh (Retd.), Kenneth Fernandes (Coordinator of Asia Pacific Region, Centre of Housing Rights and Evictions, Australia), Miloon Kothari (UN Special Rapporteur, on Adequate Housing), Kalpana Sharma (Bureau Chief Hindu Newspaper), Sanjeevini Kher (Marathi Journalist and Freelance Writer) and Salaam Bin Razzaq (Winner of this Year's Urdu Sahitya Academy Award).

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 housing for the poor;
- 3) To examine alternatives in urban planning practices that includes the poor and make recommendations on the basis of these.

The IPT Panel conducted a site visit to three areas where peoples' homes had been demolished followed by a public hearing on January 17, 2005, at Mumbai Marathi Patrakar Sangh. The site visit was done in Maharashtra Nagar, Indira Nagar in Mankhurd and Kannamaur Nagar Park Side, Vikhroli.

Following the Public Hearing this report has been written. The report has been divided into four parts –

**Part I** – Of the report focuses on the depositions given by the victims in the public hearing. These depositions have been reproduced to highlight the harshness and intensity with which demolitions have taken place. This section also looks into the costs incurred and the impact of demolitions on the poor.

**Part II** – Of the report focuses on the politics of demolitions, probing into issues like the cut off date, myths and realities relating to slums and demolitions especially issues like relating to shortage of land and funds for housing the poor. Part II also investigates contradictory government policies regarding land use and planning, particularly looking into the controversy surrounding the sale and use of the mill lands and land allotments by CIDCO in Mumbai.

**Part III** – Of the report analyses the various housing policies and laws of Government and our International commitments with regard to housing. This section also suggests the kind of alternative strategies needed to protect poor people from repeated evictions.

**Part IV** – Conclusions and Recommendations: Based on the findings and analysis given in the first three sections, this final part gives the conclusions and recommendations of the panel.

## VICTIMS' VOICES

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# 1

- List of lands from which slum dwellers have been evicted
- List of persons who deposed
- An estimation of the costs involved in demolitions: deposition by YUVA
- Impact of evictions on health: deposition by CEHAT
- Deposition of Mr. Khairnar, former Deputy Commissioner, BMC
- Highlights and summary of the facts that emerged from the public hearing

MAHENDRA PARIKH, INDIAN EXPRESS



Sahebrao Pawar (64) and his sister Rukmabai Chavan (65) were legitimate residents of Lal Mitti, Bandra ever since they came to Mumbai in the late 1970s. They moved to Ambujwadi in 1994-95 - now they are homeless

## VICTIMS' VOICES

In May 2004 the Congress party, in its Manifesto, promised to regularise slums in Mumbai city built before the year 2000. This promise played a large role in assisting the Congress to come to power in Maharashtra. A few months after the election the Congress-NCP combine – (Democratic Front Government) did a 180 degree turn on its promise and declared that all slums post January 1, 1995 would be demolished and the people who were dis-housed would not be rehabilitated.

Starting November 2004, demolitions started in earnest. The government declared that under the leadership of Vilas Rao Deshmukh, Chief Minister of Maharashtra and Deputy Chief Minister R.R. Patil, a team lead by Johny Joseph, Municipal Commissioner and Deputy Municipal Commissioner Mr. Kalam Patil initiated the demolitions. 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 West Suburb of Mumbai.<sup>1</sup>

An estimated 90,000 homes were demolished in 44 areas (There is no substantiated evidence of the number of people displaced or list put out by the government; these figures have been garnered from various newspaper reports). Representatives from almost all the affected areas deposed before the Tribunal

### List Of Lands From Which Slum Dwellers Have Been Evicted

*(Information obtained from BMC on 20th May, 2005 under the Right to Information Act),*

Sr.no	Ownership of Land	No of plots and area of plot	No of plots and area handed over to MMRDA	No of plots and area with Collector (yet to be handed over)	With BMC
1	Government	36 (272.80 acres)	18 (184.32 acres)	18 (88.48 acres)	
2	BMC	9 (16 acres)			9 (16 acres)
	<b>TOTAL</b>	<b>45 (288.80 acres)</b>	<b>18 (184.32 acres)</b>	<b>18 (88.48 acres)</b>	<b>9 (16 acres)</b>

<sup>1</sup> Indian Express, Mumbai Newsline Front page, December, 25, 2005

## List Of Cleared Government Plots To Be Handed Over To MMRDA :

	Place	Reservation	CTS No	Area	Dt of handing over
<b>Eastern Suburbs</b>					
1	Jay Ambe Nagar		376	2.5 Acres	04.02.05
2	Mandala	NDZ	6/1 S.No80	55 acres	17.02.05
3	Laxmi Nagar, Ganesh Nagar	Munl Park	1320 (P)	92 acres	17.02.05
4	Kanjur Gaon, Nehru Nagar, Near Dabba Co		S No 1286	0.13 acres	17.02.05
5	Near Waggeshwar Nivas, Kanjurgaon		S No 1186	0.25 acres	17.02.05
6	Naidu Zopadpatti		S No 236A, CTS No 194 A	0.18 acres	17.02.05
7	Adjacent to Eastern Express Highway		S No 236A, CTS No 194 A	0.41 acres	17.02.05
8	Khadi Jamin Nagar, near Pune Vidhyarthi Bhavan		S No 218	0.16 acres	17.02.05
9	Asalfa Village, Milind Nagar, Ghatkopar		S No 265	1 acre	18.02.05
<b>Western Suburbs</b>					
1	Parikh Khadi, Kurla	CRZ	8	4 acres	09.02.05
2	Survey No 83 D, Andheri (West Portion 1)	Garden, PG, Best Bus Depot	120	3 acres	05.02.05
3	Survey No 83 D, Andheri (West Portion 1)	Garden, PG, Best Bus Depot	120	3 acres	05.02.05
4	Karmarkar Compound, Dindoshi- Goregaon	R.G	108	0.5 acres	04.02.05
5	Shantaram Talao, Malad	R.G, P.G	825	0.75 acres	04.02.05
6	Hanuman Nagar, Akurli, Kandivali	P.G, School	163	10 acres	04.02.05
7	Gorai Khajan, Shivshakti, Borivali	NDZ		4 acres	04.02.05
8	Babrekar Nagar, Malvani	Health Complex, DP Road & RG, PG	S No 253/6A	0.37 acres	18.02.05

9	Plot next to Asmita Co-op Hsg Society	DP Road and RG	S No 263, CTS No 7	7.07 acres	18.02.05
<b>TOTAL</b>				<b>184.32 acres</b>	

**TOTAL PLOTS HANDED OVER TO MMRDA- 18 (184.32 ACRES)**

### **List Of Cleared Government Plots To Be Handed Over To MMRDA**

	PLACE	RESERVATION	CTS NO	AREA	Proposed date of handing over
<b>CITY</b>					
1	Ganesh Murthi Nagar, Colaba	NDZ (CRZ)		1.5 Acres	
<b>EASTERN SUBURBS</b>					
1	Maharashtra Nagar	NDZ and Residential	6/1, S No 80	20 acres	
2	Annabhau Sathe Nagar	Public Housing	138	23 acres	
3	Swayambhoo Hanuman Nagar, Vikhroli	CRZ	275	5 acres	
4	Ramabai Nagar		1276	0.375 acres	
5	Vikhroli Gaon		1A	1.25 acres	
6	Chhatrapati Nagar		657 A	1 acre	
7	Tungwa		123	0.4 acres	
8	Ramabai Ambedkar Nagar, Priyadarshini Colony		194 A	1.10 acres	
9	Jhulelal Chowk		5986	0.60 acres	
10	Himalaya Society		288	1 acre	
11	Daya Sagar		8	0.5 acres	

WESTERN SUBURBS					
1	Ali Talao, Malvani	NDZ	2631 S No 99	1.25 acres	
2	Andheri Market, Andheri (W)	RG and DP Road and Market	815	0.5 acres	
3	Mora Gaon (Juhu)	NDZ/ PG. Koli Housing	CTS No 7	1.5 acres	
4	Ekta Nagar, Malad (Survey No 263)	DP Road. RG	3256 S No 265	5 acres	
5	Ambujawadi	NDZ		23 acres	

TOTAL AREA OF PLOTS TO BE HANDED OVER TO THE MMRDA- 18 (88.48 ACRES)

### List Of Municipal Lands After Demolitions

	PLACE	RESERVATION	AREA	Protection measures b MMC
CITY				
1	G/South Ward- Mauju Worli, Opp Old Passport Office, Mahakali Nagar, Worli Sea Face End	BMC Plot	0.5 acres	Protected
WESTERN SUBURBS				
1	H/ East Ward- Bandra Terminus Pipeline	Water Supply (Hydraulic Engineer, BMC)	0.5 acres	Protected
2	H/ West Ward- Mahim Causeway	Water Supply (Hydraulic Engineer, BMC)	1 acre	Protected
3	P/South Ward- Office Plot, Opp Sudama Hotel	Municipal Office	1 acre	Protected
4	P/North Ward- Mutthumarian Nagar, Link Road, Malad- W	RG/PG Housing for dishoused	1 acre	Protected
5	R/ Central- F.P No 391, T.P.S III, 17 <sup>th</sup> Road, Near Shimpoli Telephone Exchange, Borivali (W)	RG	1.5 acres	Protected

EASTERN SUBURBS				
1	M/ East- Baba Nagar, Rafiq Nagar, Deonar Dumping Ground	Dumping Ground and D.P Road	4 acres	Protected
2	M/ East Sanjay Nagar	Dumping Ground	3.5 acres	Protected
3	M/ West- Suman Nagar, Nr Collector's container yard, S.T.Road, Chembur	School and RG	3 acres	Protected
TOTAL (9 PLACES)			16 acres	

The list so obtained from the Mumbai Municipal Corporation seems to indicate that 288.80 acres of land have been cleared. At the time when the Tribunal held its hearing, government authorities had made statements in the press that the land had been cleared and the people had gone away. These statements, as the depositions given below show, were far from true. Furthermore, the fact that the highest authorities in the State view demolitions as a solution to the so-called overcrowding and congestion in Mumbai city is in itself shocking.

When the IPT held its investigation and hearing there was a palpable fear among the poor in the city. In each of the three areas the Panel visited, 100's of people came forward to meet the Panel.

At the hearing in the Mumbai Marathi Patrakar Sangh, over 1,000 people came to give depositions before the Tribunal. Given the shortage of time, the Tribunal requested that from each community that had been evicted, one or two people at the most be nominated to depose before the Tribunal. A synopsis of the depositions is below. (The Public Hearing Schedule of January 17, 2005 has been annexed in Appendix 1).

### List Of People Who Deposed

No.	Area demolished	Person Deposing	Organisational Affiliations
1	Hari Om Nagar, MIDC, Andheri	Ms.Anita Shukla	Asha Ankur
2		Mr. Uma Shankar Mishra	Asha Ankur
3	Maharashtra Nagar, Mankhurd	Mr. Rajnath Prasad	Path
4		Ms.Kasturabai Wankhede	Path
5	Juhu Tara Road	Ms. Rebecca	
6	Anand Nagar	Mr. Jaikant Naidu	

7	Pipeline Bandra (E)	Mr. Abdul Khaliq	Nirbhay Andolan	Bano
8	Kannamaur Nagar, Vikhroli	Ms. Pratibha Kadam	Yuva	
9	Annabhau Sathe Nagar, Mankhurd	Mr. Narendra Panigrahi	Manav Mukti Morcha/Yuva	
10	Elphinstone, Waghri Basti	Ms. Leela Patni	Yuva	
11	Indira Nagar, Mankhurd	Mr. Idress Shiekh	Path	
12	Indira Nagar, Bandra	Ms. Parvandi Chinapa	Nirbhay Andolan	Bano
13	Indira Nagar, Bandra	Ms. Poonam	Nirbhay Andolan	Bano
14	Priyadarshuni Nagar	Mr. Jatappa Karerkar	CRH	
15	Shanti Nagar, Bainganwadi	Mr. Ramchandra Yadav	Apnalaya	
16	Rafiq Nagar	Mr. Ramzan Hashmat	Apnalaya	
17	Rafiq Nagar part 2	Md. Wasim Khan		
18	Rafiq Nagar, Mankhurd	Dalvi		
19	Indira Nagar, Maharashtra Nagar III	Deepak Kumar Rai	Path	
20	Ganesh Nagar, Mulund, MHADA Colony	Mr. Shankar Shinde	Yuva	
21	Yeshwantrao Nagar, Ekta Nagar, Mankhurd	Mr. Shivkumar Yadav	Disability Rights Group	
22	Sanjay Nagar, Bainganwadi	Mr. Khalil Ansari	Apnalaya	
23	Ambojawadi, Malvani, Malad	Mr. Maqsood Aalam	Build	
24	Netaji Nagar, Ghatkopar	Mr. Salim Sheikh	Yuva	
25	Indira Nagar, Kurla	Ms. Yasmeen Siddique	Yuva	
26	Yeshwantrao Nagar, Ekta Nagar, Mankhurd	Mr. Abdur Rehman Shiekh	Disability Rights Group	

**A few of the significant depositions are as follows:**

**Anita Shukla from Hari Omnagar, MIDC, Andheri**

***“Unknown security persons and goons keep haunting us, women are especially troubled.”***

I am Anita Shukla from Hari Omnagar, located behind Thakur Chawl, Seepz Andheri. We have been staying in our chawl for the last four years. My husband is an ice-candy seller and we have two children. We have also voted twice for MP and MLA. But there is no count of demolition on our houses; it must be 17-18 times. Unknown security persons and goons keep haunting us, Women are especially troubled. Our MP and MLA had promised us that we would not be troubled.

There is no facility of bathroom, taps, and electricity. Women face a lot of difficulties due to this. Children cannot go to school when the houses are demolished. Even if some do manage to go to school, other children in their school tease them commenting over their demolished house. Children feel sad about it. They start avoiding school giving various reasons. Some of them have lost their bags and books in demolition.

Even after demolition we are still staying in the same place. Our house used to be 9.5 x 15 ft. We had invested Rs. 12,000 in our house. All we want is our houses to be built at the same place where we have stayed. We should get our houses there only. We have a small business. We are very poor. We do not have plenty of money. We invest as much as our earning allows. Prior to staying in Hari Omnagar we were staying in Subhash Nagar. We were told that we could get a house at a low cost and we thought instead of anyone threatening us to vacate the house it would be better to shift and buy a house. We paid Rs. 12,000 for our house at Hari Omnagar. When we bought our house we had to make papers. But we were not given anything in writing. We have ration card, voter ID card and we have also voted for MLA and MP twice.

**Uma Shankar Jai Narayan Mishra from Hari Omnagar Seva Sangh, Hari Omnagar.**

***“We paid Rs. 20,000 to a goon for 10 x 20ft home in Hari Omnagar. We did not have any amenities, no water, no electricity the women used to get water for us.”***

“I am starting my deposition by narrating my troubles. I returned home at 10.30 p.m. and found our houses demolished. Some goons standing there asked us to not to rebuild anything there. It was late night. We needed some place for our children to sleep. So we tried to build makeshift arrangement by using bamboos. But those goons asked us not to build. We said that let us spend the night and we will try some options in the morning. But they were adamant and got furious. Heated exchange of words soon resulted in physical blows. In that fight, a watchman from their side got hurt. They took him to Cooper Hospital and complained to the police. As a result, the commissioner summons us regularly to date although there is no information on the other party.

“I work in a cloth market in Kalbadevi and am the only earning member. I earn approximately Rs. 3,500 per month. I have two boys and one girl and don't know how to care for them. How can my daughter who is in 8th standard continue her studies? Now that this house is demolished I cannot afford to build another house in Mumbai at least. I have got involved in these regular police summons and had to leave my work. I do not know how to save my house.”

"After our house has been demolished we continue to stay in the same place as we have no other place to go to. We paid Rs. 20,000 to a goon for 10 x 20ft home in Hari Omnagar. We did not have any amenities, no water, no electricity the women used to get water for us. The goon whom we bought the house from did not give us anything in writing and that if we identified him he would say he did not know us. Even the police are not helpful; instead they have filed cases against us."

"I belong to Sultanpur in UP. Only our family has migrated to the city, we came here due to poverty and have nothing to return to in our village. I don't have any relatives in Mumbai as other members of our family have also migrated but to other cities. Only my parents stay in our village, we have a small piece of land there and we sometimes go to help them and also send them money."

**Rajnath Prasad, Maharashtra Nagar, Mankhurd**

*"When we see a police van, we run as if we are thieves. Our life has become horrible."*

I'm Rajnath Prasad Gun from Maharashtra Nagar, Mankhurd. We came to Maharashtra Nagar in 1992. We are around 200 houses. In the past in 1992-93 our houses were demolished too. When we came to the place, it was very dry. Then the monsoon struck. The monsoon water has yet to clear. We stayed in waist-deep water. We have built our house above the waist-deep water and somehow managed to survive. We stayed like that for 5-6 years.

After managing some money we filled the wetland by putting many tractors of mud. One such tractor with mud costs Rs 1,500 and made the land livable. We united to buy a tap that gave us facility of water. Otherwise we used to get water from a far off place. We also collected money to buy around 40-50 tractors of mud for filling the wetland and constructing road. One such vehicle costs minimum Rs 1,500. Now when we have invested and arranged for a livable house, the municipality is running bulldozers. At times, bulldozers run twice a month. Now they trouble us so much that it is difficult to stay there. They feel we should run away. Only we know how much investment and hard work we have put in to make that place worth living. From the time municipality demolished, our children cannot go to the school.

Earlier they just used to demolish and leave without taking away much of our accessories. This time with demolition they are taking away our accessories too. The police now charge us with Rs 2,000 - Rs 3,000 fine also. When we see police van, we run as if we are thieves. Our life has become horrible.

I have no idea what our plot is going to be used for. We have just been asked to vacate and go away. I come from Azamgarh district in UP. My parents stay there and we have a small piece of land.

During the elections the political party leaders came to us asking for our vote, promising that if the Congress government is formed they would validate all constructions made till 2000. Now they are in power, still demolishing. What can we do now? It is their government, who will listen to us? Even though some people had proof of being there before 1995 they still demolished their homes.

We had been informed that only those who started residing in Mumbai after 1995 would be evicted. But as was mentioned by that lady from Maharashtra Nagar, even those who have been here from their childhood have been evicted. She had a very beautiful house. Now she is forced to stay in a makeshift arrangement of plastic inspite of having invested Rs 70,000 - Rs 80,000 in her house over the years. Whose heart won't break at cruel demolition of such beautiful house? They are here from their childhood. Now they can't return to their village.

### **Martha from Juhu-Tara Road**

***“On 9 December my husband immolated himself to stop the demolition and subsequently passed away.”*** My name is Martha Rajendra Shresth and I have come from Anand Nagar Society, Juhu Tara Road. I work as a private nurse working on private duties at Nanavati hospital. I came to Mumbai in 1986 for training. After that I had a love marriage with Rajendra Shresth. I went twice to Nepal also. My husband was a social worker. You all know that this slum demolition drive in Mumbai happened at our place on 20 November, 2004.

On 20th November 2004, my husband injured his head opposing the drive. So the drive was stalled that day. During this time my husband was threatened. I do not know about the persons involved in it. But my husband told me that the local congress MLA has threatened him. I did suggest lodging a complaint. But he was sure that nothing would happen. After that, no fresh notices reached us for the demolition of 9 December. Before the demolition of 20 November a notice did reach us. After that all this happened so suddenly on 9 December that I could not even collect my belongings and documents of proof. Everything was buried. Today I have nothing left. I am staying with my kid at my sister's friend's house. I do not have clothes and other accessories. On 9 December my husband immolated himself to stop the demolition and subsequently passed away. After 4 days, I went to Pune. My 70-year-old mother, a pensioner, stays there. My younger sister and my son are staying here. It is very difficult for anyone to understand my plight and in what condition I am staying at that place right now.

Shiv Sena and Congress representatives promised to get me a new home and also help in my children's study. But to date none have acted on their promises. Shiv Sena representatives promised me a cheque of Rs 1 lakh. But nothing has happened. After 8 days, Mr. Sunil Dutt also visited. He also promised. But nothing has reached us so far.

I received a sum of Rs 50,000 from Collector's fund. Somehow I am surviving on that till now. Now I cannot go to Pune. Nobody is helping me out. Here also I have no one to get support from. I am staying with my child. We have been staying here for more than 9 years. But I have lost all my proof of residence in the demolition.

### **Jaikant Naidu from Juhu-Tara Road**

***“My friend Rajendra Shresth became a martyr. A man died but demolition never stopped. Even animals are not treated like that People have sympathy for Tsunami affected areas. Does anyone care for 50,000-60,000 slums demolished and more than 1.5 lakh people thrown on road? No one cares for the poor, No political party? No organization?”***

I am Jaikant Naidu from Anand Nagar Society. On 9 December, Airport Authority demolished our slums. We have been fighting with AAI for the last 10 years. Unfortunately, despite the case lying in court, this demolition happened. None could save it. Politicians just come to ask for our votes. Our home and problems hold no importance to them. Our plot 948 is claimed by AAI. 15 days before demolition, I got the information from city survey stating that our land falls under Maharashtra Administration and is under status-quo.

I also corresponded with the President of India. Responding to that, he suggested Maharashtra Administration look into the case. But we lost all.

Now I see only one way to get our right. I have challenged them through city civil court for the last four years, stating that this land belongs to Maharashtra Administration and not AAI. Still nobody took heed of that and demolition happened mercilessly. I have proof of that.

Entire slum people are on the road. No water, no basic facility, no toilets, and no school for kids – we do not have normal living conditions.

Food can be available to all. But to hide one's head, everyone needs home. The women and kids are in inhuman condition. Earlier also I went to Marathi Patrakar Sangh. There also the honorable justice present here was speaking and he was very right to point out that 14 million people stay in Mumbai at present. At present the City can accommodate 20 million more. Why does the administration need to demolish slums then?

People have sympathy for Tsunami affected areas. Does anyone care for 50,000-60,000 slums demolished and more than 1.5 lakh people thrown on the road? No one cares for the poor, No political party? No organization?

We went to court. The next date for a hearing is the 19th. Even there we need money to fight further. Somehow we are carrying the fight forward managing support. I appeal to all to stand for their right, protect their documents and go to government lawyer to fight a case. I am obliged to get an opportunity to speak here.

I was also harassed on the same day when Mrs Shresth suffered, as I am the only person who performs social work in the nearby areas including Indira Nagar, Nehru Nagar etc. I was also arrested for 24 hours when demolition happened at our place. At that time my friend Rajendra Shresth became a martyr. A man died but demolition never stopped. Even animals are not treated like that. All are on the road. I hope everyone gets home. You all are doing a great work. Social work is the best thing we can do to end the sufferings of all. I am not here for myself. I wish everyone could get a home. Jai Hind! Jai Maharashtra!

**Abdul Khaliq from Bandra East Pipeline:**

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

"I am Abdul Khaliq Khuda Baksh. I stay near Bandra Terminus Railway Station. I came to Mumbai more than 40 years ago and have proof of the same. My village is Ahmednagar, Maharashtra. My eyes are weak. I cannot see properly. I cannot see clearly beyond 10 feet. Now my wife begs and feeds us. At our place near Terminus all political parties visited. 5-6 days back the municipality arrived. They did not allow me to finish my meal. My children were also at home. They threatened them and asked us to pack fast and flee away. We packed quickly, but few accessories including utensils were left on ground. Railway line is at a feet's distance from my house. We kept our goods on the railway track. Still it is lying there only. Neighbors also did the same. They tell me wherever I will go they will come with me." "I have documents to prove that. I had a house in Jogeshwari. There people burnt it. I got scared and fled. Now my elder son works as labour in Bandra Terminus. He earns Rs 50 a day and our family of 5 manages to eat. At night, I wrap a shawl and beg. Whatever I earn helps to feed us. My belongings are

scattered on ground. I have full proof of my stay for last 40 years. I have Identity card also. I have made ration card thrice for 5 years each. I have this card also. You can see it. What is its name? I have collector's form also. Despite having all, no one listens.

**"The "Cycle" party promised us a home. They did not fulfill it. Shiv Sena promised the same and did not act. Congress representative Sunil Dutt came. He took my kid and visited nearby area Nanpara for 2-3 hours and made promises. But he also did not act. They all just made promises."**

When we try to rebuild, they threaten to imprison us for 6 months. We get scared and do not try to rebuild. I have one girl and two sons. Elder son works at Bandra Terminus. My daughter who is 16 has fled somewhere for the last 4 days soon after the demolition. Now we have nowhere to go, I cannot go back to my village because there is no one there.

**Pratibha Prakash Kadam from Vikhroli**

***"All of us are poor. We cannot rent a house. Everyone is a daily wageworker. On the day of Sankranti, many bulldozers with trucks came. We tried to protest. If government had objections to the houses, why did not they stop us earlier? Why did they provide electric meters?"***

"I have been staying in Vikhroli, Kanama Nagar for the last 10 years. My family was in Mazgaon. My in-laws and four others could not stay in one room. After having kids, I shifted to this place. My husband is a peon. We built that place. Then also collector used to come. We paid them money to stay there. Now there are around 150-200 houses. Earlier they used to break manually. Now bulldozers were used almost 4 times in the last few months."

**"If the government had objections to the houses, why did they not stop us earlier? Why did they provide electric meters? Now they want to build gardens. All of us are poor. We cannot rent a house. Everyone is a daily wageworker. On the day of Sankranti, many bulldozers with trucks came. We tried to protest. They said that they would break houses built only in the last 6 months. So we allowed them to enter. Later they bulldozed everything. We protested. They abused us; physically assaulted us. Yesterday a girl's hand got fractured when she fell under a bulldozer."**

Now the government is sending money to Tsunami affected areas. Why don't they save people like us who are alive and invested so much in mushy land? We want even a small space of 10 x 10. I request them to grant us a place to live.

**Narendra Panigrahi, Sathe Nagar, Mankhurd**

***"This demolition is almost like the end. Everything is in complete chaos. In my presence, there has been demolition 5-6 times. Congress rules the state and nation also. They made false promises to get all of us in trouble."***

I am Narendra Abhimanyu Panigrahi from Annabau, Sathe Nagar, Mankhurd. What more can I say here! What ever others have narrated, we also suffer from the same plight. This demolition is almost like the end. Everything is in complete chaos. In my presence, there has been demolition 5-6 times. But there is no precedence to this demolition. Earlier despite demolition, we managed to stay, but this time we are not even allowed to stay after demolition. If we request to stay, we are tortured. The police often call

and beat us. They come late at night, around 12 or 1 and enquire who was providing us with water and other facilities. They forcibly take people to the police station and release them in the morning. Not a single house is left. No one can rent another house. All are poor and daily-wage workers. We cannot even manage anything for our kids.

How can people produce documents of proof of their stay after having faced demolitions so many times? How to show document as evidence of existence before 1995? Still for survival, people got ration cards. They are also collecting other documents from schools etc. as proof. But only 5% of them have managed to save such documents, 95% people have lost it. Now how to show documents?

Some days back, while visiting the collector's office with some people, we were informed that photo passes will be issued only to people residing in Mumbai before 1994. Only such people will be provided a home. Others should not come to the Collector's office at all. Mankhurd falls under Trombay. The MP- Gurudas Kamat, the MLA and the Corporator- all are congress representatives. Thus, there is no conflict of parties also. Congress rules the state and nation also. They made false promises to get all of us in trouble. The MLA is refusing to help citing administrative actions as the reason. Corporators run away from office whenever we try to reach them. Now who do we approach for help?

People are crying. Everyone has become jobless. People are cleaning gutters, doing all kinds of work to survive. We see TV, read newspapers. Nowhere are people forced into such pathetic conditions by the government.

I request all of you to help us get a room to save our family's dignity. Think about the women. Even the demolishers have women in their family. Provide them a home. Sufferers cannot sleep at night in open as there are chances of theft.

This is the condition of our place. Just give us a home. People are not staying for a few months. They are living for more than many years. Just this is the request to grant us a home.

**Coordinator: Kadwi Wagari from Wagadi Basti, Elphinstone**

***"Bulldozers ran with two jeeps of police. Our houses were destroyed. Women were beaten. Children got burnt."***

We have been staying in the slums near Bombay Mills for the last 20 years. I was 2-3 years old when my parents brought me here. After marriage for the last 20 years we have been staying in Panduram Gutkha road.

Demolitions keep happening after every one or two years. They keep asking our whereabouts. Our small businesses such as selling flowers, utensils etc. suffer. Somehow we manage to earn. They always destroy our belongings.

Still we have documents, made in 1995 as proof of identity. Bulldozers ran with two jeeps of police. Our houses were destroyed. Women were beaten. Children got burnt. We get water from a far off place. During the election the candidate, Naraware Dutta, promised electricity and water. The entire slum of 62 houses voted for him. When they ran bulldozers, he could not save us. When we met him, he expressed helplessness, saying the order came from above.

During elections, they make false promises. We also want to pay rent as the rich do. We also want our kids to be well educated. But there is no right for poor. We also want to live as equals. We should get justice and the right to home.

**Inder Sheikh from Indira Nagar, Mankhurd**

***"Justice at any police station requires a bribe."***

I stay in Indira Nagar, Mankhurd. I have spent a lot of money on it. Representatives of all parties just take money and then do not even dare to enter our water-logged area. I have spent Rs 1 lakh, just on constructing my house, besides bribing the Police and Collector. I could not even sleep in my house, as water was not clear. They have beaten so much. They have not spared even a glass to drink water. Now I am sleeping on road. Where do we buy things from? Now I do not even have money.

On the 10th, the police came. Wherever I go, I carry all my proof as only my old mother stays with me. Someone informed that 6-7 bulldozers came with police. I ran to my house. I am a habitual drunkard. I was drunk that time also. I told them this house is new, showed all my documents. The police saw the documents and commented that it is very illegal. Only my house was demolished. I could not eat. They did not even allow me to sleep the night at home. They forced me to flee. They have beaten me alleging that I hurled stone at them, whereas other policeman in civilian dress did that. Justice at any police station requires a bribe. That is beyond my power. I invested all my earning in building home. All belongings were taken away by them. In 1995 also, I spent a lot of money for Indira Nagar in a case at high court. No one pays it back.

**Parvandi Chinapa, Indira Nagar, Bandra**

***"If we protest against demolition, we are imprisoned and fined Rs 5,000."***

Our house is between pipe and sewage drain. If a child falls in gutter, you cannot even save them. We have been staying there for the last 30-35 years. Politicians come and promise. But we only contribute to get electricity, water etc. They never provide anything. I have four children – 3 girls and a son. Their study expenses etc. I have to afford myself. My husband expired. We face so much trouble. When BMC demolish, politicians show helplessness.

If we protest against demolition, we are imprisoned and fined Rs 5,000. All of us collect garbage. Municipality staff questions who asked us to construct earlier. They ask for bribes. How to give?

On the 12th, they demolished houses. We have proof. We stay in makeshift arrangement there only.

Another speaker from same area:

We have suffered the most. They demand bribe. How to give that? Beat us but do not take away our shelter. We are poor. Wherever you stay, do not destroy other's home and think of your wellbeing only.

**Ramvati Devi from Jattapa Karakenar, Priyadarshini Nagar**

***"We spent a month in jail and then also gave around Rs 20-30,000."***

We were staying in that slum for 20 years. Earlier BMC claimed that area. After that they provided water, BEST provided the electric meter. The Collector trapped us into cases. We spent a month in jail and then also gave around Rs 20-30,000. Our women work at houses and earn. 95 persons are still fighting cases. Then on the 30<sup>th</sup> our houses were demolished by Mumbai Port Trust. Then the police forced us to move even from the road. Now we are staying in the open field in Haksai godown.

Today our MLA- Eknath Gaekwad came. MP and MLC also visited. But they had nothing for us. Notices were served on 500 houses. Only 100 houses were demolished. Others were saved by corporator. Now we are seeking justice everywhere.

We were given notice to leave the place within 24 hours. The Collector filed a case. BPT demolished it claiming as their land. A Notice was served on the 17<sup>th</sup> of November. Even ladies were imprisoned. BMC gave all documents. Then they demolished. Later on, the Collector claimed demolition. Later BPT also demolished.

**Ramchandra Yadav from Shanti Nagar**

*"Last demolition happened six months back. All 113 houses were burnt."*

Our houses were burnt on 9-3-2002. Then BMC served us notices. Then again they demolished on 3-4-2002. Apnalaya organization guided us and we met Advocate Maharukh. We filed a case in court. 13 of us got justice. Commissioner acknowledged our houses there. No result was attained. So we filed a third case. Despite court rulings, BMC keeps on demolishing again and again.

We stay there only in makeshift houses. After filing a case in court, we got some relief. Otherwise BMC always kept on demolishing. The last demolition happened six months back. All 113 houses were burnt. They did not touch unburnt houses. They never answer for this bias. Everyone was asked to vacate in 24 hours and deposit their documents. At 2 a.m., fire broke out. Everyone ran for their lives. We could not save our documents then.

The High Court has taken decisions on those 13 people asking to give them their land. They are yet to take a decision on our case. BMC was ordered to report to them within two months after enquiring about the rest of the houses burnt besides those 13 houses already cleared by order. BMC has not submitted any report till now. Documents such as ration cards could be reissued if burnt. But BMC has not reached the affected place in the last 2-6 months. They are yet to submit any report in the court.

**Ramzan Hasmat from Rafiq Nagar**

*"An 8 year old girl and a 21 year old woman died due to cold. Our corporator says that they cannot act. We are just breathing somehow."*

On 30 November, we were served a notice directing us to vacate our houses within 24 hours. On 1 December, our houses were demolished. Then we, represented by our committee, met Yusuf Aprani. We informed him about the condition. He suggested to move aside with our belongings and not to interfere in BMC's work.

We removed our belongings. BMC bulldozers demolished houses. Then, they also removed us from the place where we had kept our belongings. When we moved further to the upper part of ground, they

removed us from there also. Then we finally moved to the Rafiq Nagar graveyard.

The next day they came again with bulldozers and took away all our belongings, including food items, utensils etc. Now people do not even have a glass to drink water. Two people died also. An 8 year old girl and a 21 year old woman died due to cold. Our Corporator says that they cannot act. We even asked him to guide us who to approach for help. We told him that we are ready to reach anyone to protest even at the cost of our lives. But he did not respond. We are still staying somehow with our kids under open sky.

We did not go to him after that. Salma Mastan, our Corporator, later asked us to accompany him to meet Shivaji Nagar Commissioner at the Police station. Four of us, including a lady, went. He also asked us not to protest violently otherwise, like Mandala, our life will also suffer.

There used to be approximately 3500. The damage done is uncountable. None of us is left with anything to survive now. We are just breathing somehow. We have been staying here for almost 10 years.

#### **Another person from Rafiq Nagar Contributes**

##### **Md. Wasim Khan from Rafiq Nagar part 2**

When the demolition happened for the first time on 1 December, we were not even told about that. The second time on 22 December, it happened. Then we went to Yusuf Abrani and he consoled us. Notices were served by name but we were not given time. We have documents. We want houses to live in. We have voted.

##### **Dahlvi from Rafiq Nagar, Mankhurd**

*“We pay the police, slumlords and even the corporators for building these illegal structures. The local goons took Rs 40,000 – Rs 50,000 for allowing to build the houses. The Police also took money. People might not reveal. But I am telling you that even the Corporators took money. Then why not take action against them?”*

I'm here because I work with the cleaners and other people in Govandi and Mankhurd. To avoid repetition, I will like to tell that before election, Congress promised no problems for houses built after 2000. They got elected and now they fail to remember their promise. They consider us illegal. But they have given slips to houses made after 2000. BMC provides taps and water to these houses. Why does it do that if we are illegal?

We paid money for the tap. They took it. For getting accessories like wood for building houses, we need to pay the police. The local goons took Rs 40,000 – Rs 50,000 for allowing to build the houses. The Police also took money. People might not reveal. But I am telling you that even the corporators took money. They took Rs 40,000 – Rs 50,000. Some took Rs 80,000 too. We got our houses built. Now the government claims it illegal. If action has to be taken against us for having illegal houses, then what about the person who took money for giving taps, the electrician who installed meter? Was any action taken against such people? Even the police taking bribes, the corporators, the officers and also the goons are free. But people like us who spend all their life long earning on our houses are suffering.

I feel those government officials who helped us build our houses should be charged also before making us suffer more. Let us assume that we are illegal. Then those officers should be also punished for help-

ing us. Only then we will feel that justice has been done. The politicians visited our so-called illegal slums only to ask for votes during elections. Now where are they?

Now I feel that the elected representatives should be forced to contest again and cases should be filed against them. They should be fined. And we should be paid money from the fine imposed so that we can get legal houses.

Q: You referred to corporators, ward officers etc.? Can you name few?

A: Shall I tell? You should know the process of getting taps. One should get ration card and certificate for residence to get tap. But when they got tap for us, what proof did they have? Money was the only proof for them. I am referring to all areas. In our area Rafiq Nagar, Mankhurd Velluswami Naidu does this. He has helped in establishing more than half of all houses based there. We all paid him.

Did we not pay? (asks the crowd)

Yes, we paid. (answers come from the crowd) Some paid Rs 40,000. In Andheri, Mr. Rajendra is paid. In D N Nagar, corporators are paid. Velluswami should save our houses now.

**Deepak Kumar Roy from Indira Nagar -3, Maharashtra Nagar**

*“On 14 December, the police came with the BMC and demolished all houses. Still we would not go anywhere.”*

I am Deepak Kumar Shiv Shankar Roy from Indira Nagar. We have been staying there since 1990. We have the registration of organization from 1995. Before that we had filed an application with DM against the demolition of 1993. We have voter ID card and Ration card also. But defying all documents, houses were demolished as if we were beggars and we do not count at all. Our houses were demolished. We were told to run away with our belongings or face legal action.

In 2000, we were served notice to vacate and flee away. But we are poor. We live in area that has waist-deep water. We do not have any other option. In 2001, Raghunath Shankar Tambe, Tehsildar filed an MIDP case under Mumbai Slum Control Programme under 1971 Act 96 B against us. The police arrested us and framed all of us under cases. We are still fighting the case.

On 14 December, the police came with the BMC and demolished all houses. Still we would not go anywhere. We are staying in makeshift arrangement there only. After that from 2-5 January, they cleared our houses totally. We are framed with case and on the other side our houses are demolished also.

In 1995, BMC sanctioned a tap also for us. They took money to give us a tap and photo card also. We filled form for photo card. We are in deep trouble. 7-8 kids also died in the water-filled mud. The police threatens legal action if we do not vacate houses by 5 p.m.

We met our Corporator, Zareena Sahibul, for a solution. But we were suggested to keep away from the police and protesting as they are helpless.

Some children study in school. What will they do? The police tell us to catch any train and go back. Some people have identity proof. Others are asked to show ration card by elections office for making cards. For ration card, people are told to get voter card first. We are just tackled so mercilessly. I implore you to consider our case and help in getting justice.

### **Another Speaker**

***"Congress promised to safeguard houses constructed till 2000. We, young men, took elders to vote for them on that ground."***

I have come from MHADA colony where we have three slums in nearby area- Laxmi Nagar, Ramesh Nagar and Rama Bai Ambedkar Nagar. Many people could not come here as they are expecting demolition on Monday. Only we managed to come.

Our area Ganesh Nagar was built in 1993-94. We have all documents- ration card, two taps, and electric bill. One big demolition happened on 2 August, 2003 on the day of Anna Bai Jayanti. One pregnant lady died during that. Now when we meet leaders they show apathy, citing helplessness. You should live with proper safety. Congress promised to safeguard houses constructed till 2000. We, young men, took elders to vote for them on that ground.

Now when the demolition is happening, our people are arrested, our belongings are taken away. Now no congress representative bothers to enquire about our condition. The day before yesterday on 29<sup>th</sup> we met Ramdas Athavale to inform our condition. The rich do not want slums. They bribe the police and it takes action against us without showing any respect to our documents.

Every demolition is done in three phases. On the first day, they demolish houses, 2<sup>nd</sup> day they seize our belongings and 3<sup>rd</sup> day they arrest us. No one helps. Only false promises are made.

All the other three slums are razed so badly and now our area, which lies in the lower side, has been water logged. Still they demolished our place also.

### **Shiv Kumar Yadav from Yashwant Rao Chauhan Nagar**

In our nearby area 100 houses belong to the physically handicapped. On 26<sup>th</sup>, a notice was served for demolishing our houses. We are poor and jobless. What do we do now? Please help us in getting justice. I came here in 1990 and since then I have been staying here only. Most of the people in the surrounding area are also handicapped.

### **Khalil Ansari from Sanjay Nagar – 2, Govandi**

***"They have asked us to destroy all houses as that place will be used for garbage dumping."***

I am the head of the Garbage Cleaning Worker's Union. We live on the side of the dumping area near the new depot! We have around 220 houses. On 27<sup>th</sup> December, our houses got demolished. On 13<sup>th</sup> December, a Notice was served for the gutter. But on the 27<sup>th</sup>, they demolished around 200 houses with the gutter area. In the last three days, the dumping staff has been putting garbage over that area. They have asked us to destroy all houses as that place will be used for garbage dumping. We do not have the power to build our houses at some other place. All of you please help us in doing that.

### **Mansood Alam, Ambujwadi, Malad**

***"I would like to ask Ramdas Athavale, representative of Baba Saheb Ambedkar, if Baba Saheb ever***

***thought of such action against the poor- for bulldozing them as it happened in Ambujwadi. Today also watchmen are insulting our women."***

I am Mansood Alam from Ambujwadi, Malad. In 1990, we used to stay in Bandra Reclamation. We were transferred to Ambujwadi, Malad, in 1994. Social Welfare Minister, Ram Das Athavale, who takes the responsibility for realizing the dreams of Baba Saheb Ambedkar, had given the letter. Arun Gujarati, Urban Development Minister, had verified that letter.

That letter is still with us. During the demolition of 28<sup>th</sup> December, 2004, the officers asked us to come with that letter in their office. On being requested to enquire on the basis of that letter before demolishing, the officer threatened to file a case against me. Everyone was facing demolition. If a few people were in the condition to support me, I would have dared to face any case as I have firm faith in the support of Justice Suresh who has fought legally for justice for the poor till now. I would like to tell all that even in 1958, during the separation of Maharashtra and Gujarat, slums were rehabilitated. They did not face such cruelty. Even in 1962, it was repeated. In 1972, the poor were taken from Tardeo Colaba and rehabilitated in Malawani which is known as the Old Collector's Compound.

In 1980, Justice Suresh legally forced the corrupt government to take proper rehabilitative measure for the poor. This association helped that time also. I would like to ask you all, even the representatives of government and the representatives from abroad that when in 1947, Mahatma led Indian Independence; his mission was food, cloth and shelter. Indira Gandhi ruled and worked for the poor. Did they or Rajiv Gandhi bulldoze the poor? I would like to ask Ramdas Athavale, representative of Baba Saheb Ambedkar, if Baba Saheb ever thought of such action against the poor- for bulldozing them as it happened in Ambujwadi.

Today also watchmen are insulting our women. In the night till 10 p.m. when we are not there they insult our women. Even the police do not listen to our complaints!

**Salim Sheikh from Netaji Nagar, Ghatkopar**

Hello to all! The demolition took place on the 4<sup>th</sup>. One man died out of cold. Our slums, built before 1995, were destroyed completely. We demanded a reply from the Collector and the leaders. But no one replied. We have photo pass etc. They just make false promises and evict us after getting elected. We should fight for our basic rights.

**Yasmeen Siddiqui from Indira nagar, Kurla**

***"We want our votes back."***

Hello to all! Where should all of us displaced people go now? In 2000, a fire broke out in our slum. We suffered so much. Then the demolitions happened. We were not even allowed to take our belongings. We fill the cost investing Rs 1,500 per tractor filled with mud to make it livable. We got taps with our money. Why did the BMC pass these taps if all this was illegal? They take bribes of Rs 5,000 – Rs 10,000. The police also take bribe.

All knew this. But they still allowed building a house. Leaders made false promises. Almost 500 houses were demolished. Many more are homeless. They question me that I am a social worker and should not interfere in their work. But my house has also been demolished. We want our votes back!

**Abdul Rehman Sheikh from Yashwant Rao Chauhan, Ekta Nagar, Mankhurd**

***"This is a colony for the handicapped in which I live in. We are totally helpless. We just want land to live in. We are handicapped."***

This is a colony for the handicapped in which I live in. We are totally helpless. We just want land to live in. We are handicapped. We have been promised so many things, only not to be fulfilled. We applied for a telephone booth. But we did not get it. We do not want to beg. Now how do we get food? Shelter? All the problems are only for the poor. They are never taken care of. I request all of you to provide us facilities.

**An Estimation of the Costs Involved in Demolitions: Deposition by YUVA <sup>2</sup>**

According to the BMC survey, there are 35 lakh such unauthorized homes as they refuse to accept post-1995 construction as legal.

Considering this, YUVA visited about 28 slums. Based on the interaction there, we collected the following information:

- 41,900 houses were demolished in these 28 slums
- 2,405 houses out of those demolished had documented existence pre-1995
- The rest of the 39,495 houses were constructed between 1995-2000

Now, the Government, that is the union of INC-NC, promised to authorize houses built till 2000, if they are elected! Most of the houses demolished are built before 2000.

- One slum with 1,205 houses was demolished once
- 14 slums with 17,688 houses were demolished 2-5 times
- 6 slums with 15,660 houses were demolished more than 5 times

Now if we assess the cost of just building a house, not a pucca house, then if Rs 2000 is spent on one kuccha house, then the cost comes to Rs 13,07,00,992 (Rs 13 cores 7 lakhs)

If we assess the investment in filling land for building every house at the rate of minimum Rs 5,000 for one house then it comes to Rs. 20, 09, 05,000 (Rs 20 cores 9 lakhs)

If we estimate the total value of the property damaged in every demolished house at the rate of Rs 1,000 per house, then it comes to Rs 41 Cr 9 lakhs.

If we assume that the cost incurred by the BMC for doing these demolitions is at the rate of Rs 1,000 (although cost must have increased by now) by their 1984 demolition standard, it comes to Rs 1000 x 65,000 houses. Therefore, had they used this amount in constructing low-cost houses for the poor instead of demolishing their houses, then there would not have been any question of terming the poor as a blot on Mumbai.

How much force was used by the people and the Police!

- In 28 slums, the police used 247 vans, 2,996 police including 853 women constables, 128 BMC vans, 993 BMC staff, 87 bulldozers were used.

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<sup>2</sup> Information based on field studies conducted by YUVA

Even women were beaten, not only by women officials but also by the policemen. The number of women, men and children beaten were 31, 15 and 12, respectively. All these data come from 28 slums. The number may be higher. 7 women and 24 men were also arrested. They were arrested or left after 24 hours or 2 days.

With this data we realize that 3,000 policemen and 1,000 BMC staff were involved in demolition. You can think about the cost involved for posting so many staff including their salary etc.

The IPT secretariat has attempted to get the exact cost of the demolitions from the BMC itself, but it was not given. Nevertheless, according to newspaper reports, approximately Rs 84 Crores was spent on this current demolition drive. The question that then arises is could this money not have been used for providing alternative accommodation?

### **Impact of Evictions on Health: Deposition by CEHAT**

Let me share the experience we had six years back during a demolition. In Colaba, Ambedkar Nagar was demolished. The slum was perceived as a blot on the posh area of Cuffe Parade. It was demolished. But as Amrita from YUVA also informed earlier, things have not changed much in the last 6 years.

The slums demolished in Ambedkar Nagar had 5,000 residents in 1,000 houses. It is quite small when compared to the current demolition. After the demolition, fire also broke out. Almost 600 houses were badly affected due to fire. As you all know, a slum is not just a place to live but there are other things also associated with it, such as tap water etc. that are destroyed during demolition. Here also all such facilities were grounded.

Again, there also people were not served notice in advance. They were not rehabilitated also before demolition.

CEHAT team conducted a survey between August to November 1999 to study its effect on health conducted in three parts.

In the first part, all slum-dwellers were interviewed to know what happened during demolition, what all people required immediately after demolition, and also what was the immediate action of sufferers for shelters such as plastic makeshift arrangement that you all also had done. Also considered was the immediate effect on health due to beating etc.

In the second part, doctors examined 100 children till the age of 10 years. This was done to check symptoms of disease and malnutrition. A meeting was conducted with women, as they are the ones who generally take care of family members. As there was no health facility available, only they were responsible for taking care of health related problems in the family.

The third part covered the immediate effect of demolition on the people. It was demolished in the extreme summer of May. The kids became unconscious. 10 of them had to be admitted to the hospital. Most of the kids suffered from malnutrition. Due to demolition, they stopped working and thus earning stopped. Thus most of them suffered from lack of food also. Thus they were falling sick more often.

As this slum was located near the sea, the people were catching cold, fever and other skin related diseases also.

Shortage of water resulted in unhygienic conditions. Dirty water of open toilet flowed inside the makeshift arrangement; people were forced to buy water. Economically, the earning stopped leading to other health related problems. Visiting the hospital for children etc. forced the families to borrow money.

As I said earlier, people could not go to work for a long time as they feared another round of demolition. Thus they lost their work too.

Many children could not go to school. They had to work. Some families shifted to another slum also. Mentally, people suffered major shocks. They invested their earning to build houses and it was demolished within moments. It leaves people in major mental tension affecting their health badly.

When bulldozers come and demolishes, neighbours are also forced to vacate. Thus, people lose friends' support. Many are forced to return. Government has the duty to provide health facilities to all without bias. But they do not provide such facility as they do not even consider slum dwellers part of the city. Their economic conditions also go haywire. Thus human rights of the slum dwellers are also violated at every step.

### **Deposition of Mr. Khairnar, Former Deputy Commissioner - Demolitions, BMC**

In 1958, different planning evolved such as the BMC rule, Town Planning Act etc; for ex- illegal structures. All buildings built before 15-16 March, 1964, will not be demolished and considered authorized.

Buildings constructed before April 1962, were considered authorized. 70-80 years back people used to place hand-written banners on their house to inform about availability on rent. But still it used to remain vacant for months as there were few takers. There were no builders either. Even during the time of the Portuguese and the English, Mumbai attracted many migrants. But then demolitions were never required. Arrangements were made in advance for migrants at vacant lands, creek bed etc. No one was required to build slums.

But with the creation of rules related to construction, the government failed to develop housing facilities. Migrants continued coming. The government had no planning for them. As a result, people were forced to create slums. Then the government woke up to check the rise of slums. In 1976, Kunte- a minister in government- decided to visit slums built till then and authorize it. All slums were given number and authorized. It was also decided that if a single house comes up in slums after that, then the related officials of that area will be brought to the book.

Slum construction continued. But no action was ever taken against any failing officers. People enjoy the constitutional right to stay in any part of India-being an Indian. So they stayed. People come as Mumbai provides earning opportunity that they lack back home. They need shelter too. The government fails in providing that. Thus such people are forced to rent land and houses from goons.

Thus, new houses were built. In 1985, houses were recognized as authorized construction again by the then government. The resolve to punish failing officers in case of new constructions coming up was repeated again. Instead, those officials took money from people and facilitated construction of new houses, further.

Later on, by 2000 a decision was taken to authorize houses built till 1995. Before that, the houses were

authorized by giving numbers. Now in this election Congress promised to authorize the houses built till 2000.

How are these houses built? One way is that people come to Mumbai to earn and they build home. I have also come to Mumbai. I worked as the Deputy Commissioner. But I could not get my own house without a loan considering my meager salary. So how can the poor get house. We all and even our leaders have come to Mumbai like this only.

Due to problems at our native place, we reach Mumbai. Our life does improve. It is shameful for all that our brothers stay in Mumbai at such places where the villagers would not even like to keep their animals in villages.

We talk about developing fraternity at world level. But in Mumbai, people do not have proper place. Thus people get trapped by slumlords or goons to get home.

In 1989, I conducted a survey about the development of slums. I found it is done in a very systematic way. If someone wants to get a house built, he gets it done through someone. If someone wants a slum of 100 houses, with one room of 10 x 15, then they might approach a slum lord.

The ward office staff knew about all development in their ward. During my tenure in Kurla, the MLA, the Deputy Commissioner, the ward officer, junior engineer – all were paid money. My deputy commissioner, Mr. Kadam was bribed but he was called very honest. I enquired how he could manage to be popular as honest when he takes bribe. People said it was because he never counts the money paid and moves on the file after receiving money that makes him an honest officer.

Thus, for a slum of 100 houses, every staff was bribed according to their designation. When Mr. Kadam retired the builders gifted him.

Dawood Ibrahim, Amar Naik etc. are some of the many landlords. They build slums and it gets occupants within 3-6 months. For e.g. Dawood has more than 3,000 slums. 29 of them were demolished. Some are seized. I tried to enquire further. I was suspended and sent home.

Such slums of slum lords or politicians are served notice. They go to court. Some settle there only. If it is not settled there and the verdict goes against them, the file disappears mysteriously from the court.

Thus, the slums of slum lords are given protection at every step. But in the slums of poor, there is none to protect. So, they are demolished mercilessly.

The rich people and the politicians own beer bars. That is not demolished. They have houses not only in Mumbai but outside also. Most of them are illegal. Despite being a Deputy Commissioner, my salary does not allow me to buy a house. How do the ministers become so rich then? Most of them own property worth Rs 100 Crore. They suck your money and become rich. So, even their authorized houses are unauthorized. But Income Tax department never raids them.

Now your houses develop for 7-8 years. You invest more than Rs 50,000 over the years. Thus, the BMC has devastated more than Rs 300 Crores by demolition drive. Many such demolitions have taken place. The ministers come and go. New slums keep coming up. Do not worry. The land does not belong to any

minister, chief minister or commissioner. Stay united then no one will dare touch you.

**Q:** In newspaper, we read BMC invests Rs 7,000 for demolishing a house. Is that figure real?

**A:** In 1984, we demolished 40 small houses that were not even part of slums. But within a month we were forced to demolish it 20 times. Then also we had to invest more than Rs 1,000 on demolishing every house. So these facts can be real.

## **Highlights And Summary Of The Facts That Emerged From The Public Hearing**

1. When one analyses the history of demolitions that have taken place in Mumbai, one realizes that the political parties in Maharashtra, during election campaigns, have always given false promises to the slum dwellers of legalizing their hutments. These promises are made because it is a known fact that slum dwellers form a major size of the vote bank during elections. However, as one can see, once the elections are over and the political party comes to power, the promises made by the political parties to these slum dwellers are never kept. In these recent demolitions too history has repeated itself. The Congress-NCP combine headed by Mr. Vilas Rao Deshmukh too had promised to regularize slums upto the year 2000. This promise got them votes and helped them to come to power. However, once in power, the government buckled under the pressure of powerful vested interests and started demolitions.
2. While demolishing 90,000 slums dwellings the Congress – NCP combine headed by Chief Minister Mr. Vilasrao Deshmukh have violated the Common Minimum Program (CMP) issued by the Congress and the allied parties, which have formed the government at the Centre.
3. Before the demolition tirade began, the government had stated that only slums, which have come up after 1995, would be demolished. However, as has been explicitly stated by the affected people in their depositions the hutments of even those slum dwellers have been demolished who have been residing in Mumbai before 1995. This therefore goes to prove that the government and the BMC officials have acted in a callous and highhanded manner with no planning whatsoever.
4. From the depositions it is also clear that neither the BMC authorities nor the government have followed the procedure that should have been prescribed by the Courts and UN with regard to either serving notices or offering alternate resettlement options to the evicted people.
5. The egregious fact that has come to light is that contrary to the common perception of the public at large, the slum dwellers not only pay taxes to the government but in their effort to have a stable and sound shelter have also paid to the local slumlords and even the Corporators. Some of the slum dwellers have even taken the courage of naming the powerful people who in connivance with the slumlords and the BMC officials have made this into a thriving business. Even the deposition of Mr. Khairnar is an eye opener in this regard. All governments have played upon this misconception and portrayed these people as those who are living free of charge.
6. It can also be easily proved through these depositions that almost all the slum dwellers have paid quite substantial sums for their homes and invested a lot to improve the land. This therefore, once again negates the popular notion that slum dwellers do not have a problem staying in filthy environments. One can say that it is the economic vulnerability of the slum dwellers that forces them

to live in such filthy conditions. Given an opportunity and an option, all of them would want to live in a clean and hygienic environment and living conditions.

7. What also emerges is that when the land is marshy and uninhabitable no one is really interested in it. The poor people who settle on it fill it and make it habitable. However, at that point the mafia and slumlords or the builders' lobby grab the land and then reap profits from the land.
8. Another obvious fact that emerges is that the demolitions are a wasteful exercise. They serve to negate the housing options, which the poor have devised in the absence of any formal housing solutions. Moreover it fails to look into the causes that force people to migrate to the city in search of livelihood, the need for low cost housing or easily available rental accommodation. It is too simplistic to assume that once one demolishes the homes of the poor they will return to their villages; as many of the depositions clearly state, people have no place to return.
9. The sheer brutality and terror that has been unleashed on the people is unimaginable. Demolitions were even carried out on popular festivals like Sankranti. Not only have people lost their homes, but in many cases, the people have been arrested and their few possessions burnt. This has led to a situation whereby slum dwellers who had documents relating to their stay in Mumbai have lost whatever proof they possessed of their stay in Mumbai.
10. Even vulnerable communities were not left out. Depositing before the Tribunal were members from scheduled castes who were rehabilitated in Mankhurd in 1995. They faced demolitions in spite of having lived in Mumbai even prior to the 1995 cut of date. Their case clearly shows the callousness in which the government deals with the poorest of the poor as not only did they possess pre 1995 documents of proof but they had been evicted earlier and were rehabilitated in Mankhurd. This incident poses a larger question of the kind of rehabilitation that is provided by the government to people and the fact that people face not just one but repeated evictions.
11. Similarly many disabled people and their families, widows and single mothers have been evicted. Even people affected by the Mumbai riots in 1993 who were rehabilitated or moved from areas where they were unsafe have been demolished. It is shameful that even people who should have been given some special concessions by earlier governments were also brutally evicted.
12. Following the demolitions there have been an uncounted loss of life. Many young and newborn children died as they were exposed to cold conditions without any protection. Similarly many old people who were unable to cope with the trauma have died.
13. A common thread running through the accounts is not only the effect on people's lives and livelihoods, but also the future of their children is in danger. In more than one deposition people expressed their fear and worry that post-demolitions their children have not been able to attend school. Given the fact that February- March is the end of the school year and a time when examinations are conducted, many children have lost a year as they were not able to attend the examinations. Further, many children suffer from post-demolition trauma due to which it is impossible to calculate how many children will drop out from the school system completely.
14. Last but not the least, there is enough evidence to show that the trauma caused during the demolition drive and after have killed many young children and elderly people. Many pregnant

women who gave birth had no place to shelter their newborn children. In a number of cases these children died due to exposure.

Is it possible to ignore the extent of State brutality? While Mumbai witnessed State sponsored displacement, further South killer waves struck the entire east Coast of India and many south east Asian countries. While all government agencies rushed to provide relief and rehabilitation to the victims of the Tsunami, the victims of the Mumbai demolition were not even provided with food, water, or any form of shelter.

## POLITICS OF DEMOLITIONS

# 2

- Government approaches to slums since independence
- History of the 'cut off date'
- Controversy relating to homeless people residing in Mumbai post 1995
- Myths and realities surrounding the issue
  - Where is the legal housing for the poor?
  - The myth of lack of money and land
  - Government's vacillating stand and doublespeak
  - The Mumbai Makeover and the World Bank
- Mumbai's demolition marathon

Photo courtesy: Sandhya Gokhale



Police unleash terror on a peaceful protest rally of the slum dwellers on April 6, 2005

## POLITICS OF DEMOLITIONS

As seen in the earlier section, the demolitions have been brutal and harsh, they have violated both the present government's Common Minimum Programme as well as the UN Covenant against Forced Evictions. This section attempts to look into the reasons why slums come up in the city and policies and politics that contribute to their growth.

### Government Approaches To Slums Since Independence<sup>3</sup>

The policies of the state around the critical aspect of urban housing needs to be thoroughly engaged and critiqued before one ventures to pass any kind of judgment on the legality and rights of slum dwellers. The reason for this is ample evidence of policies that either are flawed in their conceptualization or rendered useless by remaining just words on paper. The attempt here is to understand the manner in which the state has miserably failed to cater to the needs of the urban poor living in the different slums of Mumbai and elsewhere in the cities of this state.

What we will see is that one of the main reasons for this abject failure of the state is a paradigm shift in the role of the state, from performing that of a provider of housing to reducing that to a regulator of housing settlements. These are necessary to be understood since they have a critical bearing on the growth of slums in the city.

A brief overview of the role of the state as provider of housing establishes its abject failure in the role of housing provider. According to P.S.A. Sundaram<sup>4</sup> in his book, "Bombay: Can it house its millions", the Housing Board, as the successor MHADA (until 1986) had supplied about 100,000 fully built ownership dwellings to various income groups of which 75 % were for Economically Weaker Sections (EWS) and Low Income Groups (LIG). However, post 1985 there was a shift in the target groups of the housing schemes, with the proportion earmarked for High Income Groups increasing and the EWS category being left out. Against the annual housing need for 46,000 dwellings in the 1960s and 60,000 dwellings in the 1970s, the supply of formal housing by the public and private sectors together was only 17,600 and 20,600 respectively. Between 1984 and 1991, the supply of formal sector housing increased by about 47,400 units per annum mainly on account of private sector activity. Property rates in Mumbai being the highest in India, speculation and hoarding in real estate were the most lucrative investment until the 1990s. As reported in one of the local weeklies, "... The real irony is that in a city where thousands are homeless, about 0.1 million flats are lying vacant for the right price"<sup>5</sup> Housing supply by public agencies has been far below the requirement and that by the private sector has

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<sup>3</sup> The note is drawn from multiple sources including, "Understanding Slums: Case Studies for the Global Report on Human Settlements 2003 - The case of Mumbai", Neelima Rishub, "Urban Planning and Politics of Slum Demolition in Metropolitan Mumbai", Sanchayeta Adhikari and several newspaper articles

<sup>4</sup> Clarion Books, New Delhi, 1989, pp. 88

<sup>5</sup> Bombay, 1988, pp.17

always been beyond the reach of poor. Housing conditions thus deteriorated as 73% of households in 1991 compared to 69 % 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 (BMRDA, 1994, pp.259).

In Mumbai, out of the total population of 11 million, about 55% constitute its slum population, who occupy about 12.85 % of the city's total land area. It is also important to note that a greater portion of these lands on which slums are located today were previously uninhabitable and it is through the efforts of the slum dwellers that these lands were "reclaimed" and rendered habitable. Approximately 5.5 to 6 million live in slums in the most unhygienic and filthy conditions and another one million live on the pavements. It is also estimated that nearly 2 million people live as tenants in rented premises, a large number of which are old and dilapidated structures, including 'chawls'. As a result we find that nearly 8.5 million of the city's population lives in sub-standard or unsafe housing conditions under the abuse and continuous threat of displacement. Today it is said that about 82 % of the population live in one room abodes. This housing situation blatantly exposes the continuing indifference, neglect and lack of the will of the government towards housing and living conditions in the city.

This situation can be understood to have emerged due to one serious lacunae and that being the absence of a focused direction in tackling the problems of slum dwellers. The rights-based approach that is so required in dealing with the issues of the urban poor has failed to find any currency with the state. Post-independence there have been several approaches and policies that at best appear arbitrary and ad hoc. There is a lack of clarity of vision in any form whatsoever. The only policy that has any continuity is that of slum demolitions!

However, in trying to analyze the approaches and policies of the state we can draw few conclusions. Firstly, evictions and demolitions have been seen to be by the state as one of the major solutions to the "problems" of slums. Secondly and simultaneously, the rights of slum dwellers to shelter, basic amenities, etc. have also been marginally and occasionally addressed. These, however, are not linear policies but are overlapping all the while.

In the first two decades after independence, the official approach towards slums in Mumbai was to clear the hutments and re-house the slum dwellers in alternate accommodation. In a bid to strengthen the force of the state to demolish slums, section 354A was introduced to the Bombay Municipal Corporation (BMC) Act in 1954 by an amendment that empowered the Municipal Corporation of Mumbai to clear slums. Meanwhile, between 1943 and 1956, the government of the erstwhile Bombay state disbursed small grants to various municipal bodies for improvement of slums. In 1956, this changed when the central government approved a Slum Clearance Plan. Bombay was one of the six pilot cities covered under this scheme. The Development plan for Mumbai was launched in 1967 and there was optimism that it might have been possible to clear slums. In 1969 a special slum improvement cell was created in BMC to clear and resettle slums on municipal lands. Also the Slum Improvement Programme was started in 1970 to improve basic amenities like drainage, drinking water, roads toilets etc.

### **1970s:**

The strategy of demolitions that began with the plan was pursued till the 1970s. However, it did not work because people, after some time, simply re-built their huts at the same location or, if there was too much harassment, at another unoccupied location nearby. Moreover, land-owning agencies were ill equipped to police their lands and lower level officials often connived with middlemen to allow

encroachments for money. Even when the state government did try to resettle the poor, they were unsuccessful. Resettlement proceeded erratically and was dependant on the whims and fancies of local municipal officials and the poor were completely excluded from any decision-making.

In the 1970s, the state first recognized the need for some form of resettlement for slum dwellers, after slums were demolished. A Slum Improvement Board (SIB) was set up, slums began to be viewed as a possible solution to housing problems and the state began to provide water. In 1971, with the enactment of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act the government was equipped with wider powers to notify slums, and implement clearance schemes. The city's slum population was estimated at that time to be 1.3 million. In keeping with the consistent policy of slum evictions, several evictions were consistently carried out. One such notable instance was on 17<sup>th</sup> May 1976 where there was forcible eviction and demolition of the Janata colony situated in Mankhurd with a population of 70,000. They were not provided with enough accommodation in the new site in the Cheetah camp as promised by the BARC officials and BMC who wanted to make swimming pool and other recreation facilities for the scientists residing in the BARC complex.

There are three important developments in the 1970s that need to be looked at carefully. The first was the launching of a slum improvement programme while the second was the passing of a law protecting the rights of slum dwellers and the third being the de-legitimizing of so-called "illegal encroachments".

#### ● Centrally Funded Environmental Improvement of Urban Slums (EIUS), 1970

In 1970 the Slum Improvement Program (SIP) was launched with the mandate to provide water supply, toilets, roads, drainage and streetlights for slum dwellers. The scheme included provisions for community taps, community latrines, construction of pathways and drains and provision of streetlights. The scheme was financed by grants from the central government. Slum Improvements began in 1972 under the Central Scheme of Environmental Improvement of Urban Slums. A separate mechanism, the Maharashtra Slum Improvement Board was set up by the state government in 1974 to co-ordinate this work. This was later merged with MHADA, when the Maharashtra Housing and Area Development Authority (MHADA) was set up in 1977. MHADA improved slums on government and private land whereas slums on corporation land were improved by BMC.

Lack of space for execution and staying orders from courts created difficulties in implementation. The majority of slums situated on lands owned by state government, Municipal Corporation and Housing Board lands were improved, but those on private lands or central government land could not be easily improved. Another reason for its limited success is pointed out in a BMC Report in the early 1990s by Deputy Municipal Commissioner (Slums) K.G. Pai, where it is pointed out that even basic slum improvement would have required Rs.150 crore a year, whereas, the scheme had a provision of Rs 151 crores for the entire Sixth Plan period. The report goes on to admit that the SIP had, not even touched 30 lakh slum-dwellers in Mumbai alone. Another reason for the fact that the implementation of the improvement scheme did not significantly improve the environment was due to its limited reach and lack of funds.

#### ● The Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971

The next major development in this decade was the passing of the Slum Act. Under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 the competent authority may by

notification in the official Gazette, declare an area to be 'slum' where it is satisfied that:

- a) any area is or may be a source of danger to health, safety or convenience of the public of that area or of its neighbourhood, by reason of that area having inadequate or no basic amenities, or being unsanitary, squalid overcrowded or otherwise; or
- b) the buildings in any area, used or intended to be used for human habitation are
  - i) in any respect, unfit for human habitation; or
  - ii) 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 the health, safety or convenience.

May by notification in the official Gazette declare such area to be a slum area.

Improvements under the Act were carried out only in slums on government lands, earmarked for 'improvement' in the Development Plan. Taking advantage of this act, the owners of slums on private land started evicting slum dwellers on an unprecedented scale. The government of Maharashtra issued an ordinance subsequently to prevent eviction of occupants in notified slums. The notification prevents eviction of occupiers from any building or land for recovery of arrears of rent without prior permission of the competent authority. It also makes a slum eligible for receiving improvement inputs (especially infrastructure) under various improvement schemes. However, there have been several appeals by private landowners challenging notification of their lands as 'slums'. This did not cover central government lands, as state laws do not apply to central government lands.

#### ● **The Maharashtra Vacant Lands (Prohibition of Unauthorised Structures and Summary Eviction) Act, 1975**

In an effort to prevent a further proliferation of squatter settlements, the state government enacted the Vacant Lands Act. According to the Act, all lands encroached by squatters can be considered vacant, all slums covered by the Act are temporary and can be removed, police can be mobilized for eviction and alternative accommodation has to be provided. Squatters have to pay 'compensation' for unauthorized occupation of land. Due to these provisions, courts could not move against evictions. With the help of this act many demolitions were carried out in different parts of the city. The offence of unauthorized occupation was non-bailable. After the slum census in 1976, the government made a policy of protection, removal, rehabilitation and improvement. For the vigilance of open lands and for the recovery of compensation and service charges the government appointed a Controller of Slums at the rank of District Collector. The rates of compensation were revised only in 1987 (based on the recommendations of Jankhanwala Committee). The rates of compensation included service charges, compensation for occupying land and nominal taxes, with different rates for residential, commercial and industrial uses in different cities of the state.

#### **1980s:**

The beginning of the next decade, the 1980s, witnessed a very large wave of evictions during the Chief Ministership of Shri Antulay. It must be noted that at this point in time, the vision for the city's development was replication of Singapore. Thousands of slum dwellers were evicted during this time. This period is significant for one development i.e. the judgment of the Supreme Court in the case of Olga Tellis. In *Olga Tellis v. Bombay Municipal Corpn.* (1985) 3 SCC 545, 572 the squatters and the pavement-dwellers who were sought to be ejected by the respondent, without due process of law, invoked

the jurisdiction of this Court under Article 32. A Constitutional Bench held that their eviction from the dwellings would not only result in deprivation of shelter but would also inevitably lead to deprivation of their means of livelihood which means deprivation of life in as much as the pavement dwellers were employed in the vicinity of their dwellings. Right to life under Article 21 includes right to livelihood, and if this right were to be affected without reasonable procedure established by law, it would be violative of Article 21. 'The conclusion, therefore, in terms of the constitutional phraseology is that the eviction of the petitioners will lead to deprivation of their livelihood and consequently to the deprivation of their life.'

#### ● **Slum Upgrading Programme (SUP) funded by the World Bank, 1985**

After the failure of the SIP, in 1985, the World Bank's Rs 53 crore Bombay Urban Development Project (BUDP) came into being with two programmes – the Slum Upgradation Programme (SUP) and the Low Income Group Shelter Programme (LISP). SUP consisted of giving a 30-year renewable lease of land to cooperative societies of slum dwellers (where the lands were not needed for public purposes), providing civic amenities on a cost-recovery basis and giving loans to upgrade people's houses. Under the LISP, the state provided subsidized land to Economically Weaker Sections (EWS) and Low Income Groups (LIG) to build their own homes in accordance with a type design.

A major shift in policy came with the launching of the BUDP financed by the World Bank, with a two-pronged approach of regularization of squatter settlements and supply of serviced land to manage the problem of slums. In line with the World Bank's philosophy, secure long-term legal tenure was to be granted along with provision of basic service with recovery for 100,000 slum households. The standards for plot sizes and infrastructure were based on 'affordable costs' The price to be charged was based on the zone in which the slum is located as per the Development Plan, plot size and plot use to be repaid over 20 years. Leasehold rights were to be granted to co-operative societies of slum dwellers covering BMC and government land and 10 % private land. Individual members of the society were entitled for Home Improvement Loans (HIL), which could be advanced against the mortgage of individual leasehold rights. The scheme however did not benefit slums on private and central government lands.

Various difficulties faced in the implementation of the BUDP programme included hostility of the excluded part of slum community, which had to be resettled and poor availability of relocation sites. Establishing the eligibility of appropriate households and problems of unwilling households and unwilling communities created serious problems. It also raised issues about the role that such co-operatives can play in taking up maintenance responsibilities and preventing further encroachments. Major difficulties were faced in the extension of services due to the limited capacity of site infrastructure and the inability of the BMC to further augment existing networks. The HIL component remained under-utilised as assessment of incomes, systems of disbursement and collection of loans remained unclear. Also contributing to its failure was the lack of drive and commitment on the part of the authorities and due to the influence on the government by real estate developers against transfer of land tenure to the slum dwellers.

Further, again, the SUP could not be implemented on central government or private land. This has been a noticeable precedent in Mumbai – for in spite of the Slum Areas Act that enables local authorities to provide services in settlements already 'declared' slums, many government agencies still do not permit the BMC to carry out 'improvement' of slums on their land. Thus, central agencies do not give permission for basic amenities, up-gradation or resettlement and slum dwellers continue to live on these lands. In 1989, with the change of political party, the State Government issued instructions to all municipal corporations for considering granting of leasehold tenure to individual eligible households squatting on

government lands before 1985. Heads of households whose names were included in the voter list of 1985 and who were staying at the same place as indicated in the voter list, were issued photo passes for granting of tenure. Slums on private land, squatters on central government land and pavement dwellers were not eligible. The reluctance of the Revenue Department to part with state government land was one of the major difficulties faced.

Only 22,000 households were covered under the programme after which BUDP was closed in 1994.

#### • The Prime Minister's Grant Project (PMGP), 1985

The special grant announced by the Prime Minister in 1985 to improve living conditions of slum dwellers in Mumbai, brought a major shift in the approach towards improvement of squatter settlements with the initiation of redevelopment projects. An important component of this grant was to be used for redevelopment of the biggest slum of Mumbai-Dharavi. A master plan was prepared for Dharavi. Reconstruction was justified in high-density slums like Dharavi where in situ upgrading had limited relevance and could not be expected to bring perceptible improvements. Co-operatives of slum households were to be provided with 18 sq. m. (carpet area) walk-up tenements. Families were to be shifted to transit accommodation during the construction period on a rental basis. Households were required to pay for the cost of tenements and the co-operative societies were helped to establish liaisons with lending institutions. The reconstruction project succeeded in a limited way by tackling public health hazards, but the high cost of the tenements prompted many households to sell.

Delays in construction, escalations in the cost of tenements and shortage of transit camps created hardships for people. In some cases slumlords got into the management of the society and created obstacles for development. A few outsiders managed to get their names included in the list of beneficiaries. In an evaluation of this scheme, Bharwada and Mahajan (1999) reported that by 1993, 60 % of targeted upgrading and 74 % of reconstruction had been achieved. However, cost recovery has been poor due to poor recovery mechanisms. Lack of awareness about the benefits, liabilities and procedure of the project led to dissatisfaction amongst beneficiaries, which subsequently led to poor participation. The system of allotment through drawing of lots disintegrated the community fabric. In stray NGO supported cases like Markandeya Co-operative, the community directly demanded leasehold rights of land from the Municipal Corporation to mortgage and raise resources. But the delays left people disheartened and wondering whether the seven-year struggle was worth the results (Bharwada & Mahajan 1999). However, slum redevelopment in Dharavi was a major shift in the improvement approach.

#### 1990s:

The 1990's saw the further withdrawal of the state from the role of provider to the role of facilitator. Under the guise of privatization and public-private partnerships, it was convenient for the Government to answer this string of failures not with greater involvement, but by withdrawing and giving the field to private builders and developers. The end of this decade saw one of the largest slum demolitions in Mumbai history and this almost epitomized the situation where the demolitions continued but resettlement and in situ improvement policies were desperately lacking. During the second week of February 1999, another demolition of over 33,000 slum huts took place at Sanjay Gandhi National Park by the forest department. Over 85,000 slum dwellers have been residing in various colonies in Ambedkar Nagar, Jamrushi Nagar, Pimpripada, Azad Nagar and Shanti Nagar, which are in the precincts of the National Park, for more than a decade.

## ● Slum Redevelopment Scheme (SRD), 1991

Thus, Sharad Pawar's (then Chief Minister of the ruling congress government) Slum Redevelopment Scheme (SRD) was launched in 1991. The same norm was picked up by the Slum Rehabilitation Authority (SRA) set up in the 1990s. The Slum Redevelopment Scheme of the SRA aimed to provide enough incentives – such as increasing the Floor Space Index (FSI) allowed in slum areas and the ability to transfer development rights to other areas of the city – for private developers and builders to redevelop slums. The theory was that by selling the extra space in the open market, tenements for slum dwellers would be cross-subsidized and made affordable to them. The state government also introduced legislation that protected slum dwellers able to establish that they were living at a particular place as of January 1, 1995. The homes of 'eligible' slum dwellers thus could not be demolished without their first being resettled.

Notified slums were to be redeveloped at the same site by private builders by offering the incentive of increased maximum floor area ratio (FAR) of 2.5. After re-housing slum dwellers in 180 sq. ft. (about 15 sq. m.) tenements, builders were free to sell the remaining floor space on the open market and to make profits of up to 25 % of the project cost. Thirty years lease was to be given to the co-operatives of re-housed slum dwellers. The consent of at least 70 % of slum families was necessary to implement the scheme. The slum dwellers were required to pay a certain amount of money, approximately, 1/3 in the form of a down payment and the balance in the form of a loan repayable over 15 years. Allottees were not permitted to transfer their tenement for a period of 10 years.

The scheme was a non-starter from the very beginning. Firstly, this scheme did not provide sufficient business opportunity to the investors; secondly, the builders were skeptical of getting into wrangles with the slum-dwellers whereby their profits would not materialize within calculated periods. Even if they did have plans, work could not be started due to the lack of transit accommodation. Also, slum-dwellers were reluctant to give possession of their plots in the absence of alternative accommodation. They feared losing possession of their sites permanently since they did not trust the builders. They already had horrid experiences of attacks on them and forcible evictions, led by number of builders at many places in the city. One example of forcible eviction led by the builders was the demolition of the Ambedkar Nagar situated near Back Bay bus depot in 23<sup>rd</sup> April 1997. After the demolition, Pan Reality Construction Pvt. Ltd. grabbed hold of the land by fencing with wires and stones to put a stop to the entry to the land.

The scheme was criticized, as it was feared that the developers would exploit slum families. Concerns were also expressed over increases in density, and increases in consumption of water and electricity. Non-availability of transit accommodation and maintenance costs were some of the problems faced. Rates quoted by builders for the sale of flats in the open market were lower than the actual market prices due to the 25 % ceiling on profit margins and extra payments were received in black. As the cut-off date for eligibility was 1985, many slum dwellers were not eligible and this created resentments among slum communities. Although the scheme was open to co-operatives of slum dwellers, such societies faced difficulties in implementing the redevelopment projects on their own. Since the lease of the land was made available only after implementation of project it could not be mortgaged to raise institutional finance. Lack of technical knowledge and managerial skills also led to delays.

## ● **Slum Rehabilitation Scheme (SRS), 1995**

The provision of free tenements to 4 million slum dwellers was one of the slogans in the election manifesto of Shiv Sena, which came to power in 1995. After the change of government, the Afzalpurkar Committee further modified the SRD and the new scheme was called Slum Rehabilitation Scheme (SRS). Departures from previous policies were made on various levels. The scheme was opened to all slum dwellers included in the 1995 electoral rolls, including pavement dwellers. The carpet area of tenements was increased to 225 sq. ft. (approx 20 sq. m.). The tenements were to be given free of cost to slum dwellers. For every 10 sq. ft. (1 sq. m.) of rehabilitated floor space constructed in the Island City, the builders were offered a free sale component of 7.5 sq. ft. (0.5 sq. m.). A central monitoring and clearing agency was set up, and incentives were given to construct transit accommodation on vacant public lands. The builders were given incentives in the form of additional floor area, which varied between Island City, the suburbs, and difficult areas. However, on each pocket of slum land, a maximum of 2.5 FSI (Floor Space Index) was permitted. Surplus floor area, if any, could be transferred to another area under Transfer of Development Rights (TDR). Additional supports were proposed in case of proposals by the Co-operative Society which included time bound scrutiny, expert advice in technical, financial and administrative matters and an additional commercial component of 5 %. The scheme was to be completed in five years covering 2,335 slum pockets and 90,2015 huts. To strengthen the financial capacity of BMC for provision of infrastructure, a levy was proposed to be collected from the developing agency. The Slum Rehabilitation Authority was constituted for overseeing, co-ordinating and approving these schemes. The executing agencies could be co-operative societies of slum dwellers, public housing organisations, developers, contractors, charitable institutions, or private companies.

All other slum improvement programmes were to be phased out limiting the options for slums. The amendments to the Slum Act, Maharashtra Regional & Town Planning Act, Mumbai Municipal Corporation Act, Maharashtra Housing and Area Development Act, Land Revenue Code and the Development Control Regulations (1991) were made to restrict the scope of slum dwellers appealing to courts of law seeking injunctions against the scheme. The implementation was strengthened as all projects were to be considered as government works and police power was to be used to remove obstructions to the progress of the works.

The scheme initially generated lukewarm interest from the building lobby, which feared delays due to problems of land ownership, continuity of policy, political alignments in the community, and the possible opposition by the beneficiaries after initial consent. Slum dwellers occupying more than 22.5 sq. m. were reluctant to join the scheme. NGOs are helping squatter communities in resettlement, formation of co-operatives, negotiating with authorities and improving legal literacy of squatters to fight for their rights in courts of law, prevention of arbitrary exclusion of eligible households etc. The policy has generated a lot of debate and criticism. Some felt that this is likely to open the doors to a burgeoning real estate Mafia in the city with greater scope for harassment and intimidation by builders using the police. Most of the proposals were initiated in affluent areas and significant numbers of tenements have changed hands.

For all its progressive features, the slum redevelopment scheme still did not contain proactive provisions to resettle families, nor did it specify the nature of resettlement and the kinds of entitlements eligible slum dwellers would receive. The SRA promised to construct eight lakh tenements in five-six years. However, only a little over 19,000 tenements were completed in the mid-1990s. When a new government came to power in Maharashtra in 1995, one of its main election promises was to provide eight lakh free houses for 40 lakh slum dwellers in Mumbai.

### ● Shivshahi Punarvasan Prakaalp Ltd (SPPL), 1998

In August 1998, the Shiv Sena-BJP government set up the Shivshahi Punarvasan Prakaalp Ltd (SPPL). The scheme was a rehash of the earlier slum redevelopment scheme. Slum land was to be handed over to builders for the construction of commercial complexes, with the builders in turn using part of their profits to build new houses for the residents of the slum. A Rs 600 crore loan to fund the SPPL was extracted from an extremely reluctant Maharashtra Housing Area Development Authority (MHADA) and the Mumbai Metropolitan Regional Development Authority (MMRDA). Unlike the earlier redevelopment scheme (where the SRA was only a facilitating agency), the SPPL actively took on the role of a builder. Private builders themselves were given the role of contractors to get them to participate in the scheme. Under the earlier scheme, the builders were expected to make the capital investment without any input from the government, and there were no profit margins. Under the SPPL scheme, the builders as contractors could provide for profit margins. The state government also soon scaled down the size of the project from eight lakh units of 225 sq ft each to two lakh units of the same size. One of the main failings of the SPPL scheme was that it depended on public land as a resource, most of which was already occupied by squatters. By the time the Shiv Sena-BJP government was voted out of office in October 1999, not even a fraction of the number of flats it had promised to build had come up.

In August 2001, the report of the S.S. Tinaikar Committee on slum rehabilitation exposed the SPP as nothing but a fraud, designed to enrich Mumbai's powerful construction lobby by robbing both public assets and the urban poor. The Committee, headed by the highly-regarded bureaucrat S.S. Tinaikar, who retired as Mumbai's Municipal Commissioner a decade ago, found that by the end of March 2001, only 7,461 rehabilitation tenements were ready for occupation, and another 39,146 units were in various stages of construction. The Committee found that several projects had simply been abandoned by builders. Of the Rs.73 crores that the SPP handed over to construction firms in the first two months of its existence, over Rs.50 crores is yet to be repaid. Also, building regulations were routinely violated. "Relaxation of guidelines were made," the Tinaikar report asserts. "Funds in excess of the actual need were disbursed. Special favours to a few developers were made," the report points out.

The Slum Rehabilitation Scheme (SRS) was in a sense the "mother of all bluffs" till date perpetrated on the slum-dwellers in Mumbai.

### **2000s:**

The first half of this decade has again seen its share of demolitions along with attempts to involve NGOs in slum resettlement.

### ● Government-NGO Partnership in Slum Resettlement

A major resettlement of about 60,000 people was carried out with popular participation and partnerships with NGOs in the recent past for the Mumbai Urban Transport Project (MUTP). The project was designed to improve the capacity of suburban trains by laying new railway lines and the extension of platforms. The project is partly funded by the World Bank. Some 15,000 squatter households living within 25 m of the track and 4,000 households around the stations had to be moved. The resettlement and rehabilitation policy recommended the provision of 20.8 sq. m. apartments for 'project affected families'. The Railway Slum Dwellers Federation had already collected data about settlements along the tracks, mapped them, set up women's saving groups and supported the formation of housing co-operatives. Representatives of the NGOs SPARC and the National Slum Dwellers Federation (NSDF) and

were involved in the policy formulation. Indian Railways carried out an unexpected demolition of over 2,000 huts in February 2001, after some pressure from media and a public interest litigation filed in the High Court by an NGO called 'Citizens for a Just Cause' to evict slums along railway tracks without any resettlement. However, the state government assured the courts of a time-bound resettlement. Within a year a population of 60,000 was shifted into apartments in four and seven storied buildings and a few families were shifted into single storied transit accommodation (MMRDA, 2002).

Resettled families had a mixed response. On the one hand they are happy to have secure tenure and access to basic services, but on the other hand the resettlement location offered fewer employment opportunities and led to increased travel costs for a few.

This brings us to the present where more than 80,000 houses have been demolished by the state government since 8<sup>th</sup> December 2004.

What appears to emerge is that the only consistent policy of the state has been that of slum demolitions, while the passing decades have witnessed a different avatar at every turn with regard to the crucial issue of providing housing for the poor. Until the 1970's clearly the state played the role of provider, obviously reflecting the nature of a welfare state. This changed in the 1980s, which saw the marked influence of the World Bank and implementation of its policies. During this period the role of the state undertook a change from provider to facilitator where the slum dwellers were to build their own houses in rehabilitation according to a particular design. The 1990's, on the other hand, have witnessed the telling influence of the builder lobby in the name of public-private partnerships. This trend continues to date though there is indication that in some instances the state is encouraging the participation of NGO's as well.

Thus the policies show a trend of the government withdrawing from the housing sector and increasing the private participation in the housing sector. But increasing the private participation in housing also was not successful as the builders and the developers who were providing housing for the poor were motivated by profit interest. Rather than helping the poor, the private participation even increased the misery of the urban poor. Both the private sector and the public sector failed to cater to the housing needs of the poor. Because neither the public sector nor the private sector succeeded, there is a need of the intervention of the third sector that is the NGO's, which is a part of civil society.

Our urban planning has not only been unbalanced and without a vision to foresee the future needs of the towns and cities in general, it has also been highly discriminatory towards the poor in terms of making provisions for their accommodation facilities and the basic services needed for their everyday existence. In the name of creating an orderly, hygienic and aesthetically pleasing environment, urban planning denies the poor access to adequate housing and environment. The example of Subhashnagar, Wadala, where all the residents were residing near the Don Bosco School for about 15 years or more prior to November 1993. But part of the settlement was demolished on May 10, 1993, and no notices were given prior to the demolition. The police had even resorted to lathi charge and several persons suffered injuries. The site from which they were evicted from near the Don Bosco School has now been made into a 'garden'. There are numerous examples to show that the middle class notion of beautification which led to the demolition of many a slum.

One of them being the Sanjay Gandhi Nagar in Nariman Point where people came for construction work and settled there in the construction site and areas, which were unsuitable for development work. It was not long before the people they served expressed their distaste for them as neighbours. The Cuffe

Parade/ Colaba Residents Association brought pressure upon the local authority to remove them from sight. As a result, in 1980 the municipal authority demolished the colony. Having nowhere to go, the people simply rebuilt their huts. In 1981 and 1986 they were demolished again until one NGO came to their rescue and acquired a land for their rehabilitation.

*In the absence of a housing policy every government has used the notion of 'cut of date' to make some people legal occupants and others illegal.*

## History Of The Cut Off Date<sup>6</sup>

Date of Demolition	Area demolished	Government Term	Other Information	Rehabilitation Status
1950-51	Slums all over Mumbai	Congress	NA	At Mankhurd – given 300 sq feet area
May,1976	Janata Colony	Congress	70,000 people (7,500 families)	Given area at Cheeta Camp
July,1981	Pavement dwellers all over Mumbai	Congress	Large no of pavement dwellers	Deported in buses beyond city limits
July, 1985	NA	Congress	Large no of slum dwellers	NA
June,1997	Bhabrekar Nagar	Congress	65000 people (12842) families	YUVA

### Intpretation

The first time that the demolitions were carried out were in 1950 following independence. The Congress government of that time after demolishing the slums rehabilitated the slum dwellers in an area called Mankhurd. The colony that was set up was called Janata Colony.

The next major demolition was that of Janata Colony in 1976. The reason given by the then Congress government for the demolitions were that they wanted to construct staff quarters for BARC as it was

<sup>6</sup> Information regarding the history of the cut off date was gathered from an unpublished Phd Thesis of Dr. Jalinder Adsule, Professor of Nirmala Niketan College of Social Work as well as from a meeting with Mr. Tinaikar, Retd. Municipal Commissioner of Mumbai.

located next to Janata Colony. The displaced slum dwellers were given area at Cheetah Camp, which was 5 kms away from Janata Colony.

On both the occasions the government followed the policy of pushing the slum dwellers outside the city limits to create space inside the city. Then the first census of the slums was done in the year 1976 and at that juncture the government decided that further encroachments would be stopped and all those who had been included in the census conducted in the year 1976 would be held eligible for the slum improvement, redevelopment or relocation schemes. Thus it was for the first time that the concept of the cut-off date came in. At another level this also meant that those people from the lower-socio-economic class, who migrated to the city for various reasons, did not have a right to do so after the cut-off date.

Despite the government adopting this stand the number of slums kept increasing. Therefore, once again, in 1980 Government adopted of 1980 as the cut-off date. No fresh census was taken by the government as it felt that difficulties were likely to be encountered in conducting census on such a large scale. The electoral rolls of 1980 were, therefore, adopted as the base for determining eligibility. The same story was repeated in the year 1985 and again in 1990. After the Shiv Sena-BJP government came to power in 1995 it declared January 1, 1995 as the cutoff date for providing free housing to slum dwellers. The above historical facts indicate that the extension of the cut-off date has always been used as a ploy to get votes before an election, extension of the cut-off date has always preceded or followed demolitions; and people have been pushed to the periphery of the city without any consideration of loss of life or livelihood.

At the time of the Indian People's Tribunal investigation approximately 25 settlements had been demolished. In many areas the demolitions took place repeatedly. When the IPT panel visited Kannamaur Nagar January 16, 2005, the bulldozers had visited the area just two days earlier.

## **The Controversy Relating To Homeless People Residing In Mumbai Post 1995**

From the earlier section it is clear that while Mumbai has been a nerve centre for jobs the government has not been able to formulate or implement an integrated housing policy to house the labour especially the poor of the city and that in absence a housing policy since 1976 the government has used a policy of regularization of slums on one hand and demolitions on the other. However, the question of 'why' such a large scale eviction was carried out at this particular juncture in history still remains. The Tribunal is inclined to believe that there are some critical issues that have caused this massive demolition. Some of these have been analysed in this sub-section.

- **The Mumbai makeover plan**

Some years ago Bombay First a NGO formed to protect and guide corporate interests in Mumbai commissioned McKinsey an international consultancy firm to create a 'Vision for Mumbai.' McKinsey created a report in 2003 titled Vision Mumbai: Transforming Mumbai into a World Class city by 2013.

The report is based on the premise that while Mumbai has historically been India's commercial capital, making significant contributions to the GNP of the country as well as to the tax revenues of both the State of Maharashtra and the Centre – in the recent years Mumbai has declined both in economic growth and quality of life. McKinsey presupposes that its Vision document will be able to transform Mumbai into a World Class city by 2013. The report states that McKinsey, which developed a framework and

database for benchmarking Mumbai with other international cities. McKinsey achieved its mission by creating a blueprint for Mumbai's overall development. The report strongly suggested the implementation of eight high priority initiatives which it recommended, are as follows:<sup>7</sup>

- i) Boost economic growth to 8-10 percent per annum by focusing on services (high-and-end), development hinterland-based manufacturing and making Mumbai a consumption centre.
- ii) Improve and expand mass and private transport infrastructure, including linkages to the hinterland.
- iii) Dramatically increase low-income housing availability (1.1 million income houses) and affordability and drive upgradation of housing stock.
- iv) Upgrade safety, air pollution control, water, sanitation, education and healthcare.
- v) Create a dedicated 'Mumbai Infrastructure Fund' with an annual funding of Rs 1,500 crore and attract a debt and private financing.
- vi) Make governance more effective, efficient and responsive by corporatising key departments and streamlining important process such as building approvals.
- vii) Generate momentum through more than 20 quick wins to show visible on-the-ground impact during the next 1-2 years.
- viii) Enable implementation through committed public-private resources, led by the Chief Minister and make government organization accountable for results.

While it is not within the terms of reference to critically analyse the McKinsey Report, IPT would like to place on record that the vision seems to be singularly a corporate one which peripherally mentions the needs of the poor and absolutely ignores the contribution of the poor to the economy of the city. "The McKinsey report that is the intellectual basis for the Vision Mumbai plans of the Chief Minister is itself fundamentally flawed, based as it is on the tragically simplistic notion that indices such as 'growth in monetary terms determine the health and future of a city – no matter what the social cost.'<sup>8</sup>

In order to implement the McKinsey Vision the Chief Minister created a Task Force under the leadership of Mr. Sanjay Ubale. The Task Force estimates that the city would need atleast Rs. 36,000 crores to transform Mumbai into a Shanghai Vision. As part of the clean up strategy the ruling government decided that slums must go. The rationale behind this being Mumbai has hit its maximum capacity to accommodate people both in terms of land and funds... and if the tendency is not checked, Mumbai will become a vast slum.<sup>9</sup>

#### ● Support of the urban middleclass

Transforming Mumbai into Shanghai or another Singapore may not be the vision of all segments of the middle class but large segments of the middleclass do feel that if Mumbai has to survive then slums must go. In fact last year close to the General Elections a group of prominent middle class citizens filed a Public Interest Litigation – Amrapurkar Vs Union of India which actually demanded of the Election Commissioner to disenfranchise any citizen staying in authorized structures. The basic premise behind this petition is that the State is being inundated with outsiders and therefore these people do not have a right to vote in the State.

<sup>7</sup> Executive Summary from McKinsey 'Vision Mumbai: Transforming Mumbai Into a World Class City, dated 2003.

<sup>8</sup> Quote of panel member Miloon Kothari as printed in Indian Express, February 23, 2005, Page 9.

<sup>9</sup> Quote of Narinder Nayar, Chairman, Bombay First as printed in Indian Express, February 23, 2005, Page 9.

Another issue that has contributed to the middle class ire is the strong belief that under the Slum Rehabilitation Scheme (SRS) poor people are being given '225 sq of free housing.' While the middle class do not feel that much can be done regarding the SRS scheme at the moment there is a strong opposition of regularizing slums of 1995 and after. Therefore the present demolition drive was actually welcomed by many middle class citizens of Mumbai.

#### ● The question of 'outsiders' and political patronage

Another question that comes to mind is that how come the opposition did not raise even a single objection to Mumbai's largest and most brutal demolition drives. While the ruling government comprises of the Congress-NCP combine, the opposition consists of the Shiv-BJP combine with the Shiv Sena having a stronger mass base in the city of Mumbai than the BJP. The Shiv Sena has historically portrayed itself as a son's of the soil party and have held that outsiders from other States undermine the employment opportunities available to the local Maharashtrians.

By some convoluted reasoning which has not been backed by any survey or statistics the Shiv Sena has taken a stand that all the people living in slums of 1995 and beyond are new entrants to the city and therefore need to be sent back to their native state. It is questionable, however, if this stated stand in spite of it being blatantly unconstitutional is the real reason behind the opposition's silence or in reality is the opposition also looking for their share of the Rs. 36,000 crore Mumbai Makeover plan.<sup>10</sup>

#### ● Shortage of land and money

An oft touted excuse behind demolitions and thereafter not being able to rehabilitate evicted slum dwellers is that of lack of money, infrastructure and land. The government has regularly gone on record to say that the slum population is increasing at an alarming rate due to constant inflow of migrants. In fact during the recent demolition drive Mr. R.R. Patil was quoted saying that over 300 families enter the city of Mumbai daily.

The next section of this report explores the myths and facts behind these arguments as well and looks into some issues relating to land grabbing and fraud which the government has hidden from the common citizen.

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<sup>10</sup> Mumbai Makeover: CM seeks Sena-BJP help, Times of India, December 12, 2004

## Myths And Realities Surrounding The Issue

### • Where is the legal housing for the poor?

The real answer to the question of why so many people stay slums is answered rhetorically in the above question. Extracts of various official documents answer the question in the following way:

As against the annual need of 46,000 housing units in 1960s and 60,000 in 1970s in Greater Bombay, 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 MMRDA Regional Plan 1996 – 2011)

Table Average Annual Supply of Housing in Greater Bombay

Period	Housing Board	Employers for Employees	Privates Cooperative Society	Total	Annual Need	Deficit
1956 – 66	4233	3666	9673	17,572	46,000	28,428
1973 – 82	3183	494	15,949	19,626	60,000	40,374
1984 – 91	16,341	-	31,076	47,417	85,000	37,583

The cost of 40 sqm. unit is minimally Rs. 1,40,000/-. The data on incomes indicate that such formal supply is affordable to only top 6.25% (monthly income more than Rs. 6451 at 1991 prices) of households in Mumbai (pp. 248, 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% of 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, MMRDA Regional Plan 1996 – 2011)

From inception (1977) 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 EWS housing has been constructed in Mumbai (MHADA: Activities and Achievements 2002)

The Lok Awas Yojana, a component of 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 has commenced on a small scale in few pockets of Mumbai from 2002 onwards.

### • The 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 for poor and indigent people is that of land and shortage, of 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 demolished the Chief Minister has been quoted in several newspapers as saying that we don't have the land and the money and that daily over 300 families enter Mumbai city. Co-incidentally, 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 Land Controversy and in a controversy regarding improper allotment of CIDCO land.

### **1) The mill land controversy: contradiction in State policy<sup>11</sup>**

The Mill Lands in Central Mumbai 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 20<sup>th</sup> 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 modernization of the mills. In the last 15 years the Real Estate prospects of these vast tracts of land lured the mill owners to exploit the land potential than running the mills as a result of which the government (the same ruling party) was pressurized to change the Development Control Rules in 1991 allowing the sale of land on the condition that the mills were modernized. 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 DCR 58 (i), on the condition that 33% land was given to the MCGB for open spaces and civic amenities and 33% was given to MHADA for public housing. The mill owner enjoyed the full FSI on his share of land and as 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% 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, Mr Johnny Joseph has justified his demolition of the Slums by announcing that the space vacated is needed for the gardens and parks. At the same time, he (MCGB) has surrendered more than 80 hectares of the mill lands reserved for the open spaces to the private use of the mill owners.

### **2) Improper allotment of land owned by CIDCO in Navi Mumbai between 1998-2003**

In a report tabled before the Bombay High Court in the first week of December 2004, former municipal commissioner S.S. Tinaikar indicted Chief Ministers both present and past – Deshmukh, Shinde, Joshi, Rane and others for improper allotment of land in Navi Mumbai. Land worth 150 crore, measuring 6.4 hectares were allotted to eight publishing houses at less than half its market value. Land was allotted to publishing houses: Prabodhan Prakashan (Saamna, Bharatiya Vichar Darshan: (Tarun Bharat), Dainik Pudhari: (Daily Pudhari), Prithivi Prakashan: (Lokmat), Hindustan Prakashan: (Vivek) and Gaokari Prakashan.

The matter came to light when in 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 over-

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<sup>11</sup> Section by Neera Adarkar, Writer, Social Activist and Architect closely associated with the Mill Land and the Mill Workers Struggle.

ruled CIDCO's decision and allotted the plot to Ratnagiri Times for Rs. 3.5 Cores when the Mahalaxmi Mahila Grahak Sanstha was ready to pay Rs.10 Crore. The Society moved the Court and in April 29, 2004 the Court scrapped the allotments – to Navakai Times, Apla Vartahar and Ratnagiri Times and appointed Tinaikar to look into the allotments. The allotted publishing houses then appointed builders and constructed high rise 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.<sup>12</sup>

### **3) An enquiry into the functioning of Shivshahi Punarvasan Prakalp Ltd.<sup>13</sup>**

Mr. S.S. Tinaikar alongwith Mr. R.B 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 MHADA and Rs. 300 crore equity from MMRDA under the Shiv Sena – BJP combine to assist in financing Slum Rehabilitation Schemes thereby provide free housing for 2,00,000 slum dwellers by December 1999.

The Tinaikar 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 SPPL fulfil a public purpose. In his 200 page report Tinaikar is extremely critical of the functioning of the SPPL. Critizing the manner in which SPPL was set up and the constitution of the Board of SPPL and the process of granting loans, Mr. Tinaikar's investigation revealed that SSPL had received applications of 51 projects and had sanctioned 30 project 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 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 SPPL should financially support MHADA to enable it to embark into massive Slum Rehabilitation Projects. After SPPL was constituted without express consent of the Government SPPL money was used to finance a few builders at a great financial risk. Loans to the tune of Rs. 73.17 Crores were disbursed at a very low interest within couple of months in 1999 with out any clear selection and screening policy.

Two of the biggest beneficiaries were Ms Akruiti Nirman Pvt. Ltd and S.D. Corporation (SDCPL) who received nearly 54% i.e. Rs. 39.35 Crores. To quote Tinaikar "As regards Ms Akruiti Nirman Pvt. Ltd. as we have pointed out in prepara, its proprietors Shri Vimal Shah and Hemannt 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 Shivshahi Punarvasan Prakalp between June 1998 – August 1998, before it was registered as a Government Company in September 1998." Akruiti Nirman was given permission to combine nine slum pockets involving rehabilitating 4,600 slum dwellers in different sites in 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 16,30,791 sq. ft. of area. The case of S D Corporation similar,

<sup>12</sup> They're to Blame for Rs. 41.5 Crore Loss, Indian Express, Mumbai Newalline, Page 2, January 6, 2005

<sup>13</sup> Report of the Committee Appointed by Government for Enquiry into Affairs of SPPL, Volume 1, August 1, 2001

only the land in question was the M.P. Mill Compound.

On the other hand Tinaikar points out much of 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 (Pg 72).

#### **4) Lands available on enforcement of Urban Land (Ceiling and Regulation) Act of 1976**

The Urban Land (Ceiling and Regulation) Act of 1976 sought to control land speculation and to achieve a more equitable distribution of land by putting a ceiling of 500 sq. m. on 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. Optionally, 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 dated 22nd August 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 land in Mumbai are charitable trusts of big industrialists and businessmen. The Act was often by-passed 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 rich people went up, but there was no corresponding increase in 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.

#### **5) Lands reserved for construction of houses for the dishoused people**

Lands that have been reserved as HD lands as per the Development Plan and meant for housing the dishoused 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 overall share of budget is 0.87% (Centre for Budget Studies 2002) or Rs. 782.36 crores.

The Ninth Five Year Plan (1997 – 2002) had estimated an expenditure of 159.65 crores of this only 61.62 crores was spent. (Centre for Budgets 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 MHADA. This sum was utilized 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 the Urban Development Ministry's allocation was slashed from Rs. 513.03 crore because it could not use up funds of Rs. 239.33 crore in the last three financial years. In an attempt to cover up, the Ministry has stated that one of the main reasons for non-utilization of funds has been caused by the failure of the Mumbai slum relocation scheme to take off.

The powerful real estate lobby also plays a critical role in ensuring that vacant lands are not freed up for utilization for slum dwellers. The National Commission on Urbanization in 1987 reported that 91 individuals in Mumbai own 55% of vacant land.

Clearly what can be inferred is that while the lands and funds are available there is no political or bureaucratic will to utilize these available lands for housing slum dwellers. On the other hand even land meant for housing the poor or land reserved for other purposes have been used by vested interests for their own profit.

### ● **Government's vacillating stand and doublespeak**

Ever since the demolitions started the Congress Government has found itself in the midst of criticisms - first from social action groups / organizations and the slum dwellers themselves for having undertaken a demolition tirade and then from those who had supported the demolition spree.

#### **1) Political flip flop**

When Maharashtra Chief Minister Mr. Vilasrao Deshmukh ordered the demolitions it was met with stiff resistance from social action groups, local NGOs, and leaders of various People's movements. The people along with the leaders kept up the pressure on the government by continuing their agitation for days. Following this the leaders also went to Delhi to meet senior leaders of the Congress party, which has also formed the government at the Centre. This however, did not bear any fruitful results as the demolitions continued. While there were these protests on the one hand the Congress government also found tremendous support and accolades from organizations / guilds like the Indian Merchants Chambers, Bombay First (an NGO representing the Corporate sector). The argument thrown in favour of evictions and demolitions was that if Mumbai is to be turned into Shanghai then these slums and slum dwellers must go. In doing so the plan of action that was lobbied for was the plan laid out in the McKinsey report.

On 14.02.2005 All India General Secretary of the Congress Party Mrs. Margaret Alva visited Mumbai to talk to Mumbai Vision: A Congress Perspective. Even though the talk was organized by the Indian Merchants Chambers for the first time it came out in the open that there were serious differences of opinion between the Congress government at the centre and the Congress government in the State of Maharashtra on how Mumbai could be turned in Shanghai. In other words, the Congress representative made it clear that demolitions and evictions were wrong especially if the government did not intend to rehabilitate those affected or did not have an alternate housing plan for them.

Following this visit, the Maharashtra Chief Minister Mr. Vilasrao Deshmukh was then summoned by the Congress to Delhi. It was after this visit that the demolitions came to a halt but a promise was made to regularize slums till the year 2000.

In the months that followed however, no action was taken by the government either to rehabilitate the slums that were demolished neither was a GR issued to regularize the post 1995 slums.

In fact, in the months following the IPT public hearing, public protest against the demolitions rose. In one such peaceful protest - on Wednesday the April 6, 2005 a rally of more than 7000 people representing the 43 settlements evicted across Mumbai between December 2004 to March 2005 marched for more than an hour from August Kranti Maidan, Grant Road to Azad Maidan, CST. The rally was organized by Shahar Vikas Manch and the National Alliance of People's Movements, and led by Medha Patkar, Mohan Chavan and Kaushalya Salve.

The rally reached the vicinity of Azad Maidan at around 1.45pm and stopped to reiterate their losses and their demands for rightful compensation. At this stage the police, led by DCP Bajaj, initiated an indiscriminate attack on the protestors with their 'lathis' (sticks) injuring not less than 87 people, mostly women and children, and also including media representatives. Medha Patkar along with 19 other community leaders and activists were dragged into the police van and taken to the nearest police station.

The sudden 'lathi' charge took the crowd by surprise and they were unable to defend themselves against the blows. A large number of people were chased with sticks by the police, creating a state of fear and leading to a stampede as people ran helter-skelter for cover. Women and children were the main victims of this brutal charge, including five-month-old Rabiya Khatun who was rendered unconscious for several hours as a result. Many other children and adults were beaten, bruised or were estranged from their companions/ guardians in this period. Activists report that this has been the most brutal state action against a public demonstration that they have seen in the last twenty years.

The dispersed crowd slowly gathered back at Azad Maidan by 5 p.m., and expressed their anguish at the inhuman treatment meted out to them by the government and police. "Why were we beaten when all we were doing was asking the government to take a decision," asks 9-year-old Rafiq in the interview that forms part of the video footage of the demonstration that bears testimony that the assault was unprovoked and unjustified. It was only when Medha Patkar and others were released from police custody at 2am on April 7, 2005 that the crowd heaved a sigh of relief. Far from breaking their spirit, the onslaught has served to intensify the agitation against the unconstitutional evictions and strengthen their demand for rightful rehabilitation

## 2) Misinformation campaign

Lastly regarding the constant inflow of migrants to the city the figures stated publicly by government authorities are questionable. If one was to refer to the Census of India's data it is clear that on an average only 30-40 families enter Mumbai each day. This figure encompasses both the rich and the poor. In its entire campaign against the growth of slums government agencies assume that increase in slums is caused by inflow of migrants to the city. In reality, however, there is normal 60% increase of population in the city as per natural regeneration, this fact is never calculated.

## 3) Double standards

It is interesting to note that in the case of the so-called illegal structures of slum dwellers in most cases no notice was provided. People were evicted and no alternatives were provided. In the cases where the

BMC tried to demolish the structures of the rich and well placed, notices were given and in many cases the owners were given adequate time, during which they approached the Court and managed to obtain a stay. It is interesting to note that the Courts too have a biased approach as often when slum dwellers have approached the courts, the courts have refused their application but granted a stay on the demolition of the homes of the rich.

#### **4) Mumbai makeover and the World Bank**

The conflict on housing rights for the poor has not only remained in the domain of the State of Maharashtra government but is also influenced by the World Bank and other international agencies. In a recent meeting organized by Bombay First and MMRDA on the Mumbai Makeover held in the Taj Hotel, Mumbai from May 25 – 26, 2005, the Country Head of the World Bank was among the key note 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 Land, lift the cap on FSI and open up the salt pans for housing.

At the same conference other international speakers shared experiences about similar urban renewal endeavours in London. In their presentation 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.

Finance Minister Mr. 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 and Regulation) Act 1976.

Thus it is clear that there is more than meets the eye when one talks about the nature and origin of slums in Mumbai. Given below is an article by Kalpana Sharma published in the Hindu newspaper, Chennai edition dated January 22, 2005 which sums up the concerns raised by these demolitions.

### **● Mumbai's demolition marathon**

While the Government can have a tough policy on structures built illegally on public lands, it cannot have the same attitude towards the people living in those structures.

The demolition drive is a part of the joint strategy by Mumbai's municipal corporation and the State Government to send out a message that "illegal" encroachers will not be tolerated any more. In reality, the only people not being tolerated are the very poor.

The demolitions are not just a gross violation of basic human rights, they illustrate the absence of a workable housing policy for the urban poor. Indeed, demolitions have become a substitute for a housing policy.

Mumbai is facing a genuine crisis. A city of commerce and enterprise, it has always been a magnet for those looking for work not only in Maharashtra but also from other parts of India. But while in the pre-Independence years this much needed labour to service the city could be absorbed and even housed, since Independence there has been no clear policy to deal with housing for the working class and the poor. Over time, vacant land has been encroached, marshland has been reclaimed and the homeless have occupied pavements, empty strips along railway lines and water pipes. Today, close to 60 per cent of the city's pop-

ulation of 12 million lives in these slums. By any measure, this situation cannot be allowed to continue.

Instead of getting to the bottom of the problem, which is that of finding ways to increase the affordable housing stock in the city, successive governments have resorted to piecemeal solutions. The most popular has been to set a "cut-off" date; that is a date after which no encroachment on public or private land will be tolerated. Except that the Government has been selectively tolerant even as this "cut-off" date has edged forward and now stands at January 1, 1995. The parties that form the present State Government in Maharashtra, the Congress and the Nationalist Congress Party, promised that this date would be further extended up to 2000. But having won the election and formed the Government, they have hastily backtracked.

The "cut-off" date essentially means that the Government will not be responsible for people who have encroached on land after that date. Those who can establish that they set up house before that date are entitled to either alternative accommodation, free of charge, if that land is needed for any other public purpose or can bring in a developer to construct formal housing on that land. This was part of the Slum Redevelopment Scheme (SRS) brought in by the Maharashtra Government in 1998. It was premised on the recognition that slum dwellers had invested in developing the land and the structures. So the "free" house was notional as it was essentially to compensate for their labour in making the land on which the slum stands habitable. In any case, once the slum dwellers moved into their "free" house, they had to pay charges to the housing society. So the security of tenure came at a price.

On paper, the Government's stand on a cut-off date might sound reasonable if you argue that it is not the job of governments to provide houses for everyone. But in reality it translates into denying people basic rights just because they are poor. For while the Government can have a tough policy on structures built illegally on public lands, it cannot have the same attitude towards the people living in those structures. These are citizens of this country. They cannot be pushed out on the street, or forced to "return" to their so-called native place just because there is work available but nowhere to live in the city.

What is worse is the manner in which the demolitions occur. In the past, the demolition squad would come with sticks and axes and manually break down the structure. This gave the "encroacher" the time to save his or her belongings. Today, there is no such luxury. Bulldozers and earthmovers appear overnight aided by the police. Within a few hours, structures that have been built by the poor incrementally over years are flattened. There is little time to save anything. Sometimes even the papers that would establish that the hutment existed before the cut-off date are flattened with the structure.

The plots where the demolitions took place are being policed and slum dwellers say that even temporary structures, built with bamboo poles and plastic sheets, are being pulled down. Thousands of children have not been able to attend school because of the demolitions, parents are afraid to go to work and leave what little they have salvaged of their belongings in the open, and old people are suffering the cold nights without a roof over their heads.

Demolitions, of course, are not new to the urban poor. Go to any slum in the city and you will hear stories of how many times houses have been demolished and how many times people have been forced to rebuild on the same spot. The difference is that each time this happens, they have to pay more to the local officials. The reason this spate of demolitions is particularly unacceptable is because of the complete absence of a plan about what to do. State Home Minister R. R. Patil was quoted in a newspaper saying, "When we launched the (demolition) drive, we never thought of their rehabilitation. Legally

speaking, that is not the responsibility of the government."

The statement underlines the cavalier attitude of the State Government towards the urban poor, the very people whose votes are sought before an election and who are promised security of tenure. While "legally" the Government can claim it is not responsible to resettle those it has displaced, can it really turn its back on them. And what about the hundreds of acres of land ostensibly freed by the demolitions? At last count, over 300 acres have apparently fallen vacant, as slum settlements have been demolished in the northern and north-eastern suburbs of the city. The Government, however, has not announced what it plans to do with these lands. The reason they were encroached upon in the first place was precisely because the Government failed to develop them.

The only policy that can be considered a housing policy of sorts is the Slum Redevelopment Scheme. It has worked indifferently and has nowhere near achieved its target of rehousing 40 lakh slum dwellers. But at the very least it represents an approach towards housing the homeless.

The other so-called plan on the horizon is one devised by the private consulting firm McKinsey for Bombay First, an organization 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.1000 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 today 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 house the poor had been tried. This involved marking out plots in land 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 such a callous approach towards the very people who service the city.

## **HOUSING IS A RIGHT: LAWS, POLICIES AND STRATEGIES**

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# 3

- International and domestic laws pertinent to housing
- Domestic provisions
  - Provisions for Dalits
  - Housing rights for persons with disabilities
- International commitments and obligations
- Slum rehabilitation authority.
- Rehabilitation schemes
- The draft national slum policy
- 74<sup>th</sup> amendment to the Constitution
- Alternatives and solutions for pro-poor planning.

A Srinivas, Indian Express



Post demolition, women and children try to find shelter,  
Maharashtra Nagar, Mankhurd

# HOUSING IS A RIGHT: LAWS, POLICIES AND STRATEGIES

## International and domestic laws pertinent to housing

### Right to shelter: Domestic provisions

In 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.

Upholding the importance of the right to a decent environment and a reasonable accommodation, in *Shantistar Builders v. 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,"*

In *Chameli Singh v. State of U. P* [(1996) 25CC549 132] a Bench of three Judges of this 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 needs 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."*

Emphasizing 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 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. 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 a 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 cultured being. Want of 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."*

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) (e) 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)(e) and as a facet of inseparable meaningful right to life as available under Article 21.

In *Ahmedabad Municipal Corporation, Appellant V. Nawab Khan Gulab Khan And Others*, the Court observed that,

*"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."*

As recognized by several human rights bodies of the UN, the full enjoyment of rights such as the right to human dignity, the principles of non discrimination, the right to an adequate standard of living, the right to freedom to choose one's residence, the right to freedom of association and expression and the right not to be subjected to arbitrary interference with one's privacy, family, home or correspondence is indispensable for the right to adequate housing to be realized, possessed and maintained by all groups in society.

## Provisions for Dalits

It is important to take note of the fact that a predominant number of slum dwellers are dalit or Muslim. This is not a matter of astonishment since, especially in the case of Dalits who are born into the circle of poverty. Thus in the urban context generations of Dalits are born and bred in slums while in the rural context the reality is of landlessness and next-to-no economic opportunities. Thus we see that even those migrating into Mumbai and forming its poor are Dalits. The National Commission on Urbanisation in 1988 states that "...there is a much higher incidence of poverty among scheduled castes and tribes than is warranted by their proportions in the general population of the city."

In such a context it is imperative to examine whether the state has taken any special care to address the needs of slum dwellers as Dalits and not only looking at them through the lens of legality.

This in fact is the opinion of the Supreme Court in Ahmedabad Municipal Corporation, Appellant V. Nawab Khan Gulab Khan And Others, where it observed that,

*"The State and consequentially the local authorities, are charged with the constitutional duty to provide the weaker sections, in particular the Scheduled Castes and Scheduled Tribes with socio-economic and political justice and to prevent their exploitation and to prevent them from injustice. The Union of India have evolved Indira Avas Yojna Scheme exclusively to provide housing accommodation to the Scheduled Castes and Scheduled Tribes and separate annual budgets are being allotted in that behalf by Parliament and the appropriate legislatures in allied matters. In that behalf, in implementation of the housing scheme evolved for them, the budgetary allocation should exclusively be spent for them and should not be diverted to ally other projects or similar schemes meant for others. The Planning Commission has evolved the principle of allotment of a specified percentage for the overall development of the Scheduled Castes and Scheduled Tribes. As a facet of it, the annual budget including for housing accommodation is being prepared and passed by Parliament. Similarly for other schemes covered by the State budgets. Therefore, when the State, namely, the Union of India or the appropriate State Government or the local bodies implement these schemes for housing accommodation of the Scheduled Castes and Scheduled Tribes or any other schemes, they should, in compliance with the mandates of Articles 46, 39 and 38, annually provide housing accommodation to them within the allocated budget and effectively and sincerely implement them using the allocations for the respective schemes so that the right to residence a to them would become a reality and meaningful and the budget allocation should not either be diverted or used for any other scheme meant for other weaker sections of the society. Any acts in violation thereof or diversion of allocated funds, misuse or misutilisation, would be in negation of constitutional objectives defeating and deflecting the goal envisioned in the Preamble of the Constitution. The executive forfeits the faith and trust reposed in it by Article 261 of the Constitution.*

## Housing Rights for Persons with Disabilities

In the past it was assumed that persons with disabilities would live with their families as they are dependent on them for care and protection. However with the onset set of rights based legislations following the first Asia and Pacific Decade of the Disabled Persons, the concept of housing has witnessed a significant, attitudinal change as enshrined in the statement of objects and reasons of the Disabilities Act 1995.

Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act 1995.

## Chapter VII : Affirmative Action

### 43. Schemes for preferential allotment of land for certain purposes

The appropriate Governments and local authorities shall by notification frame schemes in favour of persons with disabilities, for the preferential allotment of land at concessional rates for: a) house

National Federation of the Blind & Anr Vs. State of Uttar Pradesh and Ors 2000(2) AWC 1234

The Court held that schemes draft by local development authorities must be in accordance with the provisions of Section 43. The Lucknow Development Authority had circulated an order that was challenged as being contrary to Section 43 of the Disabilities Act. The Court ordered that neither the State Government nor the local authorities could take the benefit of its own action. It observed that the Disabilities Act aims at making person with disabilities self-reliant. With this view the Court held that the local authorities must provide concessional allotment schemes for the disabled.

## International commitments and obligations

Housing is a foundation from which other legal entitlements can be achieved. This relationship or "permeability" between certain human rights and the right to adequate housing show clearly how central the notions of indivisibility and interdependence are to the full enjoyment of all rights. Everyone, therefore, has the right to adequate housing, and should have sustainable access to natural and common resources, clean drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, food storage facilities, refuse disposal, site drainage and emergency services.

The right to adequate housing is one of the economic, social and cultural rights to have gained increasing attention and promotion, not only from the human rights bodies but also from the United Nations Centre for Human Settlements (Habitat). This began with the implementation of the Vancouver Declaration on Human Settlements issued in 1976, followed by the proclamation of the International Year of Shelter for the Homeless (1987) and the adoption of the Global Strategy for Shelter to the Year 2000, by the United Nations General Assembly in 1988.

The right to adequate housing forms a cornerstone of the Global Shelter Strategy: *The right to adequate housing is universally recognized by the community of nations...All nations without exception, have some form of obligation in the shelter sector, as exemplified by their creation of housing ministries or housing agencies, by their allocation of funds to the housing sector, and by their policies, programmes and projects. All citizens of all States, poor as they may be, have a right to expect their Governments to be concerned about their shelter needs, and to accept a fundamental obligation to protect and improve houses and neighbourhoods, rather than damage or destroy them.*

Adequate housing is defined within the Global Strategy as meaning: *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.*

The right to adequate housing and the necessity to ensure access to basic services by implication has also been addressed in many resolutions adopted by all types of United Nations decision-making organs. Most of the resolutions concerning housing rights have been directed at Governments, with a view to encouraging them to do more to realize this right. These include,

## International Conventions and Covenants:

- International Covenant on Economic, Social and Cultural Rights (1966)
- International Convention on the Elimination of All Forms of Racial Discrimination(1965)
- Convention on the Elimination of All Forms of Discrimination Against Women (1979)
- Convention on the Rights of the Child (1989)
- Convention Relating to the Status of Refugees (1951)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)

## International Conventions and Covenants

### 1. International Covenant on Economic, Social and Cultural Rights (1966)

International Covenant on Economic, Social and Cultural Rights, adopted by United Nations General Assembly in resolution 2200A(XXI) of 16 December 1966, entered into force on 3 January 1976, 143 States Parties as of November 2000. The Committee on Economic, Social and Cultural Rights monitors state compliance with the Covenant. Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights and considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms, this Covenant laid down certain principles.

#### 1. Article 6 states

“1.The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.”

#### 2. Article 11.1 states:

“The States Parties to the present Covenant recognize 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 States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.”

### 2. International Convention on the Elimination of All Forms of Racial Discrimination (1965)

International Convention on the Elimination of all Forms of Racial Discrimination, adopted by the

United Nations General Assembly in resolution 2106A(XX) of 21 December 1965, entered into force on 4 January 1969, 156 States Parties as of November 2000. The Committee on the Elimination of All Forms of Racial Discrimination monitors states compliance with the Convention.

Article 5 states:

"In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ... (e) in particular ... (iii) the right to housing".

### 3. International Convention on the Elimination of All Forms of Discrimination Against Women (1979)

International Convention on the Elimination of all Forms of Discrimination Against Women, adopted by the United Nations General Assembly in resolution 34/180 of 18 December 1979, entered into force on 3 September 1981, 166 States Parties as of November 2000. State compliance with the Convention is monitored by the Committee on the Elimination of All Forms of Discrimination Against Women.

Article 14.2 states:

"States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right ... (h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications".

### 4. Convention of the Rights of the Child (1989)

Convention on the Rights of the Child, adopted by the United Nations General Assembly in resolution 44/25 of 20 November 1989, entered into force on 2 September 1990, 191 States Parties as of November 2000. State compliance with this Convention is monitored by the Committee on the Rights of the Child.

1. Article 16.1 states:

"No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation".

2. Article 19.1 states:

"States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."

3. Article 27.3 states:

"States Parties in accordance with national conditions and within their means shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing".

4. Article 37 states:

"States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time."

#### 5. Convention relating to the Status of Refugees (1951)

Convention relating to the Status of Refugees, adopted by the United Nations General Assembly in resolution 429(V) of 28 July 1951, entered into force on 22 April 1954.

Article 21 states:

"As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances".

#### 6. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)

International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, adopted by the United Nations General Assembly in resolution 45/158 of 18 December 1990, and will enter into force when at least 20 States have accepted it. State compliance with this Convention will be monitored by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Article 43.1 (d) states:

"Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to ... (d) Access to housing, including social housing schemes, and protection against exploitation in respect of rents".

#### International declarations and recommendations

##### 1. Universal Declaration of Human Rights (1948)

The Universal Declaration of Human Rights adopted and proclaimed by the United Nations General Assembly in resolution 217A (III) of 10 December 1948.

Article 25.1 states:

"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, 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".

## **2. Declaration of the Rights of the Child (1959)**

Declaration of the Rights of the Child, proclaimed by the United Nations General Assembly in resolution 1386(XIV) of 29 November 1959.

Principle 4 states:

"The child shall enjoy the benefits of social security. He shall be entitled to grow and develop in health; to this end special care and protection shall be provided to him and his mother, including adequate pre-natal and post-natal care. The child shall have the right to adequate nutrition, housing, recreation and medical services".

## **3. International Labour Organization Recommendation No. 115 concerning Worker's Housing (1961)**

International Labour Organisation Recommendation No. 115 concerning Worker's Housing, adopted at the forty-fifth session of the ILO Governing Body on 7 June 1961.

a. Section II (Objectives of National Housing Policy), paragraph 2 states:

"It should be an objective of national [housing] policy to promote, within the framework of general housing policy, the construction of housing and related community facilities with a view to ensuring that adequate and decent housing accommodation and a suitable living environment are made available to all workers and their families. A degree of priority should be accorded to those whose needs are most urgent".

b. Section III (Responsibility of Public Authorities), paragraph 8.2 (b) states:

"The responsibilities of the central body should include formulating workers' housing programmes, such programmes to include measures for slum clearance and the re-housing of occupiers of slum dwellings".

c. Section VI (Housing Standards), paragraph 19 states:

"As a general principle, the competent authority should, in order to ensure structural safety and reasonable levels of decency hygiene and comfort, establish minimum housing standards in the light of local conditions and take appropriate measures to enforce these standards".

Suggestions Concerning Methods of Application, Section I, paragraph 5, states:

"The competent authorities should give special attention to the particular problem of housing migrant workers and, where appropriate, their families, with a view to achieving as rapidly as possible equality of treatment between migrant workers and national workers in this respect".

#### **4. Declaration on Social Progress and Development (1969)**

Declaration on Social Progress and Development, proclaimed by the United Nations General Assembly in resolution 2542 (XXIV) on 11 December 1969.

Part I, article 6 states

"Social development requires the assurance to everyone of the right to work and the free choice of employment. Social progress and development require the participation of all members of society in productive and socially useful labour and the establishment, in conformity with human rights and fundamental freedoms and with the principles of justice and the social function of property, of forms of ownership of land and of the means of production which preclude any kind of exploitation of man, ensure equal rights to property for all and create conditions leading to genuine equality among people".

Part II, article 10 (f) states:

"Social progress and development shall aim at the continuous raising of the material and spiritual standards of living of all members of society, with respect for and in compliance with human rights and fundamental freedoms, through the attainment of the following main goals:

(f) The provision for all, particularly persons in low-income groups and large families, of adequate housing and community services."

#### **5. Declaration on the Rights of Disabled Persons (1975)**

The Declaration on the Rights of Disabled Persons, proclaimed by the General Assembly resolution 3447 (XXX) of 9 December 1975.

Article 9 states:

"Disabled persons have the right to live with their families or with foster parents and to participate in all social, creative or recreational activities. No disabled person shall be subjected, as far as his or her residence is concerned, to differential treatment other than that required by his or her condition or by the improvement which he or she may derive there from. If the stay of a disabled person in a specialized establishment is indispensable, the environment and living conditions therein shall be as close as possible to those of the normal life of a person of his or her age".

#### **6. Vancouver Declaration of Human Settlements (1976)**

Vancouver Declaration on Human Settlements, adopted by the United Nations Conference on Human

## Settlements in 1976.

Section III.8 states:

"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".

Chapter II.A.3 states:

"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 land or 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".

## **7. United Nations Educational, Cultural and Scientific Organization Declaration on Race and Racial Prejudice (1978)**

United Nations Educational, Cultural and Scientific Organization Declaration on Race and Racial Prejudice, adopted at the twentieth session of the General Conference on 27 November 1978.

Article 9.2 states:

"Special measures must be taken to ensure equality in dignity and rights for individuals and groups wherever necessary, while ensuring that they are not such as to appear racially discriminatory. In this respect, particular attention should be paid to racial or ethnic groups which are socially or economically disadvantaged, so as to afford them, on a completely equal footing and without discrimination or restriction, the protection of the laws and regulations and the advantages of the social measures in force, in particular in regard to housing, employment and health; to respect the authenticity of their culture and values; and to facilitate their social and occupational advancement, especially through education".

## **8. International Labour Organization Recommendation No. 162 concerning Older Workers (1980)**

International Labour Organization Recommendation No. 162 concerning Older Workers, adopted at the sixty-sixth session of the ILO Governing Body on 23 June 1980.

Section II, paragraph 5 (g) states:

"Older workers should, without discrimination by reason of their age, enjoy equality of opportunity and treatment with older workers as regards, in particular...(g) access to housing, social services and health institutions, in particular when this access is related to occupational activity or employment".

## **9. Declaration on the Right to Development (1986)**

Declaration on the Right to Development was adopted by the United Nations General Assembly in resolution 41/128 on 4 December 1986.

Article 8.1 states:

"States should undertake, at the national level, all necessary measures for the realization 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 injustice".

## **10. Global Strategy for Shelter to the Year 2000 (1988)**

United Nations Global Strategy for Shelter to the Year 2000, adopted by the United Nations General Assembly in resolution 43/181 on 20 December 1988.

Point 13 states:

"The right to adequate housing is universally recognized by the community of nations...All nations without exception, have some form of obligation in the shelter sector, as exemplified by their creation of ministries or housing agencies, by their allocation of funds to the housing sector, and by their policies, programmes and projects. All citizens of all States, poor as they may be, have a right to expect their Governments to be concerned about their shelter needs, and to accept a fundamental obligation to protect and improve houses and neighbourhoods, rather than damage or destroy them".

## **17. General comments adopted by the Committee on Economic, Social and Cultural Rights:**

General Comment No. 7 (Sixteenth session, 1997): The right to adequate housing (art. 11.1 of the Covenant): forced evictions

In its General Comment No. 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.

The international community has long recognized 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 recognized. Agenda 21 stated, "People should be protected by law against unfair eviction from their homes or land". In the Habitat Agenda, 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 that 'forced evictions are a gross violation of human rights.'**

It recognized the practice of forced evictions as widespread and as affecting persons in both developed and developing countries. Forced evictions 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.

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, or the clearing of land for agricultural purposes.

**Laying down certain guidelines in respect of forced evictions, the UN in its general comment said:**

- 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.
- States 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 minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States 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 States 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".
- 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".

- 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 that directly invoke a large number of the rights recognized 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.
- 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.

## **Slum rehabilitation authority**

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 Chairperson, a Chief Executive Officer and fourteen other members. SRA was created by the Government Notification dated 16th December 1995 to function with effect from 25th December 1995. The Chief Minister of Maharashtra is the Chairperson of 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 State Government Departments and some non-official members who are experts in the field of Building Construction, Planning, Architecture, Social Services, etc.

All slum dwellers residing on the plot prior to 1st January 2005 and are in use of the structure are eligible for rehabilitation. At least 70% of the slum dwellers in a slum unite under a slum dwellers cooperative housing society. Collect share capital of Rs. 50/- per member and Re. 1/- as entrance fee. This is then deposited in the name of the proposed housing society in the Mumbai district central co-operative/ Maharashtra State Co-operative Bank Ltd. Documents regarding the title of the land are collected by the society. A suitable developer is appointed by the society by a general body resolution. The developer appoints professionals like Architect/ Licensed surveyor; Structural engineer; etc. The developer enters into individual agreements with all the slum dwellers agreeing to participate in the scheme.

## **Rehabilitation schemes**

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 Development Control Regulations no. 33(10), which is also called in-situ scheme, where the slums are rehabilitated on the same site.
- Under provisions of Development Control Regulations no. 33(11), which also called PAP scheme, where an owner of vacant unencumbered land can use it for construction of PAP tenements for which he is compensated by TDR for land and for construction.
- Under provisions of Development Control Regulations no. 33(14), which also called transit scheme, where the landowner is allowed to consume the existing FSI potential of the land, owned by him. The additional potential of 1.5 for suburbs, 1.66 for difficult area & 1.00 for island city (only for government or public sector plots) is granted under this scheme.

## **The draft national slum policy**

The draft National Slum Policy envisages cities without slums. Towards fulfillment 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 plea for greater participation of communities and 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 and management, shelter upgradation, etc.

The governing principals 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 much defined circumstances.
- Recognition that households in all urban informal settlement 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 allocations.
- A greater participation of communities and civil society in all area of planning, capacity building, and development.

The draft policy is however silent over the ways in which such goals could be realised. Also, the definition of all under-served serviced lands as slums will hinder and deny the most needy and vulnerable from having access to resources for upgradation and improvement.

Many other dimensions also need to be considered and the GNCTD will have to adopt a policy that specifically addresses the local situation and needs. The policy should include various points being covered in this report.

## **The 74<sup>th</sup> amendment to the Constitution**

The amendment brings in the urban local self-Government its constitutional status as the third tier in the

federal systems 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 – like Nagar Panchayats, Municipal Councils and Municipal Corporations. It is the decision of the state to decide which area will have the kind of Municipal body. Moreover, when a Municipal area has a population of less than 3 lakh, then the state needs to set up ward committees. Ward Committees will consist of elected members of the Municipal council who represent the wards that come under that ward committee. An important provision of the amendment is the grant of a 5 years term to the municipalities, with the opportunity to be heard if they are to be dissolved or superseded.

74<sup>th</sup> Amendment Act mandates major structural changes in the local governance in order to restore rightful place of Municipalities as democratic units in the present system of governance & empower people at the grass roots by enabling their participation in decision-making.

Unfortunately, the 74th Amendment is silent on the possible change in institutional design, especially in the direction of a strong mayor or a mere 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 this massive demolition drive and not the mayor of the city. The Municipal Commissioner who is the state government representative in the Municipal Corporation who carried out the demolitions. In all these, there was no voice heard of the city Mayor. In essence, there is limited decentralization in case of such mega cities. Nonetheless, a ward level structure of governance has been created in Mumbai city, which can be used for preparing local area plans, that is ward level plans, for including slum dwellers into the planning processes.

## **Alternatives and solutions for pro-poor planning<sup>14</sup>**

In spite of the many laws and policies for the poor, access to housing remains a distant dream. The members of the Tribunal, however, believe that there are solutions. There cannot be a single solution to slum development, as it is now. There cannot be a slum policy that is based on just SRS or slum upgradation or slum improvement. Multiple approaches suitable for the local conditions have to be used. The approach has to be decided based on the holistic assessment at the ward level or area level (that is at the level where area planning would be done.)

An assessment of suitable approaches for each of the slum pockets has to be decided locally while preparing area plans. Process to be participatory with the inclusion of ward committees, of what ever quality they are. Given below are some of the interventions that could be used to protect the rights of the poor and provide better access to housing.

### **Strategy 1**

#### **Strategy for Pro-Poor Master Plan Interventions in India**

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<sup>14</sup> By Rajeev John George and Darshini Mahadevia

There are specific directions given in the Constitution of India to all the states for the fulfillment 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 preference for sustainable human development programmes. It is on these directives the center, state and Urban Local Bodies (ULBs) have framed laws, policies and regulations.

The evolution of Town Planning Act in India started to improve the living conditions of the urban poor. Improvement Trust was set up in 1898, after the 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 Trust was followed in other major cities like: Mysore (1905), Kolkatta (1911), Nagpur (1936), Bangalore (1945) and New 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, and not in isolation. They can be classified as three jurisdiction categories national, state and local. The Town Planning Act comes under the state acts. The Urban (Ceiling and Regulation Act) is a central Act; building bye-laws and zoning regulation comes under the local legal instruments.

### **Master Plan**

The Town Planning Act governs the preparation and implementation of the Master Plans in a city. This is a blueprint for developing the entire city. It is expected to prepare a detailed structure in which planning is done, to make optimum provision for the land-use-planning: housing specifically for the weaker section, transportation, public/semi purposes, education, health, parks, play grounds and other public utility purposes.

### **Pro-Poor Intervention in TP**

The Town Plans (TP) 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 to file 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.

- First is at the existing land use preparation stage.
- The second is at the Master Plan formulation stage.
- The third is at the zonal plan formulation stage.
- The fourth and final is at the scheme formulation stage.

These Master Plans have designated a portion of the residential land for the economically weaker sections. It has provided planning inputs in the improvements of certain existing slum areas and has designated resettlement zones within the planning area. This Master Plan must not only allocate resettlement zones for present demands but also for future housing needs of the urban too.

### **Implementation of Master Plan**

The Master Plans, which were prepared in the 60s and 70s, kept in focus the housing demands of the weaker sections. But the Master Plans prepared in late 90s and the beginning of the 21<sup>st</sup> century has been influenced by business interest groups that had direct or indirect links with land mafia groups.

In India the bureaucrats are mainly responsible body to implement 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 lead to proliferation of slums in mega cities

Paradoxically, slumming in urban cities is not the result of socio-economic conditions, but primarily due to inequitable access to land supply and misuse of residential zones which was legally earmarked in the Master Plan. The working class communities are deprived and denied legal tenure 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.

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 the overall development plans and implementation strategies.

In order to do so the following needs to be done:

- 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 and provisions for housing the poor
- Identifying areas for improvement
- Identifying areas for clearance and Rehabilitation
- In Master Plan Rehabilitation sites for the resettlement of slums and juggi jhopdi should be clearly earmarked.

### **Strategy 2**

**Need for Communicable and Verifiable Information Base of Those Inadequately Housed at Present.**

- Exercise should be ward wise

- With wider participation, including ward committees, citizens groups and NGOs
- Use of available technological tools such as satellite imageries, GIS packages, etc. (It is likely that Mumbai being a coastal city, access is difficult on account of defense restrictions.)

### **Strategy 3**

#### **Residential Land for Future Needs**

Growth of population in cities is through -

- Natural growth of existing population
- Incorporating nearby villages in city boundaries
- Migration from other towns and villages
- Identifying proposed city boundary

Due to rapid population growth in Cities, the Master Plan of major. Cities periodically include the Periphery villages in 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 city. There is need to demarcate the city boundaries.

### **Strategy 4**

#### **Invoke provisions from the Draft National Slum Policy**

The Draft National Slum Policy of 1999, spells out guidelines to stop forced evictions and also advocates strongly for alternative resettlement zones, but there are more amendments to be made for habitational reform. Following recommendations are vital for DNSP:

- Land development rules should be strictly adhered into the alternative resettlement zones.
- In situ-land reform should be an integral part of all upgradation projects for habitat improvement in informal settlements.
- Amend or abolish existing laws and policies, which are a hindrance for providing adequate housing to poor.
- Enact pro-active laws in state legislature and Master Plans, which facilitates in providing land for housing to the city's poor.
- Form inbuilt mechanisms, to protect housing rights violations.
- Reforms in rules and regulations should be made mandatory and easier for the poor to make their own shelter.
- Urban poor who constitute the majority should be integrated within the legal framework of overall development city plan.
- In case of inevitable relocations, working poor families must be rehabilitated at nearby places, so that they face minimum dislocation to their socio-economic life.

## Strategy 5

### **Contribution of Slum Dwellers – Financing Mechanisms**

If all the slums are converted into regular housing, and if each slum house is to cost Rs. 100,000 then total funds required would be Rs. 20,000 Crores. This is just 10% of the Vision 2010 McKinsey Report's financial requirements projections. Of this even if the slum dweller pay about R. 30,000 to Rs. 40,000, that is 30% to 40%, there will be amount of Rs. 6000 to Rs. 8,000 crores can be collected from the slum dwellers. These funds can come as loan.

If the project to house all present slum dwellers is to be completed in 10 years time, then loan requirement would be Rs. 600 crores to Rs. 800 crores per annum. This figure is quite large. It is possible for HUDCO to mobilize such funds. For example, for year 2002-03, Rs. 2,200 crores were targeted to be used as loans for housing schemes. Same amount can come from the government or the BMC. Mumbai's annual budget is about Rs 6000 crores. Which means that 10% of the budget funds can be set aside for slums? The budget funds can be used for slum infrastructure, which would otherwise have been spent on water supply, sanitation, etc. In other words, if funds certain percentage under each of the Mumbai budget, A, B, E and so on are earmarked for targeting at slums, it is possible to get the BMC contribution for slum development. Financial resources in the system can be looked for if there is a will to implement the slum development programmes in Mumbai.

If just \_ of the slum dwellers want new housing, then just Rs. 150 crores to Rs. 200 crores per annum is to be found as loans and same amount from the government for infrastructure. The amount mentioned is available in the system. For the purpose of comparison, HDFC (Housing Development Finance Company) disbursed loans worth Rs. 12,700 crores in year 2003-04. Although meager, but funds from National Slum Development Programme (NSDP), allocation of Rs. 700 crores in 2005-06 at all India level. These funds can be used for community/ individual toilet. Other schemes where funds continue to be meager can be drawn upon on. But, there can also be a campaign to increase fund allocations with the central government. There can also be campaign to increase fund allocation at the state level.

If the government can make a Special Purpose Vehicle (SPV) for construction of flyovers, etc. why not have an SPV for night shelters and rental housing. It can become a self-financing project. It may not provide atrociously high profits but it can provide for cost recovery.

If there is government will, it is possible to get the funds for the purpose of facilitating formalised housing/shelter for the slum dwellers of Mumbai.

## Strategy 6

### **Land Tenure**

Like in Slum Networking (SNP) in Ahmedabad or Indore, a guarantee that demolitions would not be carried out for 10 year period can be given to motivate slum dwellers to invest funds. In SNP in Ahmedabad, the period is proposed to be raised to 20 years. That is under consideration.

Lands are available, a committee to identify vacant government lands must be constituted. Estimate lands required to house the existing slum population. And estimate of new requirements for new urban poor coming to the city. Government lands need to be used for the purpose, wherever possible. Government must give up the idea of speculating on land for infrastructure provisions for the rich as the

MMRDA has been doing. Wherever possible, if private land owners are willing to negotiate, lands can be purchased by the slum dwellers. The latter option however seems to be less feasible.

## **Strategy 7**

### **New Housing For New Migrants – Particularly Low Income**

- Rental housing and night shelters on a large scale for temporary residents and new migrants.
- Asking construction firms to compulsorily provide housing to construction workers as they do in China. (Why not follow such achievements also of China?)
- Provide public toilets on a large scale like it is done in Shanghai in China. ([http://www.chinadaily.com.cn/english/doc/2005-05/14/content\\_442137.htm](http://www.chinadaily.com.cn/english/doc/2005-05/14/content_442137.htm)). Shanghai has a plan to provide public toilets in such a way that everyone has it accessible with 1000 m distance. In old areas of the city, where provision of private toilets is not possible, they are constructing public toilets. The same is the case in Beijing, where in the old city, there are common public toilets.
- Large scale construction of small mass housing as Nivara Hakk and SPARC are doing. Many more players to be brought in. MHADA to be provided with funds to do so. Vigilance by citizens' groups to ensure quality construction and speedy construction.

## **General Recommendations**

- Any solution for the slum dwellers in Mumbai has to be based on the principle that "The government is for the public welfare" and is not a body supporting speculative interests.
- Need for a slum policy for Maharashtra, having a separate chapter focusing on issues of Mumbai.
- Housing and slum policy to be simultaneously seen.
- Need to make statutory bodies and statutory development plans accountable to the people.

Trends indicate that new economic policies are working against the interest of 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 1/10th of 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 price. Adequate housing should be prioritized at policy development plans and implementation 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 policy makers and Urban Local Bodies for evolving right housing solutions. This challenge can only be met if middle class sections and civil society groups join hands in bringing about habitational justice to the poor.



## FINDINGS AND CONCLUSIONS

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# 4

- Findings
- Recommendations
- Conclusions

Photo Courtesy: Apnalaya



These children lost their homes in Ambujwadi. Who will provide a safe home, education and food for them?

## **FINDINGS AND CONCLUSIONS OF THE PANEL**

### **Findings**

1. All forcible evictions and demolitions of the homes of slum dwellers are the worst violation of human rights as per all the international human rights commitments, namely – ICE-SCR, CRC, CEDAW, etc.
2. 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. We have also noticed that all demolitions have taken place brutally and in an inhuman manner without any consideration for the sick, the aged, the children and women.
4. We have noticed that after demolition, there have been instances when members of the demolition squad have taken away the belongings of slum dwellers and in some cases, set their demolished huts on fire.
5. Further, we are inclined to believe that the demolitions have been carried on at the instance of powerful vested interests.
6. We have considerable evidence to hold that irrespective of cut-off date, structures have been demolished indiscriminately.
7. The notion of any cut-off date, either of January 1995 or of 2004, is ultra vires to the Constitution of India.
8. Previously poor people who lived in slum and pavement dwelling had their homes demolished but now as per Section 9B of the Maharashtra Slum Areas [Improvement, Clearance and Redevelopment] Act 1971 as amended in 2001, those living in slum and pavement dwellings can be fined and imprisoned. This section criminalizes those residing in post-1995 slum structures after 18-5-2001. Persons unable to provide pre-1995 documentation are arrested and charge-sheeted: on conviction they could be sentenced for a term extending between 1 year to 3 years, and fine of Rs.2,500 to Rs.5000.

### **Recommendations**

The government and the Brihan Mumbai Municipal Corporation should immediately announce the following forthwith:

- a. Stop all demolition of the homes of slum dwellers.
- b. Announce immediate measures to resettle them in consultation with and with participation of the slum dwellers and/or their representatives, either on the same plot/s where the structures existed, or in any adjoining suitable land. The settlement should

be on a permanent basis. This is especially needed as the monsoon is fast approaching.

- c. Till such time they are settled, the slum dwellers should be allowed to stay on the same land, with temporary structures and with the minimum amenities of water, electricity and public toilets.
- d. Immediate repeal of section 9B of the Maharashtra Slum Areas [Improvement, Clearance and Redevelopment] Act 1971. All cases filed under section 9B are withdrawn.
- e. Also appoint a High Powered Committee (with no politician or builder involved) to do the following:
  - To get all information regarding demolitions and development and to secure all plans from the government and BMC to make them transparent to the people in general.
  - To ascertain the reasons for demolition of these structures.
  - To assess the loss suffered by slum dwellers
  - To suggest ways and means to compensate according to Human Rights Principles, and rehabilitate the slum dwellers.
  - To suggest measures to guarantee land tenure and security and housing to the slum dwellers. So that they are also protected against forced evictions.
  - To draw up a comprehensive housing policy for the poor especially keeping in mind that the city is built and run by migrant labour who come to the city in search for jobs.
  - To look into creating a Makeover Plan that is inclusive and does not cater only to a small minority of the city.

## Conclusions

Slums are as much a result of the flawed economic policies of the State as it is of the social structure of Indian society as 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 solutions need to be envisaged.

While the common notion held is that the slum dwellers are "illegal encroachers", there needs to be a change in this perception if there is to be any policy in favour of slum dwellers. There needs to be a recognition of the fact that no slum dweller chooses to live in squalor and in unhygienic conditions but is doing so out of compulsion and due to the lack of decent affordable housing options. It also needs to be understood that in evicting slum dwellers and in denying them decent shelter, living conditions, options for economic mobility, food security, access to basic civic amenities, voting rights, education, health services, etc. the government is violating their fundamental rights.

In conclusion there are two questions that need to be answered.

First, one important question that needs to be raised is that of the status of fundamental rights of the slum

dwellers with regard to shelter, access to basic services, health, food security, etc in the event of evictions. While their settling pattern may be illegal does this imply that every other fundamental right of theirs gets suspended and violated by the state under the pretext of remedying the illegality? Further what about the rights of the children that are guaranteed by the Constitution of India as also the Convention on the Rights of the Child and the Juvenile Justice Act 2000.

Secondly, what are the possible ways ahead from here? To answer this question we could look at the judgement of the South African Constitutional Court in the matter of Government of the Republic of South Africa and others V Grootboom and others [2001 (4) SA 46 (CC)].

The 1996 "post-apartheid" constitution of South Africa enumerates a variety of specific rights -among them a guarantee of access to housing and a right to shelter for children. Yet many millions of South Africans continued to live in shantytowns or worse, even after passage of the new Constitution. The case of Government of the Republic of South Africa and others V Grootboom and others tells the story of one instance in which South African aspirations and realities collide. It focuses on a lawsuit filed by the resident of a shanty town known as Wallacedene, not far from Cape Town. Irene Grootboom cites the provisions of the South Africa Constitution's Bill of Rights in calling on the nation's Constitutional Court, its highest, to mandate that the government provide improved housing for herself and some 900 other residents of Wallacedene. In looking at the Grootboom lawsuit, the case provides a vehicle for consideration of the question of the meaning of positive rights in a developing country such as South Africa and also India.

The facts of the case are as follows: About 900 people (adults and children) lived in appalling conditions. They decided to move out, and occupied vacant privately owned land across the road. The owner, supported by the local council, obtained a magistrate's court order for their eviction. Their homes were demolished. They were now truly homeless: they could not go back to where they had come from, because other people had occupied that land. They had literally nowhere they could live. While there is a very large government programme for housing, the waiting list is such that they would have to wait for many years, perhaps as many as twenty, for proper housing to be made available to them. Meanwhile they would have simply nowhere they could lawfully live. The government said that it could and would do nothing to assist them. They applied to court for an order on the government to provide them with housing or shelter, and basic services.

At the outset of the hearing in the Constitutional Court, counsel for the government made an offer of access to a piece of land, some building materials, and access to basic services to ameliorate their situation. The community accepted the offer. However, the government failed to honour the undertaking. While the case was still pending, the community brought an urgent interlocutory application to compel the government to honour its undertaking. The Court made an order accordingly, by consent. Two weeks later, the Court gave its judgment in the main case.

The Court noted that the State is under a constitutional duty to take 'reasonable legislative and other measures, within its available resources, to achieve the progressive realisation' of the right of access to adequate housing. The Court noted that,

*"A court considering reasonableness will not enquire whether other more desirable or favourable measures could have been adopted, or whether public money could have been better spent. The question would be whether the measures that have been adopted are reasonable. It is*

*necessary to recognise that a wide range of possible measures could be adopted by the state to meet its obligations. Many of these would meet the requirement of reasonableness. Once it is shown that the measures do so, this requirement is met."*

However,

*"The programme must be balanced and flexible and make appropriate provision for attention to housing crises and to short, medium and long term needs. A programme that excludes a significant segment of society cannot be said to be reasonable.*

*A society must seek to ensure that the basic necessities of life are provided to all if it is to be a society based on human dignity, freedom and equality. To be reasonable, measures cannot leave out of account the degree and extent of the denial of the right they endeavour to realise. Those whose needs are the most urgent and whose ability to enjoy all rights therefore is most in peril, must not be ignored by the measures aimed at achieving realization of the right. It may not be sufficient to meet the test of reasonableness to show that the measures are capable of achieving a statistical advance in the realisation of the right.... If the measures, though statistically successful, fail to respond to the needs of those most desperate, they may not pass the test.*

*... the question is whether a housing programme that leaves out of account the immediate amelioration of the circumstances of those in crisis can meet the test of reasonableness established by the section*

*The absence of this component may have been acceptable if the nationwide housing programme would result in affordable houses for most people within a reasonably short time. However the scale of the problem is such that this simply cannot happen. Each individual housing project could be expected to take years and the provision of houses for all in the area of the municipality and in the Cape Metro is likely to take a long time indeed. The desperate will be consigned to their fate for the foreseeable future unless some temporary measures exist as an integral part of the nationwide housing programme. Housing authorities are understandably unable to say when housing will become available to these desperate people. The result is that people in desperate need are left without any form of assistance with no end in sight.*

*The nationwide housing programme falls short of obligations imposed upon national government to the extent that it fails to recognise that the state must provide for relief for those in desperate need. They are not to be ignored in the interests of an overall programme focussed on medium and long-term objectives. It is essential that a reasonable part of the national housing budget be devoted to this, but the precise allocation is for national government to decide in the first instance."*

So the government was in breach of its duties: it had focussed on its medium- to long-term housing programme, which aims to deliver adequate housing to all of those who are inadequately housed, to the exclusion of any immediate relief for those in a situation of crisis. This was not 'reasonable', as required by the Constitution.

The government had made an offer of relief, which the Court had since made an order of Court. There was therefore no need for any specific relief to be ordered for the Grootboom community. So the Court made a declaratory order:

was therefore no need for any specific relief to be ordered for the Grootboom community. So the Court made a declaratory order:

*(a) Section 26(2) of the Constitution requires the State to devise and implement within its available resources a comprehensive and co-ordinated program progressively to realise the right of access to adequate housing*

*(b) The program must include reasonable 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.*

*(3) As at the date of the launch of this application, the State housing program in the [relevant] area ... fell short of compliance with the requirements in paragraph (b), in that it failed to make reasonable provision within its available resources for people ... with no access to land, no roof over their heads, and who were living in intolerable conditions or crisis situations.'*

The impact of the judgment has been varied. The Government has started shifting its housing programme to have regard to the needs of people in intolerable conditions, or threatened with eviction. It is hoped that the policy makers will draw inspiration from this example while deciding the fate of the evicted slum dwellers in Mumbai and homeless people elsewhere in the country.



Justice Suresh H.  
On behalf of the IPT Panel

Miloon Kothari

Kenneth Fernandes

Kalpana Sharma

Sanjeevini Kher

Salaam Bin Razzaq

## Appendix 1

### SCHEDULE FOR THE PUBLIC HEARING, JANUARY 17, 2005

<b>Morning Session</b>	<b>INTRODUCTION OPENING REMARKS</b>
9:30 – 9:40	Overall Impact of Evictions – <i>Amrita Goswami- YUVA</i>
9:40 - 1:00	Area-Wise Depositions – 1 or 2 Representatives from Each Area Summing up by - <i>Kalpna Gawade, Asha Ankur</i>
1:00 - 1:15	Impact of demolitions on children, women and livelihood Study presented by - <i>CEHAT</i>
1:15 – 1:30	Comments by the Panel
1:30 - 2:00	<b>LUNCH</b>
<b>Afternoon Session</b>	
2:00 – 2:15	Demolitions are not a solution – <i>G. Khairnar, Ex-Deputy Commissioner, Demolitions</i>
2:15 – 2:30	Critique of Vision 2000 – <i>Chandrashekar Prabhu - Architect and Urban Planner</i>
2:30 – 3:00	Current Status of Housing Policies – <i>Amita Bhide, Researcher from TISS</i>
3:00 – 3:15	Experiences of other countries of providing housing to the urban poor - <i>Navtej K.B, Housing Rights Activist</i>
3:15 - 3:30	Urban Planning Keeping the Poor in Mind – <i>Rajeev George, Convenor, National Forum for Housing Rights</i>
3:30 – 4:00	<b>TEA BREAK</b>
<b>Evening Session</b>	
4:00 – 4:15	Protection Granted by the Law to Slum Dwellers and Current Legal Trends - <i>Maharukh Adenwala, Housing and Child Rights Advocate</i>
4:15 – 4:30	International Instruments on Right to Adequate Housing - <i>Miloon Kothari</i>
4:30 - 5:30	Comments of the Panel and Press Conference

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## INDIAN PEOPLE'S TRIBUNAL ON ENVIRONMENT AND HUMAN RIGHTS

In June 1993, at the National Conference on "Human Rights, Environment and the Law" 400 people comprising lawyers, judges, human rights activists and non-governmental organisations (NGOs) met to share their experience. Disillusioned with the apathy of the judiciary towards human rights and the environment they decided to campaign for changes in the system. The conference culminated with the setting up of the Indian People's Tribunal on Environment and Human Rights (IPT) on June 5, 1993. THE IPT is positioned as an alternative "People's Court".

Retired Supreme Court and High Court judges associated with the IPT investigate crucial human rights violations and cases of environmental degradation. These reports are then used by local group to further the campaign and strengthen their struggle. In some cases, a public interest litigation is filed on the basis of these reports to obtain relief for the victims.

### OBJECTIVES

- To highlight environment and human rights issues and provide an alternative vision for both, the judiciary and the public.
- To investigate cases of gross human rights violations and environmental degradation and to report, campaign and litigate.
- To highlight the plight of the oppressed, in particular children, women, tribals, slum dwellers, labourers and prisoners, and encourage victim communities to fight for their rights.

### KIND OF INVESTIGATIONS UNDERTAKEN BY THE IPT

- Forced evictions due to mega-projects, urbanisation and natural disasters
- People's rights in protected areas
- Atrocities against women
- Attacks on minorities
- Atrocities against Dalits
- Impact of industrialisation/ Mega projects
- State Repression and Police Atrocities
- Environmental Pollution/ Degradation

For copies/further information, please contact:

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## Indian People's Tribunal on Forced Evictions and Housing Policies for the Poor in Mumbai

The recent demolitions of slums in Mumbai, which took place from November 2004 to February 2005, have rendered more than three lakh people homeless in a span of a few months, and constitute a gross violation of basic human rights. The government holds that it is merely removing "illegal" encroachments on public lands. But the ruthless manner in which the demolitions were conducted and the fact that even legal structures were demolished, has forced many poor people to ask whether they are being denied the right to live in Mumbai.

The Indian People's Tribunal (IPT) was approached by organizations working with the slum dwellers to investigate the legality of the demolitions as well as to look into the alternatives for poor people to obtain housing in the mega city of Mumbai.

The IPT Panel conducted a site visit to three areas where peoples' homes had been demolished followed by a public hearing on January 17, 2005, at Mumbai Marathi Patrakar Sangh where over 1000 people attended. The site visit was done in Maharashtra Nagar, Indira Nagar in Mankhurd and Kannamaur Nagar, Park Side, Vikhroli.

Following the Public Hearing this report has been written. The report has been divided in to four parts Part I Of the report focuses on the depositions given by the victims in the public hearing. These depositions have been reproduced to highlight the harshness and intensity with which demolitions have taken place. This section also looks into the costs incurred and the impact of demolitions on the poor.

Part II Of the report focuses on the politics of demolitions, probing into issues like the cut off date, myths and realities relating to slums and demolitions especially issues like shortage of land and funds for housing the poor. Part II also investigates contradictory government policies regarding land use and planning, particularly looking into the controversy surrounding the sale and use of the mill lands and land allotments by CIDCO in Mumbai.

Part III Of the report analyses the various housing policies and laws of Government and our International commitments with regard to housing. This section also suggests the kind of alternative strategies needed to protect poor people from repeated evictions.

Part IV Conclusions and Recommendations: Based on the findings and analysis given in the first three sections, this final part gives the conclusions and recommendation of the panel.

### PANEL MEMBERS

**Justice Suresh H.**  
*Retd. Judge Bombay High Court*

**Miloon Kothari**  
*UN Special Rapporteur, on Adequate Housing*

**Kenneth Fernandes**  
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**Salaam Bin Razzaq**  
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