

India's capital is marked by different settlement types, defined by diverse degrees of formality, legality, and tenure. As part of a larger project on urban transformation in India, Cities of Delhi seeks to carefully document the degree to which access to basic services varies across these different types of settlement, and to better understand the nature of that variation. Undertaken by a team of researchers at the Centre for Policy Research (CPR), New Delhi, the project aims to examine how the residents of the city interact with their elected representatives, state agencies, and other agents in securing public services.

Through three sets of reports, the project provides a comprehensive picture of how the city is governed, and especially how this impacts the poor. The first is a set of carefully selected case studies of slums, known as jhuggi jhopri clusters (JJC) in Delhi, unauthorised colonies, and resettlement colonies. The second set of studies, of which this is one, explores a range of different processes through which the governing institutions of Delhi engage with residents. The third focuses on selected agencies of governance in Delhi. All reports are made public as they are completed.

Cities of Delhi has received funding from Brown University and the Indian Council for Social Science Research.

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## The Case of Sonia Gandhi Camp

### The Process of Eviction and Demolition in Delhi's Jhuggi Jhopri Clusters

Subhadra Banda and Shahana Sheikh  
April 2014

#### Introduction

Demolitions, evictions, and resettlement are not new experiences for residents of Delhi's jhuggi jhopri clusters (JJC). These squatter settlements, often located on public land, house around 15 percent<sup>1</sup> of Delhi's population and have been subjected to repeated waves of eviction and resettlement since the 1960s.<sup>2</sup> In the most recent wave, just prior to the 2010 Commonwealth Games, 217 JJC were demolished, displacing more than 50,000 households.<sup>3</sup> A wide spectrum of civil society groups denounced the evictions, criticising both the overall strategy of relocating slum-dwellers to resettlement colonies on the periphery of the city, and the process itself.

In the aftermath of these demolitions, the courts took up the matter, issuing a range of often-contradictory rulings. Government policy also changed. In keeping with national developments in slum policy—such as the Rajiv Awas Yojana (RAY)—the Government of the National Capital Territory of Delhi (GNCTD) made concerted efforts to rationalise the process of eviction and rehabilitation.

This report examines the process of eviction in Delhi by reconstructing the 2013 demolition of the Sonia Gandhi Camp, a JJC in South Delhi. Our analysis is based on interviews with selected residents from Sonia Gandhi Camp,<sup>4</sup> engineers from the Public Works Department (PWD) of the GNCTD—the agency that undertook the demolition—the leadership of the Delhi Urban Shelter Improvement Board (DUSIB)—the body designated as

#### Suggested Citation:

Subhadra Banda and Shahana Sheikh, 'The Case of Sonia Gandhi Camp: The Process of Eviction and Demolition in Delhi's Jhuggi Jhopri Clusters'. A report of the Cities of Delhi project. Centre for Policy Research, New Delhi (April 2014).

the “nodal agency” for relocation and rehabilitation of JJs on GNCTD land<sup>5</sup>—as well as an elected representative from the Camp. The circumstances of the demolition of Sonia Gandhi Camp are then examined against a summary of the current legal and policy frameworks with regard to right of way, the principle that the government used to justify the eviction.

This report concludes, overall, that the process of slum eviction and rehabilitation in Delhi continues to be plagued by serious governance challenges. We identify two broad problems. First, despite the designation of a nodal agency, slum rehabilitation suffers from a lack of coordination, with various government agencies working at cross-purposes. Second, the rights of JJC dwellers who are to be evicted remain ambiguous. There is, in particular, a lack of clarity as to who qualifies for rehabilitation and what the process of eviction is. Moreover, the practices followed on the ground during eviction conflict in many ways with the process outlined in policy and legal documents.

### Government Agencies at Sonia Gandhi Camp

1. The 2010 DUSIB Act established the **Delhi Urban Shelter Improvement Board (DUSIB)** to replace the MCD’s Slum & JJ Department. The DUSIB is responsible to the GNCTD’s Urban Development Department. The DUSIB is the agency responsible for provision of “civic amenities” to and the relocation and resettlement of JJs.

2. **Public Works Department Delhi** is the GNCTD’s “premier agency” engaged in “planning, designing, construction and maintenance of Government assets in the field of built environment and infrastructure development”.

### Sonia Gandhi Camp: An Introduction

The Sonia Gandhi Camp is located in Sector VII of the R. K. Puram neighbourhood of southwest Delhi, and is one of the 685 JJs formally identified by the Delhi Urban Shelter Improvement Board (DUSIB). The Camp lies in the midst of one of the first residential colonies established for employees of the central government, and is one of a few pockets of unauthorised settlement in an otherwise well-planned and serviced area. There is some ambiguity around who owns the land on which the Camp sits. While the DUSIB lists the land as owned by the Land and Development Office, a central government agency under the Ministry of Urban Development (MoUD), PWD officials claim that the Central Public Works Department (CPWD), the public works division of the central government, owns the land. The DUSIB estimates that there were 150 *jhuggis* (hutments) in the Camp before eviction and demolition began.

Until 2010, the now defunct Slum and JJ Department of the Municipal Corporation of Delhi (MCD) was responsible for providing services to the Camp. The 2010 DUSIB Act shifted this division of the MCD to the GNCTD, creating the DUSIB in the process. Apart from the MCD and the DUSIB, the PWD is also a key state actor in the Camp.

The PWD’s involvement in the Camp begins after certain roads were transferred from the MCD to the PWD—from municipal to state control—in 2011 and 2012. In December 2011, responding to poor upkeep, a GNCTD cabinet decision transferred 87 MCD roads with a width over 30 metres or 100 feet, totalling

221.46 km, to the PWD for maintenance.<sup>6</sup> Then, in early 2012, the handover expanded to include all MCD roads more than 60 feet wide.<sup>7</sup> This transfer of an additional 645 km of roads was completed in April 2012 and a grant of Rs. 250 crore<sup>8</sup> was given to the PWD to repair these roads.<sup>9</sup>

## Demolition at Sonia Gandhi Camp

### Letter Signed by Residents

*Hum jhuggiwale Sonia Gandhi Camp Sector 7, R. K. Puram, New Delhi, ke nivaasiyon ki jhuggiyon ko bina notice ke toda jaara haa thaa toh hum sabhi basti waalon ne virodh kiya toh unhone humein 30-03-2013 ka samay diya hai. 30-03-2013 tak hum log line ko khaali nahin kiye toh yeh log tod saktein hain humaara camp ke line jisse humein koi aapati nahin hai.*

[Our jhuggies in Sonia Gandhi Camp Sector 7, R. K. Puram, New Delhi were being demolished without any notice. We residents from the *jhuggis* protested, so they have given us time until 30-03-2013. If we do not vacate the identified row of *jhuggis* by 30-03-2013 then these people can undertake the demolition of these *jhuggis*. We don't have any objection to this.]

On 25 February 2013, engineers from the Public Works Department told residents of the Sonia Gandhi Camp that they were going to demolish the northeast part of the settlement. Residents recall PWD officials explaining that this section of the JJC was on PWD land that they needed for a road-widening project. However, neither an official notice nor any orders were shown to the residents. When PWD engineers said that they would begin the demolition immediately, residents asked for some time to prepare; the engineers agreed. One week later, on 6 March, PWD engineers arrived at the Camp to begin demolition. While a few people had managed to remove belongings from their houses, others insisted that they still needed more time. The residents then signed a letter agreeing to remove their houses from the land required for the PWD road by 30 March; if they failed to do so, the letter stated, the PWD could demolish their homes.<sup>10</sup> While community members state that PWD engineers drafted the letter, then sought their signatures, PWD staff claim that the community participated in producing the text (left).

Residents report that they removed their belongings from the *jhuggis* supposedly on PWD land by 30 March. However, no one from the PWD came to demolish the *jhuggis* on that day, nor in the first few days of April. Residents subsequently moved back into the *jhuggis*.

On 15 April the PWD demolished a section of the Sonia Gandhi Camp. Around 35 JJC households, which were allegedly on PWD land demarcated for the Tamil Sangam Road, were demolished without prior notice. Along with the *jhuggis*, a row of toilets used by Camp residents were left useless when engineers removed the pump supplying them water. Police, presumably deputed by the PWD, accompanied the bulldozers that came in to demolish the *jhuggis* and residents were again told that the *jhuggis* were being demolished for a road-widening project. The PWD engineers emphasised that they would not undertake any further demolition at the site and would give residents two or three days to remove whatever debris they wanted to salvage before bulldozers completely cleared the area.



The Camp on 16 April, the day after the demolition.

One week later, on 22 April, two engineers from the PWD came and demarcated the land supposedly required for the new, wider road. The residents of the *basti* (colloquialism for JJC) claimed that they were not shown a map or any other document outlining the boundary. At that time, a private contractor hired by the PWD arrived with labourers and materials and began building a wall along the boundary. Simultaneously, a bulldozer and a truck, presumably deputed by the PWD, began clearing the debris of the demolished *jhuggis*.

## Explanations and Responses

Government explanations for and responses to the demolition came from three quarters: the two GNCTD agencies involved in the case, the PWD and the DUSIB, and the area's Member of the Legislative Assembly (MLA), its elected state representative.<sup>11</sup>

These three groups presented conflicting explanations and justifications for the events at Sonia Gandhi Camp, reflecting the unresolved policy framework governing this demolition, and demolitions and evictions at JJs in general. In an April 2013 interview, a few days after the demolition, a senior engineer from the PWD claimed that his department had not demolished any *jhuggis*, but had simply “removed encroachments”, emphasising that it was his job to remove encroachments from PWD land and to ensure that it was vacated. A different PWD engineer, who had supervised the demolition, maintained that the PWD had no role in relocation, that this was the responsibility of either the Delhi Development Authority (DDA) or the MCD.

On the other hand, a top official of the DUSIB informed us that indiscriminate demolitions could no longer be undertaken, prevented by the NCT Special Powers Act.<sup>12</sup> He explained that if a public works project requires demolition, the agency that owns the land in question needs to justify the action, and then must rehabilitate residents after their eviction, providing them some alternative accommodation.

Much of the government justification hinged on some understanding of right of way. The PWD engineer who supervised the demolition maintained that clearing the JJ was a necessary step in the Department’s road widening process; he emphasised that right of way justified the process. Again, conflicting narratives prevail: a senior engineer from the same department denied that there was any road-widening project underway at that moment and reiterated that the PWD had simply acted to clear the *existing* road of encroachments. He listed several possible uses for the cleared PWD land, including widening the road up to the CPWD land boundary, constructing a footpath, improving the road, or even giving the land to a corporate entity to construct a public toilet.

Whatever the PWD rationale, a top DUSIB official emphasized that he was sure that there was no provision in the NCT Special Powers Act that would exempt residents living on a right of way from due rehabilitation. He explained that while the older policy excluded residents evicted for right of way from rehabilitation, a later amendment had removed this clause. The official was quite clear that by April 2013, demolition for right of way could not be undertaken without rehabilitation. In other words, whether or not right of way justified the demolition, it did not exempt the government from its obligation to provide some alternative housing for residents made homeless by its actions.

According to the PWD, right of way regulations also exempted the agency from informing residents and other agencies about the eviction. The senior PWD engineer we spoke with

maintained that the procedure for removing encroachments on right of way is the same no matter the type of settlement. In no case, he said, is there a mandate to issue notice of demolition for an encroachment on a right of way, whether the encroachment is a *jhuggi* or a bungalow.

The senior engineer also contended that before removing an encroachment, the PWD did not need to inform any other government department about its demolition plans, except to ask the area Station House Officer (SHO, a senior police officer) to provide police for the duration of the demolition to “ensure that a riot doesn’t break out”. The engineer who supervised the demolition explained that apart from providing security, the police had no role in the demolition, which was carried out exclusively by the PWD. Both engineers emphasised that they were “following orders given from the top” of the PWD.

In an interview, a top DUSIB official summarised his understanding of proper procedure, explaining that the PWD is supposed to ask the DUSIB to identify those displaced and rehabilitate them. The PWD must also give the DUSIB Rs. 1.5 lakh<sup>13</sup> per “eligible” beneficiary household to assist with rehabilitation.

Some members of the community approached the MLA (in office from 2008 to 2013) of the R. K. Puram State Assembly Constituency within a day of the demolition. She told them to make a list of those people whose *jhuggis* had been demolished and to include their identification documents with the list. Once the list was ready, she said that she would go with the affected people to the Income Tax Office (ITO) to ask for rehabilitation. Presumably, she was referring to the DUSIB office near the ITO.

Displaced Camp residents submitted details of the demolished *jhuggis* to the MLA’s office a few days later; she cautioned that it could take five or six months to get any relief or action. Discouraged by the MLA’s response, the community decided to contact a lawyer to take their case to court.

On 8 May 2013, some residents approached the MLA again; this time she assured those whose *jhuggis* were demolished that they would receive flats in Narela<sup>14</sup> as a part of the rehabilitation policy. She told them that a registration camp (presumably organised by DUSIB) would be held at Sonia Gandhi Camp on 10 May and/or 15 May, at which time allotment slips will be given to those whose *jhuggis* had been demolished. She also explained that each beneficiary household would have to contribute Rs 72,000 to receive a flat. She had also told them that to be eligible, those whose *jhuggis* had been demolished would have to



Sonia Gandhi Camp. PWD engineers claimed that demolition was necessary to expand the Tamil Sangam road, running along the northeast side of the Camp.

It is standing policy that residents of JJs located on road berms, footpaths, rights of way, and community areas must be considered for relocation.

submit voter ID cards proving that they had been residents of Sonia Gandhi Camp at addresses that had been demolished for the last eight or ten years.

No registration camp was organised on either day. Once again, residents approached the MLA to find out the status of the allotment of flats. She told the residents that she had asked the DUSIB why the households whose *jhuggis* were demolished had not been provided with a resettlement option and the DUSIB responded that the demolition was carried out by the PWD, which did not inform the DUSIB about the demolition. As a result, the DUSIB explained, it did not prepare a resettlement plan for the affected households.

### **Right of Way: Current Policy and Legal Framework**

In the case of the Sonia Gandhi Camp demolition, the government's actions were predicated on the concept of right of way. It is important to explore both government impressions of this phrase and actual policy as it serves to justify government actions in many JJC evictions and demolitions in Delhi.

The PWD's explanation of their actions rests on the claim that residents whose homes encroach on a public right of way are not eligible to be considered for relocation. Based on our review of all the relevant orders and policies, there is no doubt that, contrary to the PWD's claim, it is standing policy that residents of JJs located on road berms, footpaths, rights of way, and community areas must be considered for relocation.

In February 2013, the GNCTD extended the cut-off date—the date prior to which a resident must prove to have lived in a given settlement—to be considered eligible for relocation to 4 June 2009.<sup>15</sup> Since December 2011, the cut-off date had been 31 January 2007; before that, the cut-off date was set at 1 April 2002. GNCTD's February order established new policy by explicitly removing a prior clause that excluded residents of JJs located on road berms, footpaths, rights of way, and community areas from receiving relocation or rehabilitation.

This order certainly constitutes clear current policy on right of way. It is still necessary, though, to examine the previous stance of the GNCTD and other agencies in Delhi, and case law on the issue. Case law does reveal some inconsistencies among various agencies, which could, possibly, explain the PWD's lack of clarity on the issue.

Section 42(p) of the 1957 Delhi Municipal Corporation Act obligates the MCD to remove obstructions and projections in

or upon streets and bridges, and over public places. However, various recent GNCTD policies on JJC relocation elaborate this policy. The first of these is the 2000 Rehabilitation and Improvement Scheme for Jhuggi Clusters, which came into effect on 1 April 2000, and increased the cut-off date from January 1991 to November 1998. The order does not contain any language making those living on rights of way or footpaths ineligible for rehabilitation.

In 2003, the Delhi High Court struck down the 2000 Scheme in *Wazirpur Bartan Nirmata Sangh v. Union of India*.<sup>16</sup> The decision empowered the government to remove encroachments on public land “expeditiously without any pre-requisite requirement of providing them alternative sites before such encroachment is removed or cleared”. This judgment was appealed at the Supreme Court, which ruled that the findings of the High Court shall not be binding “for any purpose whatsoever”, effectively returning policy to the 1957 status quo.<sup>17</sup>

In 2010, however, the Delhi High Court, finally took a decisive stand on right of way evictions in a landmark judgment, *Sudama Singh v. GNCTD*.<sup>18</sup> The Court held that “the Government have failed to produce any such policy which provides for exclusion of the slum dwellers on the ground that they are living on Right of Way”. In other words, the Delhi High Court, dealing with an eviction that was undertaken by agencies including the MCD and the PWD, which had claimed that the residences were encroachments on the right of way, ruled that the evictions violated policy. The Court provided a clear and conclusive answer to the question of whether the relocation mandate applies to residents of homes built on the right of way.<sup>19</sup>

The Court went on to state that even if there were a policy excluding those residents from relocation, it would apply only to those residents, who “deliberately set up their jhuggis on some existing road, footpath etc.”, and that “surely this policy cannot be applied to jhuggi dwellers who have been living on open land for several decades” when it is later discovered that the land had been set aside for a future road under the Master Plan. The only document produced to prove right of way was a letter from the Principal Secretary, Urban Development, GNCTD, which referred to the oral instructions of the Lieutenant Governor that those *jhuggi*-dwellers living on the right of way were not entitled to relocation. The Court rejected this document, stating that it failed to understand “how that would spell out any policy decision on right of way”.

This judgment, issued on 11 February 2010, was under appeal at the Supreme Court, but the appeal was dismissed on 31 July 2013. Today, the Delhi High Court judgment in the *Sudama*

The PWD claimed that they could clear an encroachment on a right of way without any procedure of notification, and that residents of such encroachments are not eligible for relocation; current GNCTD policy clearly states otherwise.

Singh case stands as law, effectively protecting the eligibility of residents whose *jhuggis* have been demolished for sitting on a right of way to be considered for relocation.

For a time, however, policy did not follow this precedent. A week prior to the Sudama Singh judgment, on 3 February 2010, the GNCTD passed Cabinet Decision No. 1613, asserting that “JJ dwellers squatting on road berms, foot-paths, right-of-way, community areas, safety zones of railways as per court orders” would be ineligible for relocation.<sup>20</sup> In other words, the state government set policy that was contradicted by the central government’s Sudama Singh judgment issued the following week. This conflict remained until February 2013, when the GNCTD policy finally aligned with the Sudama Singh decision.

An August 2010 incident further underlines the disparity between judicial pronouncement and policy. That month, in keeping with the Sudama Singh judgment but in contravention of standing state policy, the Court ordered that members of the Gadar Lohia community living on an island of a central road in Delhi were eligible for relocation, and the MCD was directed to provide rehabilitation.<sup>21</sup>

Whatever the ambiguity that reigned in these three years, it is clear that by April 2013, the PWD’s stance contradicted the GNCTD policy. The PWD claimed that they could clear an encroachment on a right of way without any procedure of notification, and that residents of such encroachments are not eligible for relocation; current GNCTD policy, in keeping with the Sudama Singh judgement, clearly states otherwise.

Certain national policies also offer some guidance on JJC demolition and rehabilitation policy. The Rajiv Awas Yojana (RAY), a national plan for the rehabilitation of slums, is a pioneering effort to provide property rights to slum dwellers. The RAY, announced in June 2009, aims “to provide financial assistance to states that are willing to assign property rights to slum dwellers for provision of shelter and basic civic and social services for slum redevelopment, and for creation of affordable housing stock”.<sup>22</sup> The RAY, which began its first phase in June 2011, extends efforts by the Jawaharlal Nehru Urban Renewal Mission (JNNURM) to provide low-income housing.

Phase I of RAY, approved by the Cabinet Committee on Economic Affairs,<sup>23</sup> makes financial assistance to states conditional on certain reforms: states are required to adopt the 2011 Model Property Rights to Slum Dwellers Bill and a Slum-Free City Plan in order to receive financial support from the central government. Currently, few states have enacted the necessary legislation, but certain pilot projects have begun under the

## Due Procedure for an Eviction from Land Owned by a GNCTD Agency

1. JJC land is required by LOA
  - i. A land-owning agency (LOA), which is a department of the GNCTD, requires land on which a JJC is situated for a public purpose; land cannot be cleared unless it is required for a special public project as per the NCP (SP) Act, 2011
  - ii. The concerned LOA informs the DUSIB of the requirement to clear the land
2. JJC households are surveyed.
  - The DUSIB and LOA undertake a survey of households during which they:
    - i. Issue a notice for survey
    - ii. Inform the community of the survey methods, including documentation prerequisites
    - iii. Conduct household survey
2. Decision on eligibility
  - The DUSIB decides which of the surveyed households are eligible for relocation
4. Eligibility list released
  - i. The DUSIB releases a list of those eligible for relocation and those who are not, and effectively communicates the same to affected parties (through internet and other means)
  - ii. The DUSIB provides a grievance mechanism
5. Distribution of possession letters
  - i. Letters for possession of EWS flats distributed by the DUSIB to households found to be eligible for relocation
  - ii. The beneficiary contributes his or her contribution to secure an EWS flat
6. LOA fulfils obligations
  - i. Subsidy to the DUSIB for flats, according to the number of households found eligible for relocation
  - ii. Certificate for requirement of land
7. Notice for eviction
  - i. Date of eviction and relocation is decided jointly by the DUSIB and LOA
  - ii. Notice issued and effectively communicated to parties
  - iii. A forum to challenge eviction is provided
8. Service provisioning
  - i. At the site of eviction
  - ii. Provision of transport for households to relocation site
  - iii. Basic services at relocation site

auspices of RAY. In Delhi, only one requirement has been met: in December 2011, the DUSIB approved an action plan to make Delhi a slum free city by 2015 and decided to take up relocation of a large number of JJs.<sup>24</sup> However, this plan remains publicly unavailable, and is clearly a goal in stark contrast to DUSIB's track record. Over the last two years, the DUSIB has relocated eight out of more than 600 JJs.

RAY and other national policies are clearly oriented towards reform, setting inclusive, progressive policies that protect the rights of slum-dwellers faced with eviction and relocation. The actions of the PWD and the GNCTD in the Sonia Gandhi Camp and similar cases are not consistent with this national trend, consistently privileging the exigencies of the state over slum-dweller's rights.

## Relocation: Current Policy and Legal Framework

While separate government orders and legislation have indicated eligibility criteria for rehabilitation, what an eligible resident of a JJC is entitled to, and how surveying of households to be considered for rehabilitation is to be done, there is no single policy document where the terms and process for eviction is laid out. Based on a review of the relevant orders and legislations, we have attempted to consolidate a timeline for the due procedure for an eviction from land owned by an agency of the GNCTD (left).

The February 2013 GNCTD order establishes the DUSIB as the nodal agency for relocation and rehabilitation of JJs on land owned by the MCD and departments and agencies of the GNCTD. In cases where land is owned by the central government, the order allows central government agencies to carry out rehabilitation and relocation, or to "entrust the job to the DUSIB". The order also lists the process for surveying, mentions eligibility criteria for a JJC resident applying for a flat, and lists mechanisms for grievance redressal. In the case of the Sonia Gandhi Camp, the land-owning agency, the PWD, is a department of the GNCTD; therefore, according to the February order, the DUSIB was the agency in charge of clearing and relocating the settlement. It is clear that the PWD went against policy by proceeding unilaterally.

While the policy framework clearly states that residents whose houses sit on a right of way can be evicted, they are eligible to be considered for alternative accommodation under the relocation scheme. Logic and DUSIB procedure mandate that this process precede eviction. It is a process, however, that requires some coordination between the LOA and the DUSIB. DUSIB

itself acknowledges that land-owning agencies often undertake evictions without approaching the DUSIB for assistance, as in the case of the Sonia Gandhi Camp, effectively circumventing the protections intended by the order.<sup>25</sup>

Case law does mandate that evicting agencies make some effort to determine eligibility for relocation before beginning eviction. In the case of *Prem Singh v. GNCTD*, 106 residents of a JJC in Vasant Kunj<sup>26</sup> approached the High Court seeking a writ to prohibit the MCD from evicting them before arranging for relocation. The Court observed that the “DUSIB is expected to deal with the case of each of the Petitioners and if not satisfied of entitlement for relocation, to pass a reasoned order therefore stating as to whether the documents were produced or not and if produced as to the reason for non acceptance thereof”.<sup>27</sup> In other words, the Court not only required that residents be eligible to apply for relocation, but also mandated that if they were deemed ineligible, they be told why. It noted, further, that there was no provision for grievance redressal in the policy and required the DUSIB to address the lapse.<sup>28</sup> While DUSIB has since put a grievance redressal mechanism in place, no provision has been made for informing ineligible residents why they were disqualified.

The 2011 National Capital Territory of Delhi Laws (Special Provisions) Second Act suspends all orders for “initiating action against encroachment<sup>29</sup> or unauthorised development” until 31 December 2014. It observes that this suspension is necessary given that relocation of 685 JJs in Delhi (including Sonia Gandhi Camp) “will take considerable time”. A closer reading reveals that the law grants only limited protection to slums and JJs:<sup>30</sup> demolitions in pursuance of the 2021 Master Plan of Delhi and “specific public projects” are allowed. Although the Act does not protect residents from demolition if their dwellings encroach on “streets, lanes, footpaths and parks”, it in no way precludes them from being considered for relocation, nor does it curtail their right to due process.

Much of the process for relocation or rehabilitation hinges on government surveys of JJs to establish residents’ eligibility. The transparency of these surveys determines much about the inclusiveness of the process in general. There are several different regimes governing surveys of JJs.

Section 9 of the DUSIB Act empowers the Board to conduct an extensive survey of a JJ to ascertain the number of residents as well as the level of service provision.<sup>31</sup> It also makes it “the duty of every local authority and of every department of the Government to make available” to it “all information in its possession relevant to the conduct of such survey”.<sup>32</sup> The Act allows

The Court directed that the state must “meaningfully engage” with those that they seek to relocate.

the DUSIB to undertake two types of surveys: surveys prior to evictions to decide eligibility for relocations, and socio-economic surveys for broad planning functions, such as the creation of a slum-free city.

The February 2013 Act details requirements for surveying, stating that the DUSIB or the agency conducting the relocation shall post a notice announcing the survey at least four weeks in advance at conspicuous places in the community. To ensure that “all jhuggi dwellers are informed about the survey being carried out”, a public announcement must be made through media like loudspeakers or beating of drums, starting on the date of issue of the notice and on a regular basis until the survey’s completion.<sup>33</sup> The survey is to be conducted by DUSIB and the land-owning agency to ensure that “no genuine JJ cluster dweller” is left out. On the completion of the survey, documents<sup>34</sup> must be submitted to the DUSIB within 21 days. The notice further states that “if genuine candidate is left out - then the CEO, DUSIB may consider the same as per individual merits of the case”.<sup>35</sup> Importantly, the February 2013 policy does not require that the results of the survey be disclosed to the residents.

National-level policy calls for a similar standard of community participation. The RAY guidelines mandate that the “Urban Local Body” collaborate with other actors across various institutions at the municipal level to carry out surveys.<sup>36</sup> It also mandates community involvement: the survey must be mapped and “validated by the community”.<sup>37</sup> Presumably, this means that survey details have to be made available to the residents so that they can be verified and rectified if errors are pointed out.

Recent case law has also dealt with survey procedures. The Sudama Singh judgment emphasises that “the exercise of conducting a survey has to be very carefully undertaken and with great deal of responsibility keeping in view the desperate need of the jhuggi dweller for an alternative accommodation”.<sup>38</sup> The Court directed that the state must “meaningfully engage” with those that they seek to relocate, and mandated that a separate folder be preserved by the agency or agencies that are involved in the survey for each *jhuggi* dweller, collecting all documents relevant to that resident in one place. Further, it mandated that basic services be provided to those who had been displaced. It also suggested that the survey team visit the area repeatedly “over a period of time, with proper announcement”.<sup>39</sup>

On the ground, mechanisms for surveying JJs have been fairly problematic and have not reflected the transparency and inclusion mandated by the policies discussed above. For example, after demolitions at a JJ in Baljeet Nagar,<sup>40</sup> the Court

ordered surveys to decide which residents were eligible for relocation.<sup>41</sup> Repeated field visits and interviews in Baljeet Nagar reveal that these lists have not been made available to residents and that they were required to file petitions under the Right to Information (RTI) Act to receive the documents. We discovered a similar situation in Kathputli Colony,<sup>42</sup> where residents were able to access lists of eligible candidates only after a prolonged RTI petition exercise.

This process clearly violates the letter and spirit of the Sudama Singh judgment, which calls for a streamlined process whereby the final list is publicly announced and effectively communicated to residents ruled both eligible and ineligible to provide them a forum to challenge exclusion or inaccurate surveying. This requirement flows from a basic principle of administrative law known as natural justice, which requires that no order adverse to a party should be passed without hearing his challenge.<sup>43</sup> The February 2013 order makes robust provisions for this, mandating that “in case a genuine party is left out”, the CEO of the DUSIB will decide on the matter, on a case-by-case basis. The effectiveness of this condition is undermined by current practice: ineligibility can be challenged only if those who are ineligible are informed of their status.

Although government agencies demonstrate some effort to inform residents of their status, they are not consistent. In several recent instances, DUSIB records indicate that they informed residents by displaying lists of residents found eligible and ineligible on their website and in the respective clusters and publicising them “through the beat of drum”.<sup>44</sup> Further, according to their records, “a second opportunity was given to those residents who were surveyed but either could not fill up their forms or who have been declared ineligible by the eligibility determination committee ... [with the] objective of maximizing the number of beneficiaries”.<sup>45</sup> But interviews with JJC residents in Kathputli Colony and Baljeet Nagar, where eligibility surveys were recently conducted (2010 and 2012, respectively), indicate that they were not informed of the surveys’ results.

Notification of an impending eviction is an essential step in the procedure surrounding demolitions, but policy surrounding notification is vague and incomplete. While the DUSIB Act provides a procedure for notice of eviction, it only applies when the DUSIB undertakes the evictions, and is not relevant when another land-owning agency is undertaking the process. In other words, there are no public documents that outline the exact procedure for notification when the land-owning agency is the PWD. We must rely instead on other scenarios described in the DUSIB legislation and on case law to understand what might constitute adequate notice to residents.

Government actions between notification of an eviction and the demolition itself have a huge impact on residents' experience.

The DUSIB Act only describes appropriate notice of eviction for those living on “public premises”, which, according to the Public Premises Unauthorised Occupants Eviction Act, refer to “any land or any building or part of building”. As per this 1971 Act, in the National Capital Territory this refers to land owned by the MCD, the DDA, (whether such premises are owned, or leased by, the said authority), and any premises belonging to the state or central government.

The DUSIB Act requires that the Board receive prior consent before it can enter public land and buildings, and any order of eviction must record reasons for that eviction. Notice of eviction should be posted in some conspicuous part of the premises, and only if residents fail to comply with the order of eviction after 15 days can agencies proceed with evictions.

Despite these restrictions, the latest guidelines on slum rehabilitation do not have an explicit requirement to provide notice before carrying out a demolition and/or eviction. Indeed, many of the evictions carried out over the last decade were undertaken without any notice at all. In one instance, the DUSIB gave five days notice before evicting residents of a JJC in Moti Bagh. However, the Delhi High Court has held that “to minimize the hardship involved in their eviction” a notice period of 21 days should be given to residents. In another case, 30 days notice was given. Activists involved in this issue, on the other hand, say that a minimum of two months is required to allow communities to organise and challenge a notice of eviction or question exclusion from the list of residents eligible for relocation.

Case law also indicates what has been considered adequate notice. In the case of Satbir Singh, the Court directed that 30 days notice be given for eviction.<sup>46</sup> In the case of Tughlaqabad Welfare Association, the Court held that “to obviate the sufferings of the dwellers and to minimise the hardship involved in their eviction” notice of 21 days should be given.<sup>47</sup> Case law indicates that given the complexity involved in relocation, a minimum of three weeks is required as notice for evictions. In Sonia Gandhi Camp there was no official notice given prior to demolition, apart from the letter cited earlier in this report. The letter—of unclear authorship—was produced only when residents protested to PWD engineers who arrived to begin the demolition with no notice at all.

Government actions between notification of an eviction and the demolition itself have a huge impact on residents' experience. While policy makes no mention of service provision before a demolition, case law does mandate that certain provisions should be made after notification and before a demolition begins. In the case of the Baljeet Nagar demolitions, the Court

Two agencies—both departments of the Delhi Government—with differing interpretations of the right of way exception were involved in the Sonia Gandhi Camp eviction.

directed the DDA to assemble a team of senior officials to visit the site immediately after demolition and ensure that basic facilities like drinking water, sanitation, temporary shelter, and health care were provided to those whose houses had been demolished.<sup>48</sup> The Court recognised that people were not able to remove belongings buried under debris and stated that the DDA had to assist them in recovering their possessions. The DUSIB was asked to survey the area and provide alternative accommodation.

## Analysis

The past few years have witnessed significant rethinking and policy shifts on the issue of slums. Although the case law on this subject has been inconsistent, the Sudama Singh judgment provides the clearest treatment of the issue of eviction, drawing on a rights perspective to provide a detailed roadmap of the practical process to be followed during eviction and relocation. The spirit of the Court's judgment is mirrored, to some level, in the central government's RAY policy and the resulting model legislation, which seeks to provide security to the urban poor in the form of property rights. Implementation of this new paradigm, however, has proved difficult. In Delhi, it is consistently undermined by a complex ecosystem of multiple actors following multiple policies.

## Multiple Actors

Two agencies—both departments of the Delhi Government—with differing interpretations of the right of way exception were involved in the Sonia Gandhi Camp eviction. The PWD and the DUSIB expressed divergent understandings of whether there is an exception that allows land-owning agencies to demolish JJs that are on a right of way without relocating affected residents. This difference in interpretation is especially important in light of the fact that maintenance of more than 850 kilometres of Delhi roads was transferred from the MCD to the PWD during 2011 and 2012, surely implicating other informal settlements in the same confused policy. It is important to emphasise that despite these agencies' vagueness on the issue, current policy—the February 2013 GNCTD regulation—is clear on the issue: residents of JJs on a right of way are eligible for relocation.

Another key actor in the Sonia Gandhi Camp story, the area's MLA, was also aware, at least generally, that households whose *jhuggis* were demolished are entitled to be considered for rehabilitation. She was not, however, well informed about the details of the current policy, nor well enough versed in its nuances to have intervened effectively on behalf of JJ residents.

In the past, disorganised demolitions and evictions in Delhi have often been explained by the fact that the land-owning agency in question (usually part of the GNCTD or Central Government) was part of a different level of government than the Slum and JJ Department (then part of the MCD), resulting in poor communication and coordination. The Sonia Gandhi Camp eviction demonstrates that even when the land-owning agency (PWD) and the agency responsible for relocation (DUSIB) are part of the same level of government (GNCTD), demolition and eviction is disorganised. The disorganisation in this case hinges on the fact that the PWD engineers who implemented the decision to demolish *jhuggis* were unaware of the GNCTD's policy that relocation must precede demolition.

Apart from the lack of awareness on the part of land-owning agencies, there is no obligation for land-owning agencies to inform DUSIB of evictions. Although the February 2013 policy clearly designates the DUSIB as the nodal agency for relocation and rehabilitation of JJs on land owned by the MCD, there is no articulation of what coordinating action is required from GNCTD agencies. According to the guidelines, once a land-owning agency (LOA) decides to reclaim land, it should conduct a joint survey with the DUSIB, following which the latter decides who is eligible for rehabilitation, and allots flats accordingly. However, as senior officials with the DUSIB point out, DUSIB can undertake this task only when it is informed of an eviction by a land-owning agency. Resettlement or rehabilitation is nearly impossible after an eviction as surveying of residents becomes increasingly complex in its aftermath. The result is that the DUSIB is quite disempowered, despite its vast and inclusive legislative mandate.

Given this lack of coordination between departments of the Delhi government, it is natural to expect even more complexity when central government LOAs like the DDA or the Railways are involved. In this context, the February 2013 policy states that such central agencies “may either carry out the relocation/rehabilitation themselves as per the policy of the Delhi Government or may entrust the job to the DUSIB”. Central LOAs like the DDA and the Railways own 63 percent of the land on which Delhi's JJs are situated. Practice has shown that more often than not, these central agencies undertake these actions unilaterally and do not engage the other agencies necessary to ensure due process and protection for residents.

It is not uncommon to find a jhuggi dweller, with the bulldozer at the doorstep, desperately trying to save whatever precious little belongings and documents they have, which could perhaps testify to the fact that the jhuggi dweller resided at that place.

- Delhi High Court Judgement <sup>49</sup>

## A Multiplicity of Policy

While separate government orders and legislation have indicated the criteria for eligibility for rehabilitation, what an eligible resident of JJC is entitled to, and how surveying is to be done, there is no single policy document where the process for eviction is laid out. Only an extensive review of the concerned orders and legislations enabled us to outline the due procedure for an eviction, where the land-owning agency is an agency of the GNCTD. Although various processes that should be undertaken before, during, and after an eviction can be found across multiple policy documents, there has been no effort to aggregate them. Residents of the Sonia Gandhi Camp suffered as a result of this failure.

## Conclusion

Although certain mechanisms for eviction and relocation are detailed in various policy and legal documents, residents of Sonia Gandhi Camp fell through the cracks of this mosaic of due process. There is clearly a wide gap between the seemingly progressive attitude towards evictions and relocation articulated on paper and the practice on the ground. Land-owning agencies, both state and central, and the nodal agency for relocation, the DUSIB, not only need to come to a consensus on the mandate itself, but also around a common understanding of how to enact it.

In the end, it is the Court that most poignantly observes the result of this failure to articulate policy and enact practices that follow that policy: “It is not uncommon to find a jhuggi dweller, with the bulldozer at the doorstep, desperately trying to save whatever precious little belongings and documents they have, which could perhaps testify to the fact that the jhuggi dweller resided at that place”.<sup>49</sup>

## ***Postscript, April 2014***

Almost a year later, the brick wall built by the PWD to demarcate right of way remains. Some residents have rebuilt their *jhuggis* on the side of the wall where the rest of Sonia Gandhi Camp still stands, while others have gone back to their villages. In the area where the forty households stood before the demolition, the Public Works Department has planted flower beds inside concrete containers.

## Notes

1. Based on DUSIB list of 685 clusters in Delhi and 2011 census data.
2. Véronique Dupont, 'Slum Demolitions in Delhi since the 1990s: An Appraisal', *Economic and Political Weekly*, 12 July 2008.
3. See generally Gautam Bhan, 'This is no longer the city I once knew. Evictions, the urban poor and the right to the city in millennial Delhi', *Environment and Urbanization*, 21/1 (2009).
4. Interviews and discussions were conducted with a group of 20 residents on 16 April 2013, the day after the demolition; an interview with the pradhan of the camp was conducted on 18 April 2013. Further short interviews with ten residents, including the pradhan, and observations of the demolition site were conducted on 22 April, 4 May, 10 May, and 22 May 2013.
5. Order No. F 18(7)/UD/DUSIB/2011/Vol I 2350, Department of Urban Development, Government of NCT of Delhi, 25 February 2013.
6. Gaurav Vivek Bhatnagar, 'Legality of transfer of MCD roads to PWD questioned', the *Hindu* (9 December 2011).
7. Atul Mathur, 'MCD told to hand over urban roads by February-end', the *Hindustan Times* (2 February 2012).
8. 1 crore = 10 million
9. 'Public Works Department gets Rs 250 crore grant to repair old MCD roads', the *Times of India* (28 April 2012).
10. A copy of the letter was given to CPR researchers by the local Division Office of the PWD on 17 April 2013.
11. This section is based on interviews conducted by CPR researchers in April and May 2013.
12. National Capital Territory of Delhi (Special Powers) Second Act 2011—explained in a later section of this report.
13. 1 lakh = 100,000
14. Narela is an area in North Delhi about 40 kilometers from R. K. Puram (which is located in South Delhi). It is a location where flats for Economically Weaker Sections (EWS) have been constructed.
15. Order No. F 18(7)/UD/DUSIB/2011/Vol I 2350, Department of Urban Development, Government of NCT of Delhi, 25 February 2013.
16. Wazirpur Bartan Nirmata Sangh v. Union Of India, 103 (2003) DLT 654
17. Union Of India V.Okhla Factory Owners' Asson. & Ors CA 1688/2007 (judgment delivered 7 September 2010); Special Leave Petition No. SLP 3166-3167/ 2003.
18. MANU/DE/0353/2010
19. Ibid.
20. This was modified in May 2010 (vide order dated 19 May 2010) to remove "safety zones of railways" from ineligibility conditions.
21. Mukandi Lal Chauhan v. MCD , MANU/DE/3915/2010
22. Press Information Bureau, Government of India, Ministry of Housing and Urban Poverty Alleviation, 2 June 2011.
23. Ibid.
24. 'Action plan to make Capital slum-free by 2015 approved', the *Hindu* (20 December 2011).
25. Interview with a top official of the DUSIB in July 2013.
26. A neighbourhood of South Delhi.
27. Prem Singh v. Govt. of NCT of Delhi and Anr., MANU/DE/0073/2011
28. Prem Singh v. Govt. of NCT of Delhi and Anr., MANU/DE/0073/2011
29. Section 2(1) c "encroachment" means unauthorised occupation of Government land or public land by way of putting temporary, semi-permanent, or permanent structure for residential use or commercial use or any other use.
30. The same legislation has been extended time and again; the only major difference in its various iterations is that the deadline for the bar on evictions has been continually extended.
31. Section 9.1, The DUSIB Act 2010. The Act states that the DUSIB is empowered "to conduct a survey of any Jhuggi Jhopri Basti [JJC], with a view to ascertaining the number of residents thereof, the existing standard of health, sanitation and civic amenities, the availability of medical and educational facilities for the residents thereof, and any other matter which may appear necessary to it to enable it to perform its functions under this Act".
32. Ibid.
33. Order No. F 18(7)/UD/DUSIB/2011/Vol I 2350, Department of Urban Development, Government of NCT of Delhi, 25 February 2013.
34. As per the February 2013 order, the voter ID card is the mandatory documentation proof and has to be submitted for three different years: (i) a date prior to 4th June 2009, (ii) the year of survey carried out by DUSIB at the JJC, and (iii) 01.01.2013. Additionally, any one of eleven documentation proofs, which satisfy the 2009 cut-off date and the Unique Identification (UID) numbers of the applicant and his / her spouse have to be submitted.
35. Order No. F 18(7)/UD/DUSIB/2011/Vol I 2350, Department of Urban Development, Government of NCT of Delhi, February 25, 2013.
36. RAY Community Participation Guidelines 2012, Ministry of Housing & Urban Poverty Alleviation, Guideline 3.2.2. Mapping and Survey Operations.

37. Ibid.

38. MANU/DE/0353/2010

39. Ibid.

40. This JJC is located in West Delhi and lies in Baljeet Nagar, in the Patel Nagar Constituency. DUSIB data states that it is home to 455 jhuggis and is on DDA land.

41. Haq vs. Union of India, W.P. (C) 2033/2011 and CM No. 4581/2011, Order dated December 14, 2012

42. See "Kathputli Colony: Delhi's First In-Situ Slum Rehabilitation," another report of the Cities of Delhi project.

43. See generally - Fertilizers & Chemicals Travancore Ltd. v. Regional Director, ESI, 2009 2009 (11) SCALE 766.

44. Minutes of the 6th Meeting Of The Board Of Members 23 February, 2012 at 12 p.m., Delhi Urban Shelter Improvement Board - Status Note Regarding The Relocation/ Allotment Of Flats To Eligible Slum Dwellers Under JNNURM .

45. Ibid.

46. Satbeer Singh Rathi v. MCD , 114 (2004) DLT 760.

47. Tuglakabad Jhuggi Jhompri Welfare Association v. Union of India AIR 1996 Delhi 370.

48. Haq vs. Union of India, W.P. (C) 2033/2011 and CM No. 4581/2011, order dated 25 March 2011.

49. MANU/DE/0353/2010