

# Slipping Through the Cracks: The Demolition of a Government Homeless Shelter in an Informal Settlement

## The Case of Amir Khusro Park

**Ashwin Parulkar,**  
Senior Researcher, CPR

**Manish,**  
Research Associate, CPR

**Sunil Kumar,**  
Research Assistant, CPR

Image Credit: Sunil Kumar



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## About 'TURN'

Tacit Knowledge Urban Research Network (TURN) is a research network comprised of members from Centre for Policy Research, Hyderabad Urban Lab, Indian Institute for Human Settlements and Tata Institute of Social Sciences (Mumbai).

The network collaboratively conducts research on urban informal processes and the tacit knowledge integral in them from multiple vantage points in the relational geographies of settlement, housing, and economies, with the eventual goal of incorporating that understanding into knowledge systems that support policy-making.



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## Introduction

It's late May 2017 and Mohammad Israel sits in the library of a Delhi Urban Shelter Improvement Board (DUSIB) shelter in Hazrat Nizamuddin. Rubbing the folded corner of a newspaper with one hand while stroking his son's back with the palm of the other, he says, 'At least my children aren't on the streets.' He's referring to youth like Nafees who under the nearby flyover stares into the distance amid a pile of clothes, discarded utensils, and other belongings families who had once lived in nearby jhuggis salvaged. Nafees wears slippers rescued from his burning hut. The large burn scar on his left shoulder and upper arm is the indelible mark left by events that destroyed his, Mohammad Israel and other community members' dwellings in Khusro Park.

On May 16, 2017, local police and the Delhi Development Authority (DDA), a central government agency that owns most public land in Delhi, evicted Mohammad's, Nafees' and other families from the jhuggi-jhopri cluster (JJC) that had existed in a forested area across Nizamuddin Dargah called Amir Khusro Park. On May 18, DDA officials demolished a porta-cabin homeless shelter owned by DUSIB, the Delhi government agency that manages both JJC's and homeless shelters.<sup>1</sup> The shelter, known officially as NS-123, accommodated 50 women,<sup>2</sup> There were also two other shelters in the park. SPYM, a non-governmental organisation (NGO), had been contracted by DUSIB to manage shelter and food services for nearly 50 women and 60 children in two of them.

The DDA's action followed an October 2015 Order issued by the Delhi High Court in response to a public interest litigation (PIL) case filed by a private citizen who urged the bench 'to take appropriate steps/action against the illegal encroachments and unauthorized construction inside and around Amir Khusro Park.'<sup>3</sup> The Court ordered the DDA to enlist the help of local police to remove 'all unauthorized encroachments and illegal constructions inside the Park.'<sup>4</sup>

In response, the DDA and the police expelled people from various settlements inside the park – families in self-constructed 'jhuggis'; women in the DUSIB owned homeless shelter authorized by a Delhi High Court Order; children in a SPYM managed shelter authorized by the Delhi Government's Department of Women & Child Development; and a temporary shelter inhabited by migrant working homeless families (mostly rag pickers) that was not authorized by government agencies.

Before the eviction, members of Mohammad's family lived in three of these settlements. He and his wife in the jhuggi; their two sons in the children's shelter; their two daughters in the DUSIB women's shelter. Nafees and his parents, migrants from Purnia district of Bihar, lived in the jhuggi. Days Mohammad worked as a cook in a biryani dhaba (*roadside restaurant*) across the street, nights he and his wife would visit their children in the shelter. After the *jhuggi* eviction, Mohammad and the majority of families from the jhuggi slept on pavements in front of the Park's brick wall or on the median on Lodi Road, which divides the Dargah from the woodlands. His children moved to the Hazrat Nizamuddin shelter after the Court ordered DUSIB to relocate these people to the nearest permanent shelter.

This report examines events before, during and after the jhuggi eviction and shelter demolition in Khusro Park. As Mohammad Israel's case shows, various parts – under varying jurisdictions – of Khusro Park were inhabited by numerous members of nuclear and joint families. The shelter was both refuge for vulnerable women and children –

<sup>1</sup> For a detailed description of DUSIB's history and functioning, see, Shahana Sheikh and Subhadra Banda, *The Delhi Urban Shelter Improvement Board (DUSIB): The Challenges Facing a Strong, Progressive Agency*. A report of the Cities of Delhi project, Centre for Policy Research, New Delhi (May 2014).

<sup>2</sup> An average of 52.4 women slept in the shelter in days in May preceding the demolition. See, Delhi Urban Shelter Improvement Board occupancy report for Night Shelter 123 <<http://www.delhishelterboard.in/occupancy-report/ns-detail.php?nsid=123>>

<sup>3</sup> *Savyasachi Sahai v. State*, W.P. (C) 7955/2015 (Delhi High Court).

<sup>4</sup> W.P. © 7955/2015, *ibid.*, order dated 19.10.2015.

relatives, in some cases, of jhuggi residents – and a site of service delivery, including water, toilets, documentation and education services.

Court Orders authorized the construction of Khusro Park shelters and mandated the state government agency, DUSIB, to provide infrastructure and services. Yet Court Orders also subsequently directed a central government agency, DDA, to demolish it. In this context, we explore: what makes homeless shelters in Delhi vulnerable to government sanctioned expulsion? What is the implication of this incident on future shelter demolitions?



## History of the Settlement

The Khusro Park settlement was an unrecognized JJC – that is, it was not listed in DUSIB's list of 757 JJC notified under section 2(g) of the DUSIB Act, 2010.<sup>5</sup> This Act legally requires DUSIB provide rehabilitation houses to people who lived in JJC that were demolished before January 1, 2006 (the Act's established cut-off date). DUSIB's own 2015 rehabilitation policy protects both residents of the notified JJC, as well jhuggis that arose between January 1, 2006 to January 1, 2015 (the Delhi Government's executive cut-off date) from eviction without assurance of rehousing, provided residents furnish proofs of residence. The JJC at Khusro Park failed to meet these requirements. According to estimates provided by local organisations, it consisted of about 325 houses at the time of its demolition.

Khusro Park JJC families were migrants from Bihar, West Bengal, Uttar Pradesh and Rajasthan who came to Delhi in different waves over decades—some alone or with family as adults; some as children, alone or with parents; others were born in Delhi and lived in other settlements before settling in the Park. Many initially lived in nearby clusters, then settled in the park five to seven years before the demolition. No government agency had surveyed the families to enumerate the population or identify public services they avail or need.

<sup>5</sup> The 2010 Act defines a JJC as a settlement comprising at least 50 houses in existence on 01.01.2006.

In 2013, however, Centre for Equity Studies (CES), an NGO providing weekly health services to the shelter and jhuggi communities through a mobile medical unit, surveyed health, livelihood and demographic characteristics of select households in the jhuggi cluster. It found that 81 households, comprising 482 people – 205 adults and 227 children – had been homeless for an average 19 years. The community had electricity, water and toilet facilities. Each family had at least one earning member. Nearly a third (32%), had two members supporting the household through rag picking, begging, daily wage work, and, in fewer cases, rickshaw pulling and shop keeping. Over half the families had voter ID cards and Aadhar cards (58% and 55.5%, respectively) and about one-fourth had ration cards and bank accounts (23.5% each).<sup>6</sup>

Some evictees claimed they had been living in Khusro Park for over a decade. The settlement actually expanded in 2011-12 when a wave of families – SPYM and CES say around fifty – moved in after being evicted from nearby Shiv Mandir Park, also owned by DDA, as part of a Commonwealth Games project. For nearly two years, they lived on pavements facing the park's brick wall, bordering the road. Community members recall frequent police abuse when they lived on these streets. One man said, 'The police used to beat us and tell us to go inside (towards Khusro Park). We'd go inside and they'd beat us and tell us to go outside.' NGO workers and former jhuggi residents say these migrants were granted permission to live inside the park sometime between late 2011 and 2012 by former Chief Minister Sheila Dixit, during her visit to Nizamuddin. That's when they set up jhuggis inside the park, and were subsequently given water and electricity connections.

## Early History of Delhi's Shelters: The First Court Case

Date	Event
Winter of 2010	First 'pakora' shelter established
09.08.2011	Plea in High Court for conversion of temporary to permanent shelters
04.01.2012	HC holds that closing shelters is 'unacceptable', orders conversion of temporary to permanent shelters. JAAC set up.
2011-12	DUSIB sets up porta cabin at Khusro Park
07.01.2015	First PIL on shelters disposed of by HC.
August 2015	Second PIL filed for demolition of structures in Khusro Park
19.10.2015	HC orders demolition of illegal structures in Khusro Park
19.04.2017	HC reminds authorities about its earlier order, threatens contempt
18.05.2017	Demolition, third PIL filed
19.05.2017	Court orders relocation of women and children to Nizamuddin shelter
20.05.2017	Court orders relocation of men from Nizamuddin shelter
May-June 2017	Men relocated to Sarai Kale Khan

<sup>6</sup> Unpublished survey, Centre for Equity Studies. CES shared this data with the authors in May 2017. It is available on file. Disclosure: this paper's first author previously worked at CES.

Not everyone in Khusro Park had a roof over their heads. Many lived alone, destitute, and slept in the open or under sheets in the rain – little protection from bitter Delhi winters. Like other homeless persons, they lived with perpetual risks to serious illness and death. In the winter of 2010, the Supreme Court responded to a public interest litigation about deaths of unsheltered people on the city's streets by ordering the construction of night shelters for the homeless. Officials were required to build one shelter for 100 people in each location in cities with a population of 100,000. For Delhi, this process was monitored by the Delhi High Court independently and on its own motion, or *suo motu*. The Court asked the GNCTD and Municipal Corporation of Delhi to build shelters in the city and submit periodic compliance reports.<sup>7</sup>

DUSIB set up a night shelter in Khusro Park in 2010. It was initially managed by a local NGO, Shakti Shalini. Like others in Delhi at the time, this shelter was a large tent – colloquially referred to by homeless people and social workers as 'pakora' shelters (its shape resembled the popular fried snack) – which typically accommodated 50 people. These tents were mobile, easy to set up and take down – an expedient way to comply with Court mandates to provide homeless people shelter during winters. But they were unsafe: social activists reported tent fires and collapses, the latter a result of heavy winds and rain. The Khusro Park tent caught fire shortly after it was set up and was mentioned with several other tent fires in a report submitted to the High Court that year.<sup>8</sup> NGOs submitting these reports also complained of these temporary shelters' lack of basic services. A survey conducted earlier that year by the Delhi Government and the United Nations Development Programme (UNDP) found more than 67,000 homeless persons on the streets and recommended shelters for women, children, families and the destitute, with basic facilities including subsidised food rations, toilets, drinking water and identity cards.<sup>9</sup>

In August 2011, the Delhi High Court heard multiple petitions from DUSIB, GNCTD and others seeking changes to earlier Supreme Court orders mandating temporary shelters. Not many people were sleeping in these tents. They lacked services and infrastructure was poor. Jayant Bhushan, the Court appointed *amicus curiae*, requested 'converting the temporary shelters for homeless people into permanent shelters...and to develop a plan for the homeless in Delhi'.<sup>10</sup> DUSIB, on the other hand, requested permission from the Courts to 'close down the night shelters whose occupancy is nil or less than 10 persons.' The GNCTD sought a 'modification' of a previous order, which had mandated government agencies provide basic services – electricity, drinking water and toilets – upon reports that homeless people were living in 'darkness' in some shelters. In that order, Justice Khanna concluded that it would 'be an anathema to Article 21 [the right to life] of the Constitution of India if the people in need and in abject poverty, who are required to survive and live in shelter homes, are not provided with drinking water and fans' and directed DUSIB to ensure these services 'immediately'.<sup>11</sup>

The Court passed a common Order on the three applications, holding: '*the recurring deficiencies...with respect to temporary shelters mostly pertains to maintenance and basic amenities*'. Because '*tents are at risk of fire*,' it held, '*funds should be used for creating/upgrading facilities of pucca shelters*.' Based on this logic, the Court gave five directions, the most relevant one being that the proposal '*...for closure of the temporary night shelters is unacceptable*'.<sup>12</sup>

The Court also observed that tents were the bare minimum infrastructure being provided, and officially noted the fire hazard involved. That winter, it passed a series of orders directing all parties, Government and NGOs, to hold a joint

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<sup>7</sup> Court on its own motion v. GNCTD, W.P. (C) 29/2010.

<sup>8</sup> We were unable to find information on casualties.

<sup>9</sup> GNCTD and UNDP, Homeless Survey 2010.

<sup>10</sup> W.P. (C) 29/2010, supra note 8, order dated 09.08.2011.

<sup>11</sup> W.P. (C) 29/2010, supra note 8, order dated 25.05.2011.

<sup>12</sup> W.P. (C) 29/2010, supra note 8, order dated 04.01.2012.

meeting to resolve differences over the management of shelters. This led to the creation of a Joint Apex Advisory Committee (JAAC),<sup>13</sup> which recommended 'porta-cabins' – portable steel walled cabins – as a replacement for tents.

What is important here is that the 2021 Master Plan for Delhi ("MPD-2021"), while incorporating provisions for night shelters based on population, did not specify lands where these shelters could officially be built. Numerous central, state and municipal agencies own land in Delhi. It therefore remained unclear how DUSIB, a state government entity, could set up shelters on land that belonged to other agencies. In one Order, the Court plausibly suggested that land ownership was not a concern – for it directed all government agencies to cooperate with DUSIB in setting up shelters.

The JAAC was represented by all government agencies and seemed an ideal forum to reconcile these issues. Parties agreed that DUSIB would seek a no-objection certificate (NOC) from relevant land owning agencies to build shelters. At this time, NOCs were usually issued without hassle. A senior DUSIB official told us there was no uniform internal process in the organisation to decide on which land a shelter should be built. Decisions to seek an NOC were made by the concerned Executive Engineer in consideration of local requirements. This would form an important part of the story in Khusro Park.

## The People of Khusro Park: Differing Legal Status, Common Vulnerabilities

Between 2011 and 2012 DUSIB built a porta-cabin shelter in Khusro Park in place of the tent shelter. The new arrivals began to construct jhuggis inside the park too. SPYM replaced Shakti Shalini as the shelter manager after having worked with women and children on the streets of Nizamuddin. They viewed the shelter as a space to provide safety and entitlements, particularly for the most vulnerable such as elderly women who, according to one caretaker, comprised about half of all adult women in the shelter. Many women had experienced repeated physical and sexual abuse on the streets.

Nearby children were sons or daughters of people in the jhuggis. They were not in school and worked as rag pickers, or begged, to help their families. There were also orphans engaged in drugs and petty crimes. SPYM provided three daily meals to women and children from a kitchen they ran in Mukherjee Nagar that delivered food to vulnerable homeless groups in shelters throughout the city (residents of women and children's, drug de-addiction and health recovery shelters, respectively). Social workers also enrolled Khusro Park shelter's children, including Mohammad's, in a Municipal Corporation of Delhi (MCD) school located in nearby Khan Market and provided clothes, bathing items and shoes.

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<sup>13</sup> The details of the constitution of the JAAC are discussed in the court order dated 04.01.2012: "... [A] meeting was held on 26<sup>th</sup> December, 2011 under the Chairmanship of CEO, DUSIB wherein representatives of various NGOs and government officials were present; during the course of [this] meeting, it was decided to constitute a Joint Apex Advisory Committee consisting of members of NGOs engaged in Operation and Maintenance of Night Shelters, officers of the Government of NCT of Delhi and of other Central Government Agencies concerned; the task assigned to this Committee includes effective utilization of existing night shelters, establishment of additional night shelters as and when required, providing necessary infrastructure in the night shelters for humane living of the homeless people of Delhi etc.; it was also decided that this Apex Committee would constitute a Core Committee to look into day to day management and to sort out problems being faced by the homeless people of Delhi. The Core Committee was thereafter constituted consisting of Director (Night Shelter) DUSIB, Executive Engineer CD-III, In charge of Control Room and members from certain NGOs. It is also stated in the status report that specific mandate to the Core Committee was given and the Core Committee went ahead as per the said mandate."



Caretakers viewed the park's population – spread across the JJC and the shelters – as one entity. Indeed, working with one group in the population inevitably led to engagement with the other. As one caretaker said, *'The shelter provided a potential safe space where children could be protected, where we could ensure their education, food and clothes, and break the cycle of poverty.'* The organization asked parents in jhuggis to consent to SPYM's guardianship of their children's education. After approval, social workers approached the Child Welfare Committee (CWC), a division of the Department of Women and Children, to formalize their admissions to the local school. The NGO also received permission from the CWC to use a separate shelter located next to the DUSIB women's shelter to house the children.<sup>14</sup> Upon permission, they instituted a school admission process and secured additional entitlements for some jhuggi residents, such as voter identification and Aadhaar cards for parents, a bi-monthly health camp for jhuggi and shelter residents as well as referrals for all to Safdarjang Hospital. They also opened drug de-addiction centres in Darya Ganj (for women) and Kotla Mubarakpur (for men) to cater to this population.

These facilities were contracted by DUSIB and are listed on DUSIB's official website as homeless shelters. SPYM caretakers sent parents in the jhuggi with drug abuse problems, whose children lived in the shelters, to these centres' rehabilitation programs. The rehab centres are connected to the public health system – referrals and routine check-ups are arranged with psychiatrists at All India Institute of Medical Sciences (AIIMS). When the children lived in the shelter at Khusro Park, outreach workers maintained contact between them and their parents. Unfortunately for residents, the legal and administrative divisions meant that Khusro Park was never secure. The differing legal status of the JJC and the shelter – the former unrecognized; the latter recognized by Court but built upon unprotected land formally owned by DDA – would soon fragment the population, and eventually lead to the demolition of both settlements.

Meanwhile, High Court proceedings on night shelters were nearing conclusion. In October and November 2014, the Court asked authorities for an update on the status of developments made with respect to earlier orders and in mind of requirements for the upcoming winter.<sup>15</sup> DUSIB filed an affidavit, mentioning that 205 shelters (83 permanent, 109 temporary and 13 tents) were functional. The shelter in Khusro Park ("near Nila Gumbad, Nizamuddin") found mention as NS-123 on this list. The court took this on record, along with concerns raised by NGOs regarding the facilities in some of these shelters, and directed DUSIB to address these issues and explore the possibility of setting up additional shelters wherever possible.<sup>16</sup> It was the last winter for which the Court would oversee these preparations.

In January 2015, the Court observed that the Lt. Governor (Delhi was under President's Rule at the time) had sanctioned additional funds to establish night shelters and expressed hope that the Delhi administration would in its outreach to the capital's homeless population meet requirements of MPD-2021.<sup>17</sup> That April, it passed a final order disposing off the case, observing that *"these petitions have served their purpose and no further orders are necessary"*, and that *"the authorities concerned, particularly... DUSIB, have been motivated into action and will now carry forward the exercise and the efforts"* which the Court had been monitoring for nearly half a decade.<sup>18</sup>

This order unintentionally sealed the fate of NS-123: with no Court to monitor, and DUSIB subsequently failing the faith reposed in it, Khusro Park's residents were left unprotected. But how long was the Court expected to drive the formulation and implementation of homeless policy in Delhi? Indu Prakash Singh, a

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<sup>14</sup> Interview with SPYM staff.

<sup>15</sup> W.P. © 29/2010, *supra* note 8, orders dated 01.10.2014 and 12.11.2014.

<sup>16</sup> W.P. © 29/2010, *supra* note 8, order dated 19.11.2014.

<sup>17</sup> W.P. © 29/2010, *supra* note 8, order dated 07.01.2015.

<sup>18</sup> W.P. © 29/2010, *supra* note 8, order dated 29.04.2015.

social activist, was a prominent member of monitoring committees whose spot inspections influenced numerous Court-ordered shelter protections. He told us that the Court's withdrawal did not diminish his and colleagues' expectation that existing Orders would continue to be enforced. 'While the Court has to be vigilant,' he said, 'we shouldn't always have to be in a position to only rely on them to protect the rights of homeless people.'

But the Court's action did significantly reduce incentives for local, state and central officials in other branches of government to address homelessness together, or at all. According to one DUSIB official, the conclusion of the court case led to the JAAC, tasked with coordinating the different government bodies involved, effectively becoming defunct, as most representatives, other than GNCTD officials, stopped attending meetings.<sup>19</sup> Later that year, another Bench of the High Court set in motion precedents that would lead to the settlement's demolition.

## A Challenge to Khusro Park Residents: The Second High Court Case

Khusro Park's shelter residents received legal protection after a laborious process. But they and others in the settlement would soon have the rug pulled from under them. In August 2015, a lawyer named Savyasachi Sahai based in Defence Colony, a planned colony about three kilometres south of Khusro Park, filed a public interest litigation in the Delhi High Court, seeking the park be cleared of encroachment. A letter sent that April by the Deputy Commissioner of Police, South, to the DDA's Deputy Director is a significant document. While it refers to park residents as "vagabonds, anti-social elements", it also critically mentions the existence of the shelter (referring to it by the Hindi term DUSIB ascribes to night shelters – 'Rain Besera') and locates it as central to the occupation by the JJC residents. The letter names Shakti Shalini the shelter managing agency (SPYM assumed that role more than three years earlier) but there is no reference to earlier High Court orders establishing construction, maintenance and continuance of night shelters - crucially the November 2014 Order granting the Khusro Park shelter formal recognition or the August 2011 Order prohibiting closures of temporary shelters. Left with this ambiguity, and with the earlier case having been closed a few months earlier, neither DUSIB nor SPYM were informed about these proceedings that could put the shelter in peril.<sup>20</sup>

In October 2015, the Court responded to Sahai's PIL by ordering the DDA to enlist the police to remove the residents of Khusro Park. Castigating the DDA and Delhi Police for "*passing the blame on each other*", the Court deemed Khusro Park a "*serious problem of unauthorised and illegal encroachments on govt. land [and] apprehension of law and order problem [necessitating] immediate action for removing encroachments and illegal construction inside the Park*".<sup>21</sup> The DDA and Delhi Police, however, were hesitant to evict. In March 2016, the *Times of India* reported that judges 'summoned the DCP and DDA chief engineer to report enforcement of its orders on the next date of hearing.'<sup>22</sup> In a letter they sent to the DDA, cited in the article, the police expressed fear of 'a major law and order problem in the future at the time of removal of these jhuggis due to some anti-social elements...' explaining that previous attempts to evict people had failed 'due to strong protests by the residents.'

<sup>19</sup> Interview with DUSIB official.

<sup>20</sup> This exclusion, besides having devastating consequences for the shelter and its residents, was also in violation of court procedure. According to Part III, Section 9(i)(e) of the Delhi High Court PIL Rules, petitioners in public interest litigations are required to attest that "...to the knowledge of the petitioner no other persons/bodies/institutions are likely to be affected by the orders sought in the writ petition". Any parties that are personally affected are supposed to be made parties to the petition – which neither DUSIB nor SPYM were.

<sup>21</sup> W.P. © 7955/2015, *supra* note 3, order dated 19.10.2015.

<sup>22</sup> Abhinav Garg, "HC: Remove encroachers from Amir Khusro Park", *The Times of India*, dated 16.03.2016.

In context of preceding events, the May 2017 eviction was the culmination of ongoing and tense claims over land between a central government agency (DDA), local law enforcement (the police) and citizens residing there, with no oversight for at least two years prior to the PIL filing. The letter from Delhi Police, cited in the October 2015 order, makes this clear: *'Time to time efforts were made to remove the encroachments at our own, but due to the strong protest of the residents, no fruitful result came out as they put forward their females and also throw children in front of the police party.'*<sup>23</sup>

The same letter states that a local grocer – who the police claimed was earning rent from jhuggi families – filed a PIL urging the High Court prohibit Nizamuddin police officers from evicting families. The Court dismissed the case. In other words, High Court Orders protecting rights of at least some residents to shelter were ignored by all governing and law enforcing powers – the Courts, DDA and the Police – *while* there was a concerted focus on following Orders to remove people indiscriminately, despite the hesitancy among some stakeholders to do so.

The Court's October 2015 order was ambiguous regarding the status of the DUSIB shelter, stating that it was unclear whether it was set up with the prior permission of the "concerned authority". The potential for removing that shelter depended on proof that it had *'a valid subsisting permission from the concerned authority, then only it will not be subjected to any coercive step...'* In fact, both DUSIB as well as the High Court itself had previously recorded the existence of this shelter, and it had been formally validated with a unique identity on the records: NS-123. But in the sequence of events that followed, this validation would amount to nothing.

## Demolition

The bureaucratic logjam over the implementation of the October 2015 order remained unresolved even a year after the March 2016 hearing. When it finally came up for hearing before a different Bench in April 2017, judges expressed frustration with government agencies' intransigence and threatened officials with contempt of court if they did not evacuate the park by the next hearing.<sup>24</sup>

Faced with prospects of imprisonment and public censure, DDA and Delhi Police officials swung into action. According to Mohammad Israel, the police came to the jhuggi on May 6, 2017, and verbally informed people that they would be evicted two days later. They actually arrived ten days later, on May 16, accompanied by DDA officials and bulldozers, with armed reinforcements from the Indo-Tibet Border Police and the Central Reserve Police Force.<sup>25</sup> According to residents, droves of armed police reinforcements entered the colony. Alarmed, people ran for their lives, belongings in tow. A bulldozer began to demolish the colony, its remains set on fire. Fire-fighters were brought in by police to keep the conflagration under control and watched as the jhuggis burned to the ground. Not one helped rescue young Nafees, who had sustained burn injuries. Bystanders eventually took him to the hospital.

The shelters, including NS-123, remained intact at the end of the first day's demolition. The following day, May 17, an SPYM shelter caretaker who worked in the women and children's shelter met the SHO and Deputy Director, DDA at the eviction site. The SHO had come to take photographs of the wreckage. The SPYM caretaker asked the Deputy Director, DDA, and SHO to spare the shelters. The DDA official assured him the shelter would remain.

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<sup>23</sup> W.P. © 7955/2015, *supra* note 3, order dated 19.10.2015.

<sup>24</sup> W.P. © 7955/2015, *supra* note 3, order dated 19.04.2017. Under Article 217 of the Constitution, the High Courts have the power to punish for contempt, or wilful disobedience of their orders. Such punishment could range from a public censure to fines to imprisonment under the Contempt of Courts Act, 1971.

<sup>25</sup> The ITBP and the CRPF, despite their nomenclature, are not "police", but armed forces of the Union Government. As military forces, unlike the Delhi Police, they do not have the power to make arrests, but can use force when directed to do so in assistance of civil authorities. The use of military forces to provide security for a slum demolition – where the only opposition could come from unarmed slum dwellers – is in itself a telling statement.

But the next day, May 18, DDA officials, police officers and bulldozers appeared in the Park again. One 24 year old resident of the women’s shelter told us that police warned occupants to leave the shelter 30 minutes before the demolition. Police forcibly removed women and children from these shelters. DUSIB officials were notified only shortly before the demolition occurred and visited DDA officials, including the DDA’s deputy director, to request a stay on the demolition. They provided copies of Supreme Court Orders directing states to build homeless shelters, the November 2014 High Court order formally recognizing NS–123 in Khusro Park and the August 2011 High Court order prohibiting government agencies from closing temporary shelters.

The DDA, ostensibly looking for the “valid subsisting permission” that the court order mandated, asked if DUSIB had an NOC for the shelter. According to one DUSIB official, his colleagues had approached DDA officials for an NOC in 2011, and while DDA did not object at that time, they did not provide a written document. In hurry to comply with court orders, DUSIB officials did not follow up with DDA subsequently.

On the day of the demolition, however, DUSIB claims that the DDA agreed not to demolish the shelter, before going ahead with it hours later. ‘*We were trying to stop this (the demolition),*’ the DUSIB official to whom we spoke told us, ‘*asking for even two days’ notice. They hadn’t served any notice to us. If they were planning to do anything they should have given us notice. We thought, we should plan to shift people. But they hadn’t given a single hour to us. And the deputy director told us, in one meeting, “We will not demolish, we’ll give you time.” Between the time that our officers came to their office and drafted a letter to DDA, they demolished the shelter. So they cheated us. They told us they will not do this and they did it within the hour.*’

## Due Process and Unanswered Questions

Delhi has a unique place in India’s federal structure - its state government, unlike other states, is subordinate to the Central Government in matters of land ownership and use. Social welfare provisions, such as education, are split between state and municipal bodies.<sup>26</sup> In fact, DUSIB itself was constituted by the state government in 2010 by a law that consolidated functions previously divided between the DDA and the Municipal Corporation of Delhi for many years.<sup>27</sup>

That DDA, a central government land owning agency<sup>28</sup> –as opposed to DUSIB, the state agency –evicted people and demolished the shelter, raises four questions central to governance of land, settlements and institutions in Delhi.

***Firstly, are JJsCs that are not formally recognized by the government, like Khusro Park, legally protected against eviction without due process?***

There is no clear statement in either the 2010 Act or the 2015 Policy regarding rights of JJsCs that came up after the 01.01.2006 cut-off date. However, a 2016 Protocol for JJC evictions devised by DUSIB states that JJsCs that came into existence after this date may be subject to “*necessary action for removal, in consonance with the law and rules in vogue*”. With respect to JJsCs on public land, the applicable law is the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 under which residents of such settlements would be deemed unauthorised occupiers of public premises. While the 1971 Act does not provide for rehabilitation in respect of unauthorised occupiers of public premises, it provides for a notice and hearing prior to an order of eviction being issued.

<sup>26</sup> For a full explanation of the complexity of Delhi’s governance, see, *The Intersection of Governments in Delhi*. A report of the Cities of Delhi project, Centre for Policy Research, New Delhi (April 2015).

<sup>27</sup> Sheikh and Banda, *supra* note 1.

<sup>28</sup> According to the DDA, the L&DO transferred the land to it in 1972.

In 2009, the Delhi High Court, hearing a petition by JJC dwellers who had been evicted from their dwellings without rehabilitation, observed that in context of the Master Plan, “...jhuggi dwellers are not to be treated as ‘secondary’ citizens. They are entitled to no less an access to basic survival needs as any other citizen. It is the State’s constitutional and statutory obligation to ensure that if the jhuggi dweller is forcibly evicted and relocated, such jhuggi dweller is not worse off. The relocation has to be a meaningful exercise consistent with the rights to life, livelihood and dignity of such jhuggi dweller.”<sup>29</sup> The Court, in what came to be known as the *Sudama Singh* case, cited international conventions and Constitutional protections to uphold a right to rehabilitation in case of all JJC dwellers whose settlements were targeted for eviction.

The 2015 Policy codifies (with some modifications) the directions in *Sudama Singh* with respect to JJ bastis notified by DUSIB under section 2(g) of the 2010 Act. However, principles in *Sudama Singh* would still apply to other (non-notified) JJ bastis. Residents of these bastis would be entitled to due process prior to eviction. At minimum, notice and hearing proceedings under the 1971 Act would need to be initiated prior to any eviction. These procedures were not followed in May 2017.

It also appears that at least part of the Khusro Park settlement was in existence as of 01.01.2006. In light of the provisions of section 3(2) of the NCT (Special Provisions) Second Act, 2011, status quo should have been maintained at the site with respect to this portion of the settlement, and DDA was barred from taking any punitive action under section 3(3) of the 2011 Act.<sup>30</sup>

***Second, do landowning agencies of the central government, such as DDA, have powers to carry out evictions unilaterally without informing DUSIB?***

We must look at yet another High Court case to answer this question. In December 2015, the Railways demolished a JJC in West Delhi called Shakur basti. The mid-winter demolition incited public outrage. A local politician, Ajay Maken, filed a PIL in the High Court demanding residents to be protected. The Court directed the construction of temporary accommodations at the site to house families whose homes had been demolished. The Court also held that DUSIB, as a nodal agency, would have to be consulted before any demolition, even on Central Government land.<sup>31</sup> The DDA, in Khusro Park, contravened these orders.

In 2019, the High Court pronounced its judgment in the case filed by Ajay Maken. Drawing on provisions of the Constitution and international law, the Court recognised that all residents of the city were entitled to justice and due process, independent of the legal status of their housing and other aspects of their lives. Drawing on principles of social justice and dignity – as articulated by Henri Lefebvre in his “Right to the City” – the Court held that the DUSIB Act and the 2015 Policy would apply to all notified JJCs; other cases would be subjected to the procedure in *Sudama Singh* (which is substantially similar). The Court also held that the 2015 Policy and the DUSIB Act applies to all public land, independent of ownership.<sup>32</sup> This, in effect, cements the primacy of DUSIB in all cases involving eviction of any settlement in Delhi. While the DDA’s demolition of the shelter was unquestionably illegal, this judgment also places the legality of the basti demolition in doubt as well. It might

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<sup>29</sup> *Sudama Singh v. GNCTD*, W.P. © 8904/2009 (Delhi High Court), judgment dated 11.02.2010.

<sup>30</sup> Section 3(2) of the 2011 Act states: “...notwithstanding any judgment, decree or order of any court, status quo...as of the 1<sup>st</sup> day of January, 2006 in respect of encroachment or unauthorized development...shall be maintained.”

Section 3(3) of the 2011 Act, as amended, states: “All notices issued by any local authority for initiating action against encroachment or unauthorized development...shall be deemed to have been suspended and no punitive action shall be taken till the 31<sup>st</sup> day of December 2020...” The date of 31<sup>st</sup> December 2020 was extended by a subsequent Parliamentary amendment from the original date of 31<sup>st</sup> December 2014 specified in the 2011 Act.

<sup>31</sup> *Ajay Maken v. GNCTD*, W.P. © 11616/2015 (Delhi High Court).

<sup>32</sup> W.P. © 11616/2015, *ibid.*, judgment dated 16.03.2019.

be argued that the demolition took place under Court orders. However, the absence of critical safeguards – a survey of the settlement or consideration of resettlement – precipitated evictions. These oversights mark serious failings of all authorities concerned.

***Third, was the demolition of the DUSIB Shelter in contravention of earlier High Court orders that (a) authorized the DUSIB shelter in Nizamuddin and (b) prohibited government agencies from closing temporary shelters?***

High Court and Supreme Court Orders have affirmed the rights of homeless people to shelter in the city. However, the practical meaning of this *general* right remains slightly nebulous because it is unclear how this right should be enforced in the case of a *specific* shelter – that is, Khusro Park highlights how homeless peoples' rights to a *fixed space of residence* in the city is not guaranteed. The legally recognized relationship of JJC dwellers to their houses is more secure than homeless people to shelters. Why? Claims of jhuggi residents are established by official recognition of specific sites they inhabit in the city. Here, geography - evidenced by the importance given to the JJC list - is the logic by which the state acknowledges and services *particular* jhuggis. The primacy of 'space' in the state's conception of tenure rights inherently creates a hierarchy between both (a) various types of recognized and unrecognized informal settlements and (b) between jhuggi residents and homeless people as well. Consequently, due process in the form of surveys and rehabilitation also varies. The rights to shelter for homeless people would effectively have to be enforced by DUSIB or shelter managing agencies and depend on relationships between these agencies and the land owning authority. Thus, residents of a homeless shelter - comprised of various individuals and heterogeneous groups, respectively (e.g. single men, single women, nuclear and joint families) - do not, per se, currently have a right to rehabilitation. However, DUSIB or the agency running the shelter may as custodians have a legal right, or duty, to rehabilitate homeless people, subject to terms of agreements with the land owning agency.

What is clear from our field visits and discussions with NGO workers and DUSIB officials is that the DDA did not provide DUSIB or the people a written notice of eviction in advance, the cluster was not surveyed to determine families eligible for housing, and the shelter was destroyed despite DUSIB officials hand delivering evidence to DDA officials hours before the demolition of Court Orders that authorized its construction. As highlighted earlier, even the Court's October 2015 order directing clearance of the park exempted the shelter, for the shelter had been established 'with permission.' As discussed earlier, permission was indeed legally established but DDA officials on site the day of demolition wholly disregarded this.

***Finally, are agencies contracted by DUSIB to run the shelters provided full security and freedom to effectively carry out their work?***

Why didn't SPYM enter official conversations with DDA or the Courts? According to the organization's executive director, Rajesh Kumar, the reason lies in the nature of their contract with DUSIB. '*Our reporting agency is DUSIB. Through our contract we have to go through DUSIB for any grievances. We informed DUSIB, Delhi government and our partners. We can't go to the Courts on our own because DUSIB is the nodal agency for shelters and if we did it would have been seen as undermining their authority. If we weren't bound by contracts we would have moved immediately.*' DUSIB's efforts, however, failed to prevent the demolition of the shelter, leaving both its residents and management high and dry.

The contract DUSIB signs with selected shelter managing agencies is a standardized 84 page document of dense legalese and annexures. It carefully disclaims any responsibility or liability of DUSIB and simultaneously restricts the contracted agency from measures intended to safeguard the shelter. For instance, it does not require DUSIB provide an encumbrance-free site for the shelter or guarantee security of the land. It merely gives the

management agency a right to use the facility and an associated right of way on an “as is, where is” basis.<sup>33</sup> A clause on “approvals and required consents” places the obligation to secure applicable permits (including NOCs) on DUSIB, but does not give the agency freedom to withdraw from the contract unless the provision of services is dependent on the permit.<sup>34</sup> Due to the *de facto* arrangement between the DDA and DUSIB, SPYM likely was not hindered from operating the Khusro Park shelter until the demolition occurred. Nevertheless, the transactional nature of contract meant that SPYM was saddled with substantial responsibility, without corresponding power to take action to protect its own or shelter residents’ interests.

Indeed, no clause in the contract considers the welfare of the shelter residents. Clause 16 defines *force majeure* as circumstances beyond the parties’ control limiting their liability to perform their functions and includes “acts of government or other competent authority”; unusual given that DUSIB is itself a government authority. While generally insulating both parties from liability in case of *force majeure*, it permits only DUSIB to take action in case of “deterioration of law and order”. It is unlikely that SPYM or other agencies running shelters would have the wherewithal or resources to challenge these terms. Thus, when DDA made a competing claim to the land at Khusro Park on which NS-123 stood, SPYM could do nothing but watch as the rug was pulled from under their feet. DUSIB, for its part, did attempt to negotiate with DDA and stall the demolition, but as narrated earlier, it was by then too late.

## Consequences: The Third High Court Case

Chaos reigned in and around Khusro Park after the demolition. Most residents did know where to take cover to protect themselves and secure the few belongings they had salvaged. A few moved into friends or relatives’ homes. Others managed to secure rentals nearby or in other JJs. Yet the vast majority were consigned to footpaths and road medians around the park. Counsel for DDA and Delhi Police subsequently informed the Court that its orders had been implemented successfully.

A social activist, Sunil Kumar Aledia (who had been involved in the first case on night shelters), filed a PIL in the High Court on May 18, seeking redress for the dispossessed shelter residents.<sup>35</sup> The Court issued a series of subsequent orders: the first, on May 19, directed concerned government agencies – GNCTD, DDA, and DUSIB – to relocate affected women and children to the ‘closest night shelters in the area.’<sup>36</sup> This was DUSIB’s permanent men’s shelter in Hazrat Nizamuddin located across the street: a multi-story concrete building for 300 occupants, equipped also with a library, kitchen, multiple bathrooms, two small empty rooms and a large main hall with beds and televisions. Women and children were relocated to the small rooms while the then-resident men occupied the hall.

In the first days after the demolition, most people who had lived in the jhuggi slept on the pavement bordering the park. Following the High Court order, most women and children were moved to the Nizamuddin shelter. SPYM social workers told us that a few single women had gone to other shelters while some of the jhuggi families sought accommodations in other nearby jhuggis like Sarai Kale Khan. One immediate consequence of the eviction, some former jhuggi residents said, was the disruption of daily work. ‘*The eviction has caused many to stop working at this time,*’ Mohammad Israel said, ‘*to deal with the stress of losing belongings such as dishes, blankets, beds, money and documents.*’

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<sup>33</sup> Shelter Management Agreement, DUSIB, Volume II, Clause 6.1(a).

<sup>34</sup> Shelter Management Agreement, DUSIB, Volume II, Clause 10.1(b).

<sup>35</sup> *Sunil Kumar Aledia v. GNCTD*, W.P. © 4417/2017 (Delhi High Court).

<sup>36</sup> W.P. © 4417/2017, *ibid.*, order dated 19.05.2017.

Before the demolitions, the Nizamuddin shelter operated at only about one-third of its stated 300 occupant capacity— on average, 118.6 men slept in the shelter in May.<sup>37</sup> The men were mostly migrants from Bihar, West Bengal, Uttar Pradesh and Assam who found daily wage jobs on construction sites and in wedding catering parties at nearby labour chowks. On our visits days after the demolition, women idled on the shelter staircases or in the previously empty rooms, children played along the staircases and in the library or watched television in the SPYM office space, while men convened separately in the large room with beds.

One woman described conditions in the Nizamuddin shelter as '*ganda*' (filthy) when she, other women and their children were moved there. A High-Court appointed commissioner noted that management of the shelter, given limited space for men, women and children, proved difficult. The Court subsequently directed government agencies to relocate men from the shelter to another location.<sup>38</sup> SPYM's decision to move men to a temporary shelter in Sarai Kale Khan was not welcomed by these residents— some women recall threats and abuse directed at them and SPYM staff. Eventually the police had to be called in to forcibly move these men to a newly created shelter numbered NS-235, on the banks of the Yamuna at Sarai Kale Khan across Ring Road near the Inter-State Bus Terminus. NS-235 is about three kilometres by road from Khusro Park. There are no bus or metro options between these two locations. Men walked this distance twice a day, stopping for breakfast mornings at a Gurudwara on their way to work. The hike took its toll: several men left the shelter a few months later, their whereabouts unknown.

The last High Court order also mandates that GNCTD consult and seek approval from the Ministry of Urban Development to build shelters on central government land to avoid construction on 'green belt' areas demarcated by the Delhi Master Plan. In this regard, the Court has turned the issue of night shelters into what Anuj Bhuwania has called an "omnibus PIL",<sup>39</sup> asking the Ministry of Urban Development in the central government (which is also the nodal ministry supervising DDA) to respond on the issue of finding spaces for night shelters while ensuring that no construction took place on green belt land. This order also calls into question the status of existing shelters on green belt land. As of June 2017, the DUSIB website listed 201 shelters — 84 permanent, 3 tents, and 114 porta-cabins (including NS-123). Figures given to us by DUSIB indicate that while all permanent shelters were on DUSIB land, many of the porta-cabins were not — thus placing them in a zone of legal vulnerability, especially for the ones where DUSIB does not have an NOC.<sup>40</sup>

## Conclusion: Lessons Learned

Socio-economic and legal precarity places poor residents in Delhi's informal geographies at constant peril of eviction and displacement. Legal protection they do have comes not from statutes but dockets of court orders that have expanded the remit of Constitutional protections, such as the right to life and the right to equality, to include the injustices they endure.

<sup>37</sup> This is based on 28 days recorded; 121.4 for days prior to the shelter demolition and 114.3 for the eleven days recorded after.

<sup>38</sup> W.P. (C) 4417/2017, *supra* note 36, order dated 20.05.2017.

<sup>39</sup> The term "omnibus PIL" is borrowed from Anuj Bhuwania, *Courting the People: Public Interest Litigation in Post-Emergency India* (2017), pp. 9–10. Bhuwania describes an omnibus PIL as one where the Court is called on to address "a specific problem in a specific part of the city" but subsequently begins to deal with all instances of that problem in any part of the city. In other words, "the city became the scale at which the Court defined and addressed [a particular, local] problem", and "the optics through which the problem was framed and the city made legible was usually the Delhi Master Plan." Bhuwania, pp. 82–83.

<sup>40</sup> Based on responses to a Right to Information application on land owning agencies filed in 2019, DUSIB provided data on 120 shelters across 7 of its 12 zones which shows that almost half of these shelters (58) were porta-cabins that were constructed on land owned by agencies other than DUSIB.



In the case of Khusro Park, government agencies undermined *general* legal rights urban poor people have to both city spaces and just resettlement by enforcing *specific* provisions that categorize jhuggi and shelters residents on government land encroachers to enable their displacement. Public institutions such as the High Court, a law-making body, and law enforcement agencies across each level of government, respectively --DDA, DUSIB, and the police - violated principles established by previous judgments and legislation that provide *general* legal protection to poor people against eviction without due process, detailed in the Delhi Master Plan 2021, Public Premises Act (1971), and recent High Court judgments in *Sudama Singh* and *Ajay Maken*.

But jhuggi and shelter residents in Khusro Park fell through the cracks. The settlement was not one of the 757 JJsCs identified by DUSIB to provide services and resettlement housing upon eviction. The Supreme and High Court Orders on shelters are infrastructure, not people, centric: they limit State duties to build these structures and provide basic services and do not elucidate tenure rights poor people have to live in them. The 2010 Supreme Court instructed States to build shelters near work sites. The 2014 High Court Order also prohibited government agencies from closing temporary shelters, indicating official acknowledgment of their importance. But the Orders do not explicitly bestow rights of access for homeless people to particular shelters.

Another important aspect is the inconsistency of the court process, and the uncertainty of outcomes. All of the cases discussed in this paper – *Sudama Singh*, *Court on its own motion*, *Savyasachi Sahai*, *Sunil Kumar Aledia*, and *Ajay Maken* – were classified as Public Interest Litigations (PIL) in the court's docket. The outcomes in some of them – especially for the “public” involved – were diametrically opposite, to the point where NS-123 was set up by one court order (*Court on its own motion*), demolished by another (*Savyasachi Sahai*), and its residents rehabilitated through a third (*Sunil Kumar Aledia*). The only difference in the Court's approach, it would appear, was the judges who were hearing the case.

Legal anthropologist Anuj Bhuwania describes this process as that of “neo-liberalism”, arguing that the Court's relaxation of legal rules of standing and procedure through PIL, in the name of providing marginalised people with access to justice, had created a “parasitical” situation where the Court began to see these very people as the source of the “illegality” that in its opinion, was crippling governance in the city. Thus, as in *Savyasachi Sahai's* case, PIL became a “means to target populations living on the margins of legality”, the “conspicuously illegal communities of the urban poor” who were perceived (by the Court and by elite residents of the city, such as Sahai) to be “obstructing the neat solutions to the problems of the city”.<sup>41</sup>

One response to this form of court-led governance was through legislative and policy reclamation of governance (including the 2011 Special Provisions Act). Indeed, in the early 2000s, without a clear policy on rehabilitation of slum residents, the court (again, through PILs) functioned as a “slum demolition machine”.<sup>42</sup> Conversely, the adoption of a clear policy by the Delhi Government in 2015 facilitated a clear judgment in *Ajay Maken*, upholding residents' right to due process prior to eviction.<sup>43</sup>

In theory, these rights extend to sites not officially identified by government resettlement policy, as held by the Court in *Sudama Singh* and reiterated in *Ajay Maken*. In practice, as this case reveals, the absence of specific policy on how state and federal land-owning and administrative agencies should provide services or consider resettlement strategies for people living in jhuggis and shelters in such ‘informal’ sites leaves such people perpetually vulnerable to expulsion. Court orders are a poor substitute for policy: while implementation is the executive's domain, the judiciary has itself consistently disregarded its own orders.

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<sup>41</sup> Bhuwania, *supra* note 40, pp. 8–9.

<sup>42</sup> Bhuwania, *supra* note 40, pp. 89–103.

<sup>43</sup> Gautam Bhatia, *The Delhi High Court on Forced Evictions, Adequate Housing and a “Right to the City”*, Indian Constitutional Law and Philosophy blog (March 2019).

What would an effective policy look like? We argue that due process procedures detailed in current resettlement policy—surveying the land, providing notice, and rehousing residents—need to be based on a thorough understanding of (a) the types and nature of settlements in these areas—e.g. jhuggis, DUSIB shelters, shelters notified by other agencies, and informal shelters—(b) infrastructure and services used by residents, particularly where the provision of these services was across different kind of settlements on the same land, and (c) the nature of contracts between state and federal government agencies and government agencies and NGOs that authorize land use and service provision.

Both urban poor people living in self-constructed settlements and the homeless availing temporary shelters are vulnerable to displacement despite relatively progressive laws and policies protecting their rights to city spaces in a general sense. But the lack of understanding of and policy on specific types of settlements in these areas and the relationships between agencies governing the land makes future evictions and demolitions of homeless shelters highly plausible, especially since the Delhi High Court has officially stopped monitoring the situation of shelters in the city.

Based on this understanding, we think it essential and urgent to identify the type of land and land owning agencies where temporary shelters exist in Delhi. A proper analysis of these settlements will reveal how the land is recognized by the government, the existence and recent histories of jhuggi settlements in each area, and the relationship state and federal agencies have to both the people, via service provision, and the land with respect to their mandates of providing infrastructure and services in accordance with the Delhi Master Plan. The current Master Plan, which expires in 2021, was under revision at the time of this writing, and it remains to be seen whether the new version, which will be valid for the next two decades, takes these concerns into account.

The tension between the men and the women over occupying the Nizamuddin shelter also reveals the lack in shelter planning of focus on shelter *users*, and their relationship to the neighbourhood. Even DUSIB's contract with shelter agencies treats shelters as a matter only of infrastructure (or service) provisioning, and not one of social justice. Analysis of data from 2017 reveals that almost three-fourth of shelters in Delhi were 'general' shelters, a misnomer since they are accessible only by men.<sup>44</sup> Less than a tenth were for women (9%), children (6%) or families (8%) respectively—groups among the homeless that are especially vulnerable, and were identified as such as far back as 2010.<sup>45</sup> Families, in particular, are often left out in the cold or are forced to split themselves up—as Mohammed Israel's family did. The arrangement at Khusro Park was a makeshift, semi-formal system of governance in which state agencies have varying degrees of power with little accountability and NGOs have little power while assuming day-to-day responsibilities, including responding to perpetual crises. Such a system allowed for the legal 'cracks' we have discussed to be papered over. It proved to be very thin papering indeed since it gave way as soon as the State's gaze turned on it.

## Epilogue: Cracks that Remain

*"Of course I'm happy here. I don't have to deal with that abusive man anymore. And we have more space here."* The Nizamuddin shelter environs justify Rubina's vehemence. Two years after the Khusro Park demolitions, this shelter is now wholly inhabited by women and children. A large, well-illuminated hall is a dormitory for women and younger children. Older boys sleep in an adjoining room separated by a partition. The caretaker says, "They stay here till they are about 13 or 14. Then we move them to another shelter for teenagers." Before lights out, the shelter is full of children running and playing. It almost resembles a large family gathering. Women like Rubina used to live in the Khusro Park shelter before it was demolished. Her husband, she says, was a drug addict. She is raising three children alone and finds this

<sup>44</sup> Shweta Balachandran, *DUSIB Shelter Occupancy Analysis* (24 August 2017), PowerPoint presentation available on file with the authors.

<sup>45</sup> GNCTD & UNDP, *supra* note 11.

space safe for them. Other women in the shelter share that opinion. Shabana's husband pulls rickshaws and lives elsewhere. She's domestic help for nearby houses and likes the shelter because she can leave her small children with shelter caretakers while she works. The shelter is visibly cleaner and better lit than it was two years ago. Staff keep it clean and provide educational support and care to children.

Three kilometres away, men displaced from the Nizamuddin shelter begrudge their new lives at NS—235 in Sarai Kale Khan. *"The local residents used to get into fights with us,"* says C, a young resident of NS—235 who used to live in the Nizamuddin shelter. His friend agrees, but says that while there are no problems with local residents -- the surroundings are uninhabited -- trouble comes from other sources. *"Wait and watch,"* he says, *"the local Gujjar will be here soon, listen to what he says."* The 'Local Gujjar' is the caretaker of the DDA park behind the shelter. He arrives. *"Most guys in this shelter are drunks. Jobless,"* he says. A circle forms. Gujjar in the centre, young men closing in. Gujjar rails against them, *"They don't have ID cards or permanent jobs"*. One of the guys is a bus driver at a school in Lajpat Nagar. Another lost his ID card and doesn't know how to get a duplicate. The shelter caretaker says the shelter dissuades people from looking for permanent housing and jobs because "they get everything for free here". The DDA caretaker also says the land on which this recently established shelter was built is owned by the DDA but has "temporarily" been given to DUSIB. That this shelter stands on DDA land in the Green Belt adjoining the Yamuna river means it is effectively as vulnerable as the one in Khusro Park.

Two years after the demolition, Khusro Park is a wasteland. The DDA's landscape and public recreation plans have been stalled by another government authority, the Delhi Wakf Board, which brought a belated claim to the site while the third case was being argued in court.<sup>46</sup> It is unclear what plans, if any, the Wakf Board has for the site. DDA contested the Wakf Board's claim. At the time of this writing, the matter awaits a court hearing. Silence hovers over the deserted park. Families continue to live on pavements outside.

In May 2019, we met some of these families under the flyover, adjacent the off-ramp road to NOIDA. Why don't these women live in the Nizamuddin shelter? A woman on the curb holding her sleeping daughter told us she wanted to live with her husband and child. The women's shelter doesn't permit spouses of its residents to stay. This woman's husband, Ayub, finds daily wage jobs at the nearby labour chowk. He digs ditches to insert internet cables underground from CGO Complex to the Delhi Zoo for a private electrical company. He had just recently injured his left hand on the job. He showed us. The back side of the hand and half of his palm were charred black. The police continually evict people from this place too, he says. But the family was together now, for after the eviction Ayub had also gone to Sarai Kale Khan with other men but returned after fights had broken out. Ayub, likely in his mid-thirties, has come full circle. He had lived on the streets with his family during childhood; in a jhuggi that was eventually demolished before the Commonwealth Games; and in Khusro Park from the early 2010s until the eviction. Hearing him recount his journey in Delhi reminds us to ask about the first Khusro Park resident we met. *'And where is Mohammad Israel these days?'*

*'He died,' Ayub says.*

*'How?'*

*'He got sick and then died.'*

**A family of yellow chicks run circles around Ayub's feet.**

*'Are they yours?'*

*'I bought them for my daughter from a guy near the labour chowk,' Ayub says. 'Five rupees a piece.'*

*'The little one is very fond of animals,' his wife says.*

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<sup>46</sup> W.P. (C) 7955/2015, *supra* note 3, order dated 17.01.2018.

## List of Cases

All cases referred to in this paper have been litigated at the Delhi High Court. They have all been filed as civil writ petitions [abbreviated here and in court records as “W.P. (C)”] under Article 226 of the Constitution, seeking a direction from the Court to enforce a Fundamental Right or another provision of law. In court records, each case is indexed (and referred to here) by its case number, which also indicates the year in which the case is filed. All orders referred to were available on the website of the Delhi High Court as of October 2019.

- *Sudama Singh v. GNCTD*, W.P. (C) 8904/2009.
- *Court on its own motion v. GNCTD*, W.P. (C) 29/2010.
- *Savyasachi Sahai v. State*, W.P. (C) 7955/2015.
- *Ajay Maken v. GNCTD*, W.P. (C) 11616/2015.
- *Sunil Kumar Aledia v. GNCTD*, W.P. (C) 4417/2017.

