

# **THE LAW VERSUS THE RIGHT TO SHELTER**

**A Case for Unauthorised Colonies**

**PEOPLE'S UNION FOR  
DEMOCRATIC RIGHTS  
DELHI**

**August 1987**

**International Year of Shelter for the Homeless**

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THE total population living in slums in India is estimated at more than three crores, of which nearly thirty lakhs live in the Union Territory of Delhi. A large portion of this slum population live in unauthorised colonies. People's Union for Democratic Rights recently investigated into the living conditions of more than one lakh people living under a constant threat of demolitions in Sangam Vihar, an unauthorised colony on the Mehrauli-Badarpur Road. The PUDR team consisted of Sumit Sarkar (Professor of History, Delhi University); Nandita Haksar (Advocate, Supreme Court); E. Somanathan and Rohini Sethi (both Students, Delhi University).

### *The Problem*

The Union Territory of Delhi has a population of more than sixty lakhs (1981 Census) of which 50 per cent live in slums. It is estimated that more than 1.6 lakh persons migrate to Delhi every year. This means that in two decades there will be approximately 13 lakh more households in need of shelter.

These migrants to Delhi are poor people compelled by poverty and unemployment in rural areas to come to the city to seek a livelihood. They find themselves living in slums, on pavements or in squatter settlements. A large number live in small rooms in unauthorised colonies, without even the bare minimum necessities, like water, latrines and roads.

The Government has formulated various schemes for dealing with the problem of growing urbanisation and consequent increasing number of slums. However, there is still no national housing policy and the right to shelter is not recognised as a Fundamental Right under the Constitution of India — even though India has ratified the United Nations Resolution declaring 1987 as the International Year of Shelter for the Homeless.

In Delhi there has been an attempt to formulate

a land policy which is a pre-requisite for a rational housing policy. For the first time in independent India a Master Plan was drawn up with a twenty-year projection from 1961 to 1981 and it was statutorily promulgated in 1962.

As a result of this the Delhi Development Authority acquired a monopoly position in the acquisition and ownership of land in Delhi; it became the only housing agency in the city; and the Authority combined in itself the functions of planning, land use control, municipal functions and housing construction.

Apart from the Master Plan several laws have been passed which are addressed specially to Delhi's problem of land and housing. The most important ones are:

(1) The Delhi Development Act, 1957 which provides for the acquisition, disposal and development of land by the Authority.

(2) The Delhi Municipal Corporation Act, 1957 applies to most of Delhi. (A small part of Central Delhi comes under the New Delhi Municipal Committee and the Cantonment area has its separate identity). This Act lays down the law dealing with water supply, drainage, sewage disposal, electricity, lighting and building regulations.

(3) The Slum Areas (Improvement and Clearance) Act, 1956.

(4) National Capital Region Planning Board Act, 1985.

None of these laws are aimed at equipping the homeless with any rights. The right to life guaranteed under Article 21 of the Indian Constitution does not include the right to a shelter. Even the Constitution Bench of the Supreme Court has refused to read the right to a shelter as a part of the right to life. The people living in unauthorised colonies have no legal right to water, drains, sewage disposal or roads.

In the eyes of the law the men, women and children living in unauthorised colonies are law-

breakers guilty of committing various cognisable offences and liable to be evicted from their homes, their houses demolished and property destroyed.

Despite the Government's talk of schemes for housing the poor it has over the years given more and more powers to DDA and the Municipal Corporation to demolish and evict. Various offences under both the Acts have been made cognisable, the notice period shortened, the decision of the authority cannot be questioned in a court of law and the convictions have been enhanced.

The laws passed specifically to curb speculation in land and profiteering have proved to be totally ineffective. The Task Force on Housing and Urban Development set up by the Planning Commission has observed that the law created a number of difficulties for the implementation of any housing schemes for the poor and exposes the people to various forms of exploitation. This is specially so because the poor "are denied legal access to land and possibility of housing improvement by various interests for a variety of interests."

The National Commission on Urbanisation, in its first report has also observed that the law has not been able to effectively prevent speculation in land.

In Delhi there have been several land scandals in recent months involving the Municipal Corporation. Poor families, who cannot afford the exorbitant rents, buy small plots of land from "agents". These are the agents of the so-called colonisers who buy land from the landowners. Even this transaction is illegal since agricultural land cannot be sold for non-agricultural purposes without formal permission. The poor family which buys the plot of land usually measuring 50 or 80 square yards never sees the face of either the landowner or the coloniser. There is no sale deed. The transaction is done by way of a power of attorney executed by the coloniser in favour of the person buying the land. The name of the coloniser is false. Sometimes it is executed by the agent who has no legal right of the land anyway.

Many times the agent "sells" the same plot of land to two or more families and decamps with the money. The families are left to settle their dispute by use of physical force. Sometimes the agent or the coloniser do not give the money to the zamindar, then he turns up and threatens the family. The family cannot begin construction without the local police taking a cut. And so huge unauthorised colonies come up without any authority trying to stop it. And then one day they arrive with bulldozers to demolish the houses.

When PUDR asked a senior Municipal Corporation what could be done to stop this exploitation by the colonisers he said nothing could be done because "there are too many personal and political interests involved from the top to the bottom". PUDR talked to several people in the Municipal Corporation, Delhi Development Authority and other concerned people. All of them presumed that we had come to ask why the demolitions had been "unsuccessful". The idea that the people had a right to be protected against demolitions was alien to them.

### *Regularising Unauthorised Colonies*

Municipal Corporation has the power to regularise or legalise the unauthorised colonies by passing a resolution under Section 313 of the Act. The Section deals with lay-out plans. This resolution is forwarded to the Technical Committee of DDA under the Chairmanship of the Town Planner who ensures that the regularisation is in consonance with the Master Plan and the final approval is given by the Ministry of Urban Development. However, this does not mean that each individual structure is regularised automatically.

There is no realistic estimate of the number of unauthorised colonies in Delhi or the number of people living in these colonies. In 1961-62, 103 such colonies were regularised. A MCD official said at present there were 300 more such colonies. However, a DDA estimate puts the number at 902 in 1981.

On August 26, 1974 the then Ministry of Works and Housing appointed a Committee to make a case-by-case study in respect of all unauthorised colonies, specially those which had come up before June 15, 1972. The Committee submitted its report on February 26, 1975. It was only in 1977 that the then Government decided to regularise more colonies. Of the 607 colonies recommended for regularisation, 539 were legalised. On April 28, 1987 the Minister for State in the Ministry of Urban Development said in the Lok Sabha that 56 colonies were not fit for regularisation. A newspaper report states that these 56 colonies are all on Government land and they will face demolitions after the elections.

At the time when the colonies were last regularised in 1977, DDA had warned that the "Government will not countenance any activity or action on the part of any individual or body to put up fresh structures whether in existing unauthorised colonies or in any other area within or outside the urbanisable limits of Delhi. Any attempt in this direction will be viewed seriously and defaulters will be dealt with severely."

Every day there are new unauthorised structures coming up and new colonies growing. Between 1979 and 1987 Sangam Vihar came up with more than a lakh population. This population is neither recorded in the 1981 census nor in the Delhi Administration's Annual Statistical Handbook. Officially, it does not exist.

### *Sangam Vihar*

Sangam Vihar is an unauthorised colony on the Mehrauli-Badarpur road built on lands of four villages — Deoli, Tigri, Khanpur and Tughlakabad. It is a vast area which was partly under cultivation and partly used for brick kilns. The whole area is undulating and there are huge *khuds* in which water fills up during the rainy season and floods the houses.

There is no official count of the number of people living in Sangam Vihar. The colony has 12 Blocks A to L. Each Block has on an average 2000 houses,



which would mean that Sangam Vihar has a population of well over a lakh. It is a huge sprawling area dotted with small one room houses made of bricks. The area comes under the Municipal Corporation but since the colony is unauthorised the Corporation is not legally bound to provide sewage disposal, drains or water.

The people living in Sangam Vihar come from all parts of the country. A large number are workers who work in the factories of Okhla Industrial area. Many are ex-servicemen. In between their small brick structures are large vacant plots. The people we met said that these plots had been bought by speculators who would sell the land at fabulous prices once the colony got regularised.

The living conditions of the residents 'is horrible. There is no source for water in the colony. Some residents have invested Rs. 1,500 to install a hand-pump. Most cannot afford this sum. In G-Block of Sangam Vihar there were five handpumps for three hundred households. Two of the taps were not in working order. The situation was better in L-Block where there were at least two tube wells.

There are no latrines or bathrooms. There are no roads and people have to walk three to four kilometres to get to the main road to catch a bus to their work place. It is difficult to cycle on the zig-zagging paths and during the rainy season it becomes dangerous.

The dozens of residents interviewed by PUDR said they had bought a plot of land measuring 50 to 80 square yards for anywhere between Rs. 3,000 to Rs. 5,000 in early 1980's. The prices have shot up since then to Rs. 150 per square yard. They showed the papers they had been given by the agent. It was a power of attorney executed by someone on a ten-rupee non-judicial stamp paper. Sometimes the agent signed it and sometimes there was no other signature. Apart from this people had receipts of the money given, but for a few thousands rupees short of the actual amount paid. They had to give Rs. 200 for these "papers".

After this transaction the local police took a cut

of Rs. 100 from each house. They do not allow the person to begin construction till this sum has been paid. The one-room brick structure which used to cost around Rs. 10,000 a few years ago, now costs anywhere between Rs. 20,000 and Rs. 30,000. Many women said they had sold their jewellery to pay the costs.

There is no government-run school, hospital or even a primary health centre. There is not even a post office or a postman to deliver the post. However, there are medium-sized farms in the colony which have all civic amenities.

### *Demolitions*

The people of Sangam Vihar have always lived with the threat of evictions and demolitions. The first time the bulldozers arrived was in 1983. No one could give us information on this.

The second time the bulldozers arrived was in February, 1985 and demolished 100 to 150 houses. About 20 persons were arrested. In June the same year the bulldozers arrived again. This time the people resisted and not a single house was demolished. However, 300 to 400 persons were detained and 20 people were to jail for several days. Many people were injured in the police firing. One of them was a middle aged woman, Kusma, who showed us her bullet marks. She said they said they had come to do cleaning but "we realised they wanted to wipe us out. We did not allow them to do that." She and her husband were in jail for several days.

The people we interviewed said they never received any notice of the demolitions. However, one agent said he had seen the notice near on the road.

No one could say with certainty whether it was the Municipality or DDA which did the demolitions.

This year the demolitions began in L Block where about 50 houses were bulldozed on March 28, 1987. However, none of them were occupied.

On April 4 at about three in the afternoon two bulldozers arrived near the G and H Blocks. There

was no warning or notice, according to the people. On that day, 100 to 150 houses were totally destroyed. The bulldozers stopped only when some women lay in front of them. One of these women said that there were around 200-250 policemen and 40 or so police-women. She said the police threatened to destroy the entire Sangam Vihar.

According to the people the bulldozers came again next morning, April 5, along with 2,000 police force including CRPF personnel. The people resisted and there was some stone throwing. The police fired teargas shells and then began hitting out at everyone. Many people were hit with rifle butts and their limbs were broken. At least 30 people were seriously injured.

Hukum Chand, an ex-serviceman, who runs a shop near the main road was watching from a distance. The police beat him up. His arm is in plaster and he has bruises all over his body. Ram Shankar a goldsmith has got his hand broken and can no longer go to work. Syed Khan, a boy of 16 years was severely beaten and his leg has been injured. Those whose houses were destroyed stayed in the open without anything to eat for several days.

Thirty-two people were picked up by the police and taken to the hospital and then to the police long-ups at Kalkaji and Srinivaspuri Police Stations. Madanlal Khurana, a tempo driver, said he had been beaten on the soles of his feet at the police thana.

The police have filed two FIRs, one at the Ambedkar Nagar Police Station and another at the Badarpur Police Station. The police have alleged that the people were rioting and booked them under Sections 147, 148, 149, 186, 332 and 353 of the Indian Penal Code. According to the police the people had been told that there would be no demolitions on April 5, but despite this assurance they blocked the Mehrauli-Badarpur road and indulged in rioting.

The thirty-two people were taken from the police lock ups to jail. It took several days to get them out on bail. None of them knew what they had been taken in for. Each family spent around Rs. 200 for getting the bail. In jail some of them were put to

work. Two men, despite being injured, were made to fill 300 drums of water.

Most of the people could not go to their factories for 10 days and as a result lost Rs. 20 a day, out of their Rs. 600 wages.

The latest demolitions took place on June 20, 1987 in L-Block where nearly 2,000 houses were razed to the ground. Three bulldozers escorted by ten car-loads of police arrived at around 11 a.m. when the men had gone to work. When we visited the site it looked like an archaeological site. We drank water in dented glasses.

The people we interviewed told us that the drivers of two bulldozers refused to be a party to the demolitions and they made an excuse that their bulldozers were out of order. The third and largest bulldozer did all the work. The driver was completely drunk.

We were told that no notice was given and no one was even allowed to remove their belongings. A three-day old baby died under the roof when the bulldozer crashed into its home. A family which was preparing for their daughter's wedding had to postpone the event because the bulldozer crushed all the things bought for the bride, including the new furniture and even the sweetmeats.

The PUDR team saw families sitting in the midst of the debris which was once their homes. A Majority of the people in L-Block are self-employed with a monthly income of Rs 600 to Rs 800. Most people thought of buying a house because they could not afford the exorbitant rents in Delhi and the consequent harassment and threats from the landlords.

The story of Rasul Ahmad is typical of the story of thousands of people of Sangam Vihar. He is a tailor able to earn about Rs 800 a month. He moved to Sangam Vihar from Dakshinpuri where he had to pay a rent of Rs 200 a month. He cannot afford to give a lump sum for the one-room house in Sangam Vihar so he pays a monthly installment of Rs. 100. Since the day of the demolitions he has not been able to earn any money and he and his family

are surviving on their meagre savings. It is nearly a month.

Master Jaspal Singh, also a tailor, used to live in Tughlakabad where his home was demolished in 1977. He sold his land on which his home had stood and moved to Sangam Vihar. There are 12 members in his family. He and his brother pooled in their entire lives savings and built a house in L-Block. Now it lay in a heap of bricks. He said he had been a life-long supporter of the Congress but now he felt he would have to think anew about whom to support.

Suresh Choudhary is an electrical engineer who sold his flat in Faridabad to buy a house in Sangam Vihar. His house had been crushed. Nearby a big plot with a boundary wall with a wrought iron gate still stood. It belonged to a rich speculator and had been left untouched.

Narsi and Dhanvanti are a couple who bought a plot of land in 1985 for Rs 27,000. It took them a year to build a two-room house which cost them another Rs 35,000. Dhanvanti works as a domestic servant while Narsi is a class IV employee. Their house was demolished when they were both at work. They received a phone call telling them about the demolition. When they rushed back they found their home in ruins and most of their belongings destroyed. A few days later the Election Commissioner's office people came to register them as voters.

The people could not say for sure which authority carried out the demolitions. Some of them said it was DDA and other said it was MCD. When PUDR asked MCD they said they had not been responsible. After further probing they said that some MCD people had accompanied the bulldozers but it was basically a DDA show. When PUDR contacted the concerned officer at DDA he at first denied that DDA had anything to do with the demolitions at Sangam Vihar and later said it was a joint operation. A person working in DDA who saw us going from officer to officer told PUDR "you will never know the truth."

The area of Sangam Vihar is under MCD, but a small part has been taken over by DDA. The entire area is under notification under the Land Acquisition Act (Delhi Administration) for several years but has not been taken over. One of the residents said the notification was put up in 1985.

The people could not understand why the demolitions had been carried out. Whose interest was served? One resident told us that local municipal councillors and Congress-I leaders had bought land in C-Block. He wondered whether the demolitions were an attempt to scare away people so that the land could be developed by DDA for a posh colony.

### *Resistance*

The people in Sangam Vihar have not been silent spectators to the destruction of their homes. Women have taken a leading role in resistance to the demolitions. In 1985 it was a woman, Kusma, who lay down in front of the bulldozers, and stopped the demolitions.

On April 4, too there were four women, from different parts of the country, who rushed to the bulldozers and stopped them. One of them, Minakshi Kapoor, who runs a small school in her house, managed to climb on top of the bulldozers and stop them. None of the four women were personally affected by the demolitions.

In L-Block there was no resistance offered but some people were beaten up for simply trying to remove their belongings. Nima Joshi and Khasi Devi were beaten by male police. Khasi Devi's brother who had come to see her all the way from his village in Almora District was beaten and picked up by the police. As she related the incident Khasi Devi grew angry and hurled abuses at the authorities.

Each time there are demolitions the men get together and make a round of Congress leaders in the hope of getting some immediate relief. Each time that hope is belied. In April the people went to see the local Municipal Councillor who "shut

the door on our faces". They also met the Home Minister.

This time the people went right up to the Lt-Governor. They met him on three occasions — June 21, a day after the demolitions; on June 23 and on July 6, 1987. They told us that the Lt Governor said that he had given strict instructions that only unoccupied houses were to be demolished, since they belonged to the speculators. He assured the people that they would be given compensation. However, not only have they not been given any compensation, they are not being allowed to build their homes by the local police which has been posted there, to prevent them.

Some people have piled up a few bricks and put tin sheets to protect the children from the blistering heat. Some people have been compelled to rent a room in the nearby Deoli Village for as much as Rs 200 a month. Already the children are falling ill.

The people of L-Block have met the Municipal Councillor, Ramji Lal. He has not bothered to visit them even once. When the PUDR team phoned him to ask for an appointment he was extremely rude and said "I did not order the demolitions. Ask the Lt-Governor." We asked him whether we could talk to him about Sangam Vihar in general and his reply was: "I do not know anything about it. It is not my duty to visit unauthorised colonies."

The people have met Union Cabinet Minister H.K.L. Bhagat on the advice of some colonisers and paid a visit to the local Member of Parliament, Shri Bharat Singh, but got no relief.

There have been some attempts at forming local organisations. Two organisations have been formed at the local level in G-Block — Vikas Samiti and Sangharsh Samiti. However, these are as yet too small to be effective. Besides there is no sense of unity between the people of various Blocks, according to one activist working in the area. There is a Pragatisheel Welfare Association with an office in F-Block. It is fighting for electricity connection,

and regularisation mainly by going to meet individual officers in various government departments.

In addition there are two more Samitis which have just come up, Sangam Vihar Sudhar Samiti and the Delhi Pradesh Nagrik Avas Sangharsh Samiti. One resident has told us that these samitis are controlled by the colonisers and their supporters. The colonisers are agitated because if the demolitions continue the people will not be able to give them the monthly installments. Some colonisers and their supporters in the Deoli Village started a communal kitchen but it was stopped after two weeks.

The people are beginning to feel a need for more organised action. They are disillusioned with the ruling party. But they cannot find an alternative leadership. They are planning a sustained agitation but it is for the time being under the leadership of the colonisers, who have got in touch with people of other unauthorised colonies such as Mahabir Nagar and Palam where there were demolitions recently.

An example of an organised initiative by the people themselves is the Mahila Jagriti Samiti. Some workers with trade union experience are also trying to raise the consciousness of the people about their rights. But it will take some time for the people of Sangam Vihar to feel a real solidarity with each other. Meanwhile the threat of demolition remains.

### *Conclusion*

The people living in Sangam Vihar are not parasites on society. They are all engaged in productive work. A large section of them provide the labour force for the Okhla Industrial Area, others provide essential services to the citizens of Delhi.

The statutory minimum wages do not ensure that the workers and his or her family get the basic needs for survival. The rent and transport charges are exorbitant. The poor have no legal access to land or houses. The factory owners are under no obligation to provide houses to the workers.



There are too many powerful political interests operating in unauthorised colonies for the government to take effective steps to curb speculation and profiteering in land. The people living in such colonies become pawns in the hands of politicians, colonisers and the authorities. The International Year of Shelter for the Homeless has no meaning for the people living in colonies like Sangam Vihar.

The problem can be solved only if there is a political will. This is a fact which has been recognised by the United Nations Resolution. One of the four goals agreed upon by the General Assembly is: "The secure renewed political commitment by the international community to the improvement of the shelter and neighbourhoods of the poor and disadvantaged and to the provision of shelter for the homeless, particularly in the developing countries, as a matter of policy."

The People's Union for Democratic Rights demands:

- (1) The formulation of a national housing policy which is particularly addressed to the needs of poor;
- (2) The regularisation of Sangam Vihar;
- (3) Extension of all civic amenities to Sangam Vihar; and
- (4) Adequate compensation to all those people who were injured and whose property was destroyed during the demolitions in Sangam Vihar in 1987. □

