The Right to Water and Sanitation for the Urban Poor in Delhi

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Localizing Human Rights Working Paper Series

The Localizing Human Rights Working Paper Series consists of studies on the local relevance of human rights, particularly but not exclusively in non-Western contexts. They form part of a long-term interdisciplinary project, combining insights from law, political and social sciences. The localizing human rights research programme is coordinated by the Law and Development Research Group at the University of Antwerp (Belgium). General Editors of the Series are Professor Koen De Feyter, Chair of International Law at the University of Antwerp, and Dr. Rachel Mary Hammonds, University of Antwerp. The full reports are available online on the website of the Law and Development Research Group.

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Executive Summary

This study is the fourth in the localizing human rights working paper series and it focusses on the right to water and sanitation for the urban poor in New Delhi, India. The theoretical framework is the localizing human rights approach (De Feyter, 2007). The approach refers to the perspective of the right holders as the primary authors of human rights claims. It requires the study of the process of rights realization at the ground level along with the actors and factors that influence this process. It then seeks to use the lessons to update the global approach of human rights protection by accounting for the local experiences. While the approach takes the local as the starting point, it acknowledges the importance of international human rights framework and seeks to increase its relevance by making it more accessible to the right holders.

Research Context and Problem

The capital territory of Delhi has seen a rise in the population of the urban poor as the city continues to attract economic migrants from all parts of India. The informal network of real estate agents, politicians and the leniency for violations of the Delhi Master Plan has allowed urban poor settlements to thrive in the city (WaterAid India, 2005). While three of our research sites- Rangpuri Pahadi, Bhanwar Singh Camp and Begumpur are unauthorized colonies, called *Jhuggi Jhopri* clusters, one of them called Savda Ghevra is a resettlement colony created by the government to rehabilitate slum dwellers displaced to accommodate the Delhi Commonwealth Games 2010. The living conditions in all four of these settlements is deplorable as access to basic amenities like water and sanitation is not available. The right to water and sanitation draws its legal legitimacy from the right to life jurisprudence developed by the Indian Supreme Court and has been consistently upheld. Despite this, water and safe sanitation amenities are a scarce resource in these settlements. With this background a socio legal study was conducted in two phases, in January and July of 2014 respectively, in each of these settlements.

Theoretical Framework and Methodology

The localizing human rights approach as developed by Koen De Feyter at the University of Antwerp is the main theoretical framework for this study. The approach has been operationalized by Gaby Oré Aguilar (Oré Aguilar, 2011) who suggests a methodology for studying human rights use by excluded and marginalized communities. She distinguishes five tracks in the process of realization of human rights-Track one explores articulation of human rights claims by local communities; Track two is concerned with the translation of these claims by human rights actors and institutions into the international human rights language and deploy actions at various levels; Track three studies the institutional response to these claims; Track four studies the impact of such institutional response on local communities as well as on the global human rights framework; Finally, Track five, studies the mutually enriching relationship of local needs and international norms of human rights protection.

For this study, the research questions dealt with the first four tracks while most of the information retrieved is related to Track One. Four slums were selected based on factors such as economic profile and location of the settlements, size of the settlements, type of water and sanitation facilities and feasibility for the field work. Semi-structured interviews were conducted with slum dwellers, civil society actors like NGO members, representatives of companies undertaking CSR activities in our

study areas and elected representatives. The field research was conducted in two phases with different questionnaires for each phase, as well separate questionnaires for Civil Society members and Elected Representatives. Our sample size for the slum population is of 80 respondents (40 male and 40 female) from all the four slums and 20 group discussion (5 in each of the slums) in each phase. The research is qualitative rather than quantitative as it seeks to capture the perception and attitudes of people towards human rights rather than the numbers. This also helps in keeping our respondents anonymous for ethical reasons. The language of conversations was mainly Hindi and interviews were transcribed into English and analyzed using the software NVivo.

Right to Water and Sanitation in International Law

While the right to water and sanitation ('RTWS') has not been explicitly mentioned in the International Bill of rights comprising of the UDHR, the ICESCR and the ICCPR, it has been formally enshrined in International Conventions dealing with the protection of vulnerable groups such as women, children and persons with disabilities.[1] The Committee for Economic, Social and Cultural Rights derived RTWS from Art 11(1) of the ICESCR considering it essential for achieving an adequate standard of living as well as inextricably linked to the right to health under Art 12 of ICESCR (UN, 2003 a, para 4). In addition, RTWS can also be derived from the 'right to life'; under Art 6 of the ICCPR as essential to ensure a life with dignity (UN, 1982, para 5). A number of resolutions, declarations and statements on RTWS have also been adopted by the international community with the most recent ones being 2010 General Assembly and Human Rights Council resolutions expressly declaring RTWS as a human right (UN, 2010 a and UN, 2010 b). RTWS, like any other human right is also governed by the principles of equality and non-discrimination (ICESCR, Art 2(2)). While States must, as a minimum, progressively realize RTWS, the obligation to ensure formal and substantive equality in accessing the right is immediate (UN, 2009 (a), paras 7-8). This includes an obligation to ensure that access to RTWS is not discriminatory on the basis of place of residence. The criteria for measuring realization of RTWS is determined under General Comment 15 to be accessibility, availability, affordability and quality and these are the parameters on which RTWS has been measured in this research. Chapter II of this study discusses the International Law on RTWS in detail and includes discussions on the Right to Adequate Housing and its link with RTWS. This is an important linkage for the purpose of our study as three of our study sites can be classified as illegal settlements built on unauthorized land. Some of these are notified slums or partly notified under the Municipal Law of Delhi, while others are not and that has a significant impact on the RTWS in our experience.

RTWS in the Indian Legal System

The Indian legal system does not accept International Law as the law of the land automatically. It can be argued that India follows the dualist school of law and international treaties and covenants have to be included into national law through a democratic process by the legislature. However, scholars

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[1] Convention on the Elimination of All forms of Discrimination against Women, Art 14(2), Convention on the Rights of the Child, Art 24 and 27(3) and Convention on the Rights of Persons with Disabilities, Art 28 respectively.

cite the role of the judiciary in diluting this stance of dualism by interpreting domestic law on the basis of international law and consequently making it binding on the Indian State (Agarwal, 2017).

That said, Indian courts have played an active role in recognizing and formalizing a RTWS under Right to Life enshrined in Article 21 of the Constitution of India. Originating as a negative right to pollution free water and linked to the right to health and a clean environment, recent cases of Indian Courts address the right to potable water,[2] as well as sufficient water supply.[3] Most recently in Pani Haq Samiti vs Brihan Municipal Corporation,[4] ruled against a government circular prohibiting the supply of water to un-authorized colonies. Unfortunately, the judgment also says that occupants of illegal slums cannot have the same claim to drinking water supply as a law abiding citizen and allows the Municipal authorities to provide water services to slum inhabitants living in illegal shelters at a higher rate than the rest of the population. With respect to sanitation, the Supreme Court has again taken an active role in including it as a right under the right to life, by calling it essential to human dignity'[5] and essential for enjoying life.[6] Similar to the right to water and sanitation, the right to adequate housing is also derived by the judiciary through a joint reading of Art 19 (1)(e) and Art 21.[7] The court has been clear at the same time that a right to shelter does not mean the right to encroach but the State has a positive obligation under the Constitution to distribute its wealth and resources in such a way that it can provide adequate facilities for shelter.[8] While the state has the power to evict people 'encroaching' on public lands, courts have acknowledged that an evicted slum dweller loses a bundle of rights when he/she is evicted and therefore denial of rehabilitation is denial of right to shelter.[9]

Central Legislation and Policy on RTWS

At the level of the central legislature, RTWS has been approached from the angle of preventing water pollution, establishing water supply and sanitation norms to improve living conditions of the urban poor and through poverty alleviation programs. The Water (Prevention and Control of Pollution) Act, 1974 and the Supreme Court jurisprudence on the right to a clean and healthy environment are steps to tackle water pollution. Secondly, the government has consistently invested through various schemes and plans on improving living conditions in slums, however due to the pressure on resources in an urban city like Delhi, the water and sanitation provisions still fall short of being sufficient or adequate. Most recently, in 2013 a Draft National Water Framework Bill declared 25 lpcd to be the absolute minimum of potable water (GoI, 2013 b, Art. 4), a provision which is absent from the 2016 revised draft of the same Bill. With respect to sanitation, the National Urban Sanitation Policy, 2008 and the *Swaccha Bharat* Mission Guidelines, 2014 that aim to provide household toilets for everyone in urban areas, deserve a mention. Along with universal access, they

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[2] Subhash Kumar vs State of Bihar, 1991 AIR 420; Vishala Kochi Kudivella Samrakshana Samithi vs State of Kerala, 2006 (1) KLT 919.
[3] Wasim Ahmed Khan vs Govt. of AP, 2002 (2) ALD 264.
[4] PIL No. 10 of 2012 decided on 15/12/2014 (OOCJ Bombay).
[5] Ratlam vs Shri Vardhichand and Others, 1981 SCR (1) 97.
[6] Virendra Gaur and Others vs State of Haryana and Others, (1995) 2 SCC 577.
[7] P.G. Gupta vs State of Gujarat, (1995) Supp (2) SCC 182.
[8] Ahmedabad Municipal Corporation vs Nawab Khan Gulab Khan, (1997) 11 SCC 645.
[9] Sudama Singh and Others vs Government of Delhi and Others, 168 (2010) DLT 218.

also include behavioral change as an agenda to target the affinity amongst the population towards open defecation. Thirdly, a number of reforms try to address urban poverty by fostering universal and equitable access to basic services for urban slum dwellers irrespective of their tenure status and to conduct slum upgradations. Lastly, to address the right to adequate housing, the Central Legislature has explored three avenues of protection of tenure, namely, protection against forced evictions, providing security of tenure and slum upgradation. There has been a change in State policy from evictions to rehabilitation. The National Housing Policy, 1994 recommends States to avoid forcible relocation and instead encourage in-situ upgrading, slum renovation and selective relocation with community involvement only for clearance of sites which are absolutely necessary for public interest (GoI, 1996a, p. 6). There have been programmes to grant tenure to all residents on sites owned by the government and to provide full property rights in case of rehabilitation or resettlement. Most recently, the Housing for all by 2022 programme aims to make housing more affordable by offering municipal authorities and other implementing agencies central assistance for in-situ rehabilitation, affordable housing in partnership, subsidy for beneficiary-led individual house construction/enhancement and a credit linked subsidy. The legal status and categorization of a given piece of land is of fundamental importance for procedural protection against forced evictions (whether notified or not, whether on public or private land) and enjoyment of benefits under the EIUS scheme. Three classifications can be recorded so far for this purpose: the notified vs non-notified areas, the public vs private-owned lands and finally the tenable vs untenable sites.

RTWS at the Municipal Level

The main municipal bodies relevant for this study are the Delhi Development Authority, which is responsible for city planning and owns the majority of the land in the Capital, the Municipal Corporation of Delhi, which is the body responsible for providing sanitation facilities, the Delhi *Jal* [Water] Board, which is responsible for providing water supply, and the Delhi Urban Shelter Improvement Board, which is responsible for formulating policies affecting the slums. There are seven different types of unplanned settlement to be found in Delhi: the JJ clusters, the slum designated areas, the resettlement colonies, the unauthorized colonies, the regularized unauthorized colonies, the rural villages and the urban villages. Our focus is solely on slum designated areas, JJ clusters and resettlement colonies. 'Slum designated areas' are formally notified as slums under the Slum (Clearance and Resettlement) Act, 1956. In Delhi, the competent authority to notify a slum area was the Director of the Slum and JJ Department of the Municipal Corporation of Delhi (cf. *infra*). The last notification was done in April 1994. There is no slum designated area on public-owned land. The *Jhuggi Jhopri* (JJ) clusters – otherwise referred to as 'slums', 'squatter settlements', '*basti*' or 'hutments' – are illegal occupations of (public or private) lands where building activities have taken place with disregard for/in total violation of development regulations (Banerjee, 2011, p. 45-46).

Studies indicate that the phenomenon of uneven coverage and disproportionate burden placed on marginalized communities (WaterAid India, 2011, p. 10), is prevalent in Delhi with regard to water supply and sanitation services in informal settlements. Majority of Delhi's population (98% of the total population of 16.79 million) resides in areas categorized as urban (75% of its total area of 1483

sq. km.).[10] This results in tremendous pressure on services like water supply, sewerage and drainage, solid waste management, affordable housing, health and educational facilities and so on. Although 90% of the land has fresh ground water available at a depth of 60m, the pace of groundwater recharge is much less than that of groundwater exploration.[11] Delhi depends largely on the river Yamuna and partially on the Ganga for its water. The condition of Delhi's groundwater is depleting both quantitatively and qualitatively. In several places it has been found unfit for human consumption (Anon, 2011). A survey by the Centre for Science and Environment (CSE) New Delhi, a civil society organization, suggests that the groundwater quality is marred by three major problems- salinity, and fluoride and nitrate contamination (Anon, 2011 p. 84). Given the rising demand for water, unfulfilled by government authorities, private corporations have created the water distribution market. As per the CSE survey, in 2005-06 there were 2000 private tanker operators in Delhi generating business of about ₹400 crores (Anon, 2011, p. 84). The Economic Survey of Delhi for 2014-15 reports that, 'For 86.50% of slums, the major source of drinking water was either tap or hand pump. The most of the residents of about 30% of the slums are using septic tank/flush type of latrine facility. At the other extreme, 22% slums did not have any latrine facility at all (GNCTD, 2015 e)'.

It is in this background that our field research was conducted.

The socio-legal survey

Our study sites included three inner city slums and one resettlement colony. The broad themes studied per site were- The water distribution system, the management of sanitation facilities, mapping of actors namely municipal authorities and NGOs and finally responses of interviewees. The broad questions asked were the accessibility, affordability, quality and quantity aspects of water and sanitation, perception of a duty bearer and perception of duty bearers in case of privatization of facilities and finally perception of rights and challenges in accessing them. Most of the findings in this section are directly from the responses received. These are often corroborated by newspaper articles, internet blogs and interviews with local NGOs. The key findings, in brief, per site are as follows:

SAVDA GHEVRA

Savda Ghevra, first and foremost is a resettlement colony established is 2006. The residents were relocated from 25 inner city slums. The residents were moved away from their places of work to this site 30-40km from Central Delhi and were given plots of land on which they had to construct houses themselves. There are no official estimates of the population living in Savda Ghevra but latest

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[10]GNCTD, Rural Development Unit; As per the 2011 census, an area is considered urban when the population exceeds 5000, population density is above 400 people per sq. km. and more than 75% of the male workforce, e is employed in non-agricultural jobs. *See,* GoI (2011 b), p.11.

[11] 'As per the estimate of Central Ground Water Board, the total annual replenish-able groundwater resource is only 0.30 BCM (billion cubic metres) for Delhi, but the draft of groundwater is already 0.48 BCM/year, which is way above the permissible limit. Owing to the increased scarcity of water, the present supply of water even in posh areas is only about 509 litres per household per day.' GNCTD, Water Supply and Sanitation Report.

estimates suggest that it houses 10,000 families (Chakravarty and Negi 2016, p.94). The main sources of water are tankers supplied by the DJB twice a week, groundwater accessed via privately installed motors and Sarvajal Water ATMs which started as a CSR activity but now has the support of the DJB. There are 2-3 community toilets in each of the 19 blocks in the region but as many of them are non-functional. The access to the ones that are functional is also limited as they are not open at night. People often resort to open defecation in the nearby field. Savda Ghevra receives a lot of attention from civil society organization and CSR groups. This is even more than the other sites due to the stronger tenure rights of the residents. The people recognized the local Members of the Legislative Assemblies (MLAs), the MLA candidates and the DJB as the duty bearer and expressed disappointment with the state of services. With respect to privatization, people considered the Sarvajal ATMs to be a private enterprise. They responded that private suppliers are profit oriented and will eventually increase the prices once a significant number of people are dependent on their services. Secondly, they considered the government to be more accountable because they were elected. In Savda Ghevra, we observed four main barriers to effective participation: the power imbalance, being faced with corruption in the system, unfavorable response to complaints, and discrimination. Corruption in water services delivery was also reported here, locally known as the 'tanker mafia'.

RANGPURI PAHADI

This settlement is an unauthorized JJ colony. It is built partly on DDA Land and partly on Forest land. As per unofficial estimates there are 2000 households in Rangpuri Pahadi.[12] This site has been subject to repeated demolitions and forced evictions, the latest one in our knowledge, being in August, 2016.[13] Everyday more people move in here due to the presence of 'land mafia' or illegal property dealers. The system of water distribution in Rangpuri Pahadi is a completely community based initiative. Bore wells have been dug to draw groundwater and a network of pipes supply water to various cluster points located in the slum. The infrastructure is paid for and maintained by the slum dwellers themselves. There are no functioning toilets in the area and people defecate in the forest land. Given the safety and hygiene issues associated with this, some people tried to construct toilets within their houses, but reported that as their houses are illegal, such additional constructions are pulled down by the police or can only be maintained with the aid of corrupt officials on their side. There was also no drainage system, though sometimes the MCD officials come to clean parts of the drains in the outer lanes.

The role of the government is conspicuous by its absence in this slum and people consider the government to be the primary duty bearer. There was overwhelming support for the government over a private player for provision of facilities. The government was seen as being more accountable and directly responsible. One person suggested in a focused group discussion that the water and sanitation system should be in the hands of the *Pradhan* [Slum Chief, like a village chief].[14] The

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[12] Slum Interviews, Phase1, January 2014, RP R12.
[13] Rangpur Pahadi visit report, August 2016.
[14] Slum Interviews, Phase II, July 2014, RP GD1.

barriers to effective participation in taking any action for their rights were lack of awareness of their rights and of complains mechanisms, tenure insecurity issues and lack of organization.

BHANWAR SINGH CAMP

The Bhanwar Singh Camp is a JJ cluster built on DDA land. As per official estimates, it is inhabited by 1088 households. The Camp is located next to the posh residential area of Vasant Vihar and people are mostly employed in the unorganized sector as daily wage laborers, painters, auto drivers, woodcutters, security guards and so on. In this camp it was easy to see segregation of houses on the basis of religion. Secondly, like Rangpur Pahadi, a network of illegal land sales existed due to which some people had even rented out their houses. The residents obtain water from the ground as three to five bore-wells have been installed by a former MLA from the region. There is also informal sharing of water. Like Rangpuri Pahadi, the infrastructure is managed by the community itself however the water is supplied free of cost on the patronage of the MLA via the slum chief- the *Pradhan.* There is only one community toilet in this region and people expressed that they prefer open defecation to using the community toilet. MCD workers visit the area for cleaning the drains. On this site, the division of roles on the basis of gender clearly came up. While the burden of water collection falls squarely on women; Women also organize themselves in groups to make a presentation before the local MLA. The people considered the government to be the duty bearer. Most of them were aware of their local MLA (previous and the current) particularly because the water system was a result of her patronage. Like the other sites, people considered the government to be more accountable than a private company and expected higher prices of services if privatization were to happen. There was lack of effective participation due absence of formal complaint mechanisms and a history of complaints to perceived duty bearers like the DJB or the MLA going unanswered. On this site, people linked their rights and duties and considered cleanliness and hygiene to be as much a matter of personal responsibility as government responsibility.

BEGUMPUR

The Begumpur area is a JJ Cluster and did not have any provision for water supply. As pointed out by the respondents, there were hand pumps for water earlier but as the population grew, the surface area for the Cluster also grew and more connections were required. The water and sanitation systems here are a result of the requests and complaints of the people through their MLA Ms. Kiran Walia. People got together and paid for the initial water connection. Some respondents also spoke about a privatized system of water distribution in the area that they were aware of, 'In some areas water has already been privatized and meters have been put. So in the slum, some people have to pay for water while others get it for free'.[15] Despite providing water through pipelines, the water shortage problem has not been resolved in Malviya Nagar yet (Sharma 2016). As per the findings of our survey, most houses have their own toilets, but there is one community toilet too, though it is not in a usable condition. The sewerage infrastructure is poorly constructed and even poorly maintained.[16] There are some toilets maintained by the NGO Sulabh International. People considered

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[15] Slum Interviews, Phase I, January 2014, BPR7.
[16]*Ibid.*

the government to be the duty bearers since 'they paid taxes' and 'elected them'. People were disappointed at being remembered only before elections. People were more aware about privatization here as some houses already had a metered connection in the area. Though this did not make privatization any more attractive as the cost of a water connection was not perceived to be affordable. People here believed that even if the private company takes over, the final control and accountability rests with the government and that they could make claims in front of a private company as consumers.

Prima Facie Human Rights Assessment

The living conditions of the urban poor settlements studied fall short of achieving international human rights standards. Water and Sanitation situation is clearly inadequate with respect to sufficiency, accessibility, quality and affordability. The status of the rehabilitated population is not much better than the ones living in the unauthorized settlements. Despite there being a positive obligation to ensure water, sanitation, hygiene and housing rights in the jurisprudence developed by the Supreme Court, executive policies and schemes, the situation on the ground does not reflect the realization of these rights.

Localizing Human Rights

Even though, there was no awareness about international human rights law amongst the population studied, there was a reference to Constitutional rights.[17] People also displayed a high level of human rights awareness including the right to water.[18] They referred to the term *'haq'* often during the interviews. It is a concept that predates the contemporary notion of human rights but takes inspiration from enlightenment ideas from Europe (Madhok, 2009). In common parlance, *haq* denotes the rights of the masses and therefore it resonates with our interviewees. It is noteworthy that the concept of *haq* puts more weight on individual responsibility in securing rights than on holding the government accountable. Welfare schemes and patronage systems that understand the slum population primarily as vote banks also lead people to identify the government bodies as duty bearers in a limited sense. A history of complaints to the local authorities not being accepted, has led to disillusionment with rights claiming processes. Other impediments are lack of income, tenure insecurity in unauthorized slums, lack of organization and collective action and the experience of dealing with the 'State'. For the slum dwellers, the local authorities such as the municipal bodies, MLAs, representatives of political parties as well as the police represent the State. Due to the complex sharing of responsibilities between local institutions, people do not know whom to hold accountable. Lastly, prevalent corruption, as observed through the interviews negatively impacts the rights claiming processes.

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[17] For example, Slum Interviews, Phase II, July 2014, BSC R20.
[18] 'My rights are all that I want. Something that I have. Like my right to life, to be safe and happy' (Slum Interviews, Phase II, July 2014, BSC R20) and 'Everyone has a right to water. No exceptions whatsoever' (Slum Interviews, Phase II, July 2014, BSC R9).

AUTHOR'S NOTE:

- Access to interviews of slum dwellers and NGO representatives conducted under this study can be requested by sending a mail to Devanshi Saxena, devanshi1992@gmail.com with 'Request for Access to LHR-Delhi interviews' in the subject. The interviews are obtained with consent only for research purposes and will be made available strictly for research purposes.
- This report is a collaborative work of the authors and does not adhere to a single writing style.

LIST OF ABBREVIATIONS

AAP	Aam Aadmi Party, a political party
AIR	All India Reporter
ALD	Administrative Law Decisions
AMRUT	Atal Mission for Rejuvenation and Urban Transformation
Art.	Article(s)
BG	Begumpur
BJP	Bhartiya Janta Party, a political party
BSC	Bhanwar Singh Camp
BSES	BSES Rajdhani or BSES Yamuna power supply company
BSUP	Basic services for the Urban Poor
CAG	Comptroller and Auditor General of India
CCS	Centre for Civil Society
CEDAW	Convention on the Elimination of All forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
Cf.	Confer
CPCB	Central Pollution Control Board
CPHEEO	Central Public Health and Environment Engineering Organization (CPHEEO)
CRC	Convention on the Rights of Child
CSE	Centre for Science and Environment, New Delhi
CSR	Corporate Social Responsibility
CURE	Centre for Urban and Regional Excellence
CWP	Civil Writ Petition
Del.	Delhi (in citations)
DJB	Delhi Jal Board
DLT	Delhi Law Times
DUSIB	Delhi Urban Shelter Improvement Board
EIUS	Environmental Improvement of Urban Slums scheme
EWS	Economically Weaker Sections
FAR	Floor Area Ratio
FSI	Floor Space Index
GNCTD	Government of National Capital Territory of Delhi
GoI	Government of India
Govt.	Government
HH income	Household income
HLRN	Housing and Land Rights Network
HRLN	Human Rights Law Network
HUL	Hindustan Unilever Private Limited
ICCPR	International Covenant on Civil and Political Rights
ICEARD	International Covenant on the Elimination of All forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILR	Indian Law Reports
JJ	Jhuggi Jhopri

JJCs	Jhuggi Jhopri Colonies/Clusters
JNNURM	Jawaharlal Nehru National Urban Renewal Mission
KLT	Kerela Law Times
LIG	Low Income Groups
LOAs	Land Owning Agencies
LPCD	Litre per Capita per Day
MCA	Ministry of Corporate Affairs
MCD	Municipal Corporation of Delhi
MGD	Million Gallons per Day
MLA	Member of Legislative Assembly
MoU	Memorandum of Understanding
MoUDPA	Ministry of Urban Development and Poverty Alleviation
MP	Madhya Pradesh (in citations)
NDMC	New Delhi Municipal Corporation
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission, India
Ors	Others
P./p.	Page(s)
Paisa	Indian paisa is 1/100 of 1 Indian Rupee
PIL	Public Interest Litigation
PSU	Public Sector Undertaking
PTI	Press Trust of India
RAH	Right to Adequate Housing
Raj.	Rajasthan (in citations)
RAY	Rajiv Awas Yojana
RO	Reverse Osmosis- A process of water filtration
RP	Rangpuri Pahadi
Rs (₹)	Indian Rupee, 1 Rupee = 0.016 American dollars = 0.013 Euros
RTS	Right to sanitation
RTWS	Right to water and sanitation
RWA	Resident Welfare Association
S./s.	Section(s)
SBM	Swaccha Bharat Mission
SCALE	Supreme Court Almanac
SCC	Supreme Court Cases
SCR	Supreme Court Reports
SCs	Scheduled Castes
SFCAP	Slum Free City Action Plan
SG	Savda Ghevra
SR	Special Rapporteur
UBSP	Urban Basic Services for the Poor
UDHR	Universal Declaration of Human Rights
WASH	Water, Sanitation and Hygiene

WATSAN	Women's Initiatives in community management
WHO	World Health Organization
WP(C)	Writ petition Civil

Aanganwadi	Community based child-care centres instituted under the Integrated Child Development Scheme (ICDS) of Ministry of Women and Child Development.
Adhikaar	Right in Hindi
Basti	A slum settlement
Crore	A crore is a unit in the Indian numbering system equal to 10 million or 10,000,000. Plural is crores.
Dharna	A peaceful demonstration
Gujjar	An ethnic group in India
Jat	A community in North India
Lakh	A lakh (pronounced 'laakh') is a unit in the Indian numbering system equal to one hundred thousand or 1,00,000. Plural is lakhs.
Nala	A drain
Jansuvidha	Public services
Jhuggi Jhopri	Slums
Khadiya	A kind of chalk
Kothi	A house
Khara paani	Salty water
Kuccha	Temporary shelters made of mud or other light materials
Mahila Panchayats	Women Panchayats
NCT	National Capital Territory
Paani wala	The man who manages the water connection
Pahad	A hill
Pradhaan	The chief of a village/slum
Pradhan Mantri Awas Yojana	Prime Minister's Housing Scheme
Mitti ka tel	Turpentine Oil (used to put in water for preventing breeding of mosquitoes)
Pucca	Houses made of cement and other strong materials
Sarvajal Suvidha	Water for All
Swaccha Bharat Kosh	Clean India Fund
Swaccha Bharat	Clean India
Kutcha, 'Semi-pucca' and 'Pucca'	In Hindi, the word 'kutcha' refers to temporary housing arrangements, while 'pucca' are durable constructions. The first one uses materials such as bamboo and tarpaulin, while the second is made of brick walls and concrete roof. In between, the semi-pucca house is featured by brick walls but corrugated tin roofs (J. King, 2012).

1. METHODOLOGICAL FRAMEWORK AND CHALLENGES

1.1. RESEARCH CONTEXT AND PROBLEM

In India, neither the human right to water nor the right to a healthy environment is explicitly guaranteed in the Constitution. However, their importance has been recognized in the Directive Principle of State Policy under Art. 48A which provides for the protection and improvement of the environment and as part of Fundamental Duties of citizens under Art. 51-A (g). Art. 37 states that the directive principles cannot be enforced in any court but it is the duty of the states to apply them in making laws. Ironically, it is the very same courts which have infused life into these rights via their interpretation of Art. 21. The Supreme Court and High Courts in India have interpreted and developed this right in wider terms to include *inter alia* the right to a safe and healthy environment.[19] This jurisprudence that has developed over the last more than fifteen years is of paramount importance for the acknowledgement of the human right to water and sanitation in India. The expanded interpretation of the right to life has enabled the Indian Courts to overcome objections regarding the justiciability of socio-economic rights, and judicial enforcement of the Human Right to Water.[20] The right to water has been recognized in the wide range of International documents including treaties, declarations and other standards.

Despite the judicial activism, water is a scarce resource in the slums of Delhi. People make their own arrangements for drinking water. There is no supply of treated water by the Delhi water utility (called the Delhi Jal Board) in many slums and residents of these habitations have resorted to various alternate local arrangements to meet their water requirements. Such local initiatives are usually run by the residents of the slums as a cooperative or under the patronage of the local elected representatives. The situation of sanitation, solid waste disposal and drainage is even worse. Community toilets are poorly maintained and people prefer to defecate in the open. In 2015, the Delhi Urban Shelter Improvement Board (DUSIB), submitted a slum-free city action plan (SFCAP) to the Delhi government for approval (Janwalkar, 2015). In this plan, the board reportedly proposed various measures to rehabilitate Delhi's slum-dwellers with one of its main objectives being to improve sanitation facilities available to the slum population (Janwalkar, 2015). The data mentioned in SFCAP, based on a socio economic survey of 2012, revealed that as of 2015, 22.30 % of the 2,55,435 households living in 589 surveyed *jhuggi-jhopri* (JJ) clusters in Delhi defecate in the open. It

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[19] Inter alia, Virendra Gaur and Others vs State of Haryana and Others, (1995) 2 SCC 577; Vellore Citizens Welfare Reform vs Union of India, (1996) 5 SCC 647; State of Madhya Pradesh vs Kedia Leather, (2003) 7 SCC 389; Hinch Lal Tiwari vs Kamala Devi, (2001) 6 SCC 3215; Andhra Pradesh Pollution Control Board II vs Professor M.V. Nayudu (2001) 2 SCC; Municipal Corporation of Greater Mumbai vs Kohinoor CTNL Infrastructure, (2014) 4 SCC 538.

[20] 'There is no dispute that under the constitutional scheme in our country right to water is a right to life and thus a fundamental right'. State of Karnataka vs State of Andhra Pradesh, (2000) 9 SCC 572; 'Right to get water is an integral part of right to life under Art. 21 of the Constitution of India'. Pani Haq Samiti & Others vs Brihan Mumbai Municipal Corporation & Others, PIL No. 10 of 2012 decided on 15/12/2014 (OOCJ Bombay).

also mentioned that, '55 per cent slum dwellers depend on community toilets, 16 per cent have their own toilets while 7 per cent use shared toilets' (Malhotra, 2017).

In a note filed before the Supreme Court on management of municipal solid waste, Delhi's civic bodies in October 2012 stated that, 'About 49% of the total population of Delhi lives in slum areas, unauthorized colonies and about 860 *jhuggi-jhopri* clusters with 4,20,000 jhuggies and only 50% of them have water and latrine facilities respectively within the premises' (Mahapatrai, 2012). In this context, it has been well documented that sustained access to basic services especially water and sanitation services are deplorably insufficient, both inadequately maintained and poorly located. Slums in Delhi have an abysmal situation of water supply and the burden of securing water often on women and young girls.[21]

Lack of basic water supply and provision for sanitation in most cities of India has already spawned an informal market for private water tankers, patronage supply by local politicians and coercive payment for water services by water mafia (Kumar, 2016). For the individual, access to safe water and sanitation is fundamental for leading a dignified life, improved health, access to education and work opportunities. Among other social goods, water and sanitation are an absolute must for a dignified human existence.[22] In this background the research study on Right to Water and Sanitation for the Urban Poor in Delhi is highly topical and seeks to present a comprehensive perspective on the subject by integrating the normative knowledge on the subject with that of the data generated from socio-legal research from the field.

The research would involve four levels of enquiry.
1. The Global level
2. Domestic (Indian constitution and the right to water, Domestic legislation and Policy issues)
3. Water and Sanitation related policy and legislations of the Delhi Government.
4. Socio-legal Research in the slum areas in Delhi.

The Data from the level three and four has been generated through a structured questionnaire (Annexure 2) and qualitative interviews. For both these levels the respondents include the people inhabiting the slums, human rights NGO's dealing with the slum issues, officials of the Delhi government and some elected representatives.

1.2. THE THEORETICAL FRAMEWORK- LOCALIZING HUMAN RIGHTS

The main theoretical framework to assess the use of human rights instruments by the slum dwellers will be the 'localizing human rights' approach, as developed by Koen De Feyter (De Feyter, 2007; De Feyter, (*et. al.)* 2011.) Localization implies,

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[21] This came across in our study and was also a finding from other studies. See, Bhushan (*et. al.*), 2012, Kher, 2015.
[22] Chameli Singh vs State of Uttar Pradesh, (1996) 2 SCC 549.

[T]aking the human rights needs as formulated by local people as the starting point both for the further interpretation and elaboration of human rights norms, and for the development of human rights action, at all levels ranging from the domestic to the global. (De Feyter, 2007)

The Localization process has been operationalized by Gaby Ore Aguilar, (Ore Aguilar, 2011) who has distinguished various tracks. Track one explores why and how people articulate claims on the basis of human rights framework. For the purposes of our research, a local claim qualifies as a 'human rights claim' when it satisfies three criteria, (De Feyter, (*et. al.*) 2011, p. 20.)

(i) The claim uses human rights language (although there could be a fusion of local concepts of justice for example *HAQ* in case of water and sanitation rights being used by slum dwellers in Delhi);

(ii) It identifies a duty holder (the state or another agent);

(iii) It insists on accountability from the duty holder.

Track two concerns the translation of these claims into human rights actions. In track three, strategies are employed aimed at responses from the administrative policy making or judicial actors at local, national and/or international level. Track four examines, (i) the impact of these responses on the local community and (ii) the consequences for international or regional human rights norms, practices and institutions. Track five finally, analyses 'whether and how global human rights norms enhanced by local experiences have the power to transform similar realities of human rights transgression or deprivation' (Ore Aguilar, 2011, p. 139). In the research design, research question were formulated regarding the first four tracks. The field research did not generate same amount of data regarding each track. Most information retrieved during the field research related to track one.
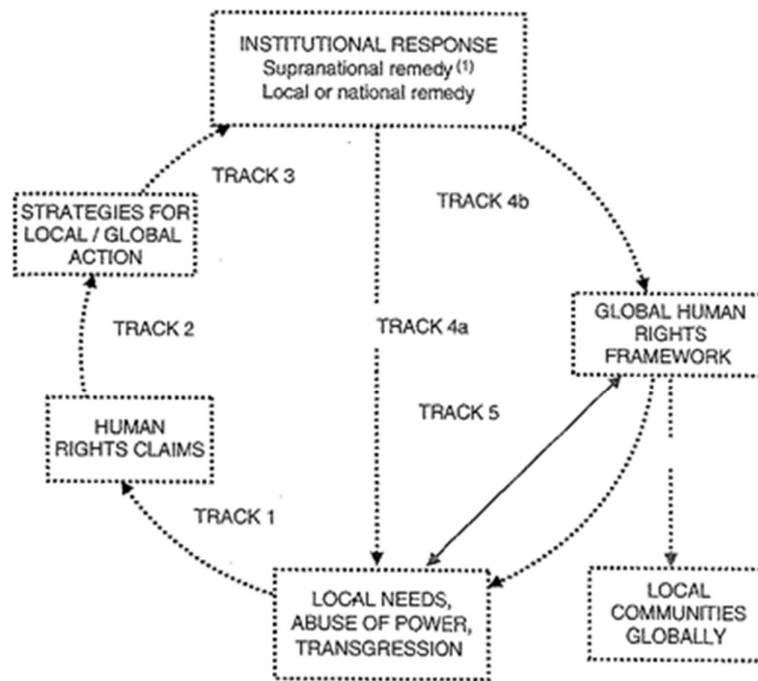
Figure 1   The process of localising human rights
[1] Regional court, UN monitoring body, decisions by international organisations, universal jurisdiction judgments.

FIGURE 1. THE PROCESS OF LOCALIZING HUMAN RIGHTS

1.3. TRANSFORMATION PERSPECTIVE

To operationalize the process of arriving from a local need to transgression to a human rights claim (Track one), the theoretical framework on the emergence of disputes developed by William Felstiner (Felstiner *et. al.,* 1980) was employed. In this framework (transformation perspective), unperceived injurious experiences, may be perceived as injurious (naming). A perceived injurious experience becomes a grievance when a person attributes that injury to the fault of another individual or entity (blaming). A grievance may then be voiced to that person or entity believed responsible, asking for a remedy (claiming). When such a claim is rejected, a dispute emerges. When there is a dispute one may resort to a legal solution. The concept of 'legal mobilization' describes 'the tendency for various individuals and groups to define their problems as legal ones and to take them to some legal regime for help or settlement' (Merry, 2012, p. 72).

The transformation approach does not focus specifically on human rights. Applying this approach to human rights research leads to distinguishing between human-rights based/inspired types of naming, blaming, and claiming. When based on or inspired by human rights, an injurious experience would be perceived as injurious, because one considers it a violation of one's human rights. One would blame the person or the instance that is (perceived) as a human rights duty bearer. Such an approach is

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consistent with the three criteria of human rights claims as identified above. In this process of naming, blaming and claiming, 'translators' may be present, who easily move between layers and are able to translate local needs and claims in human rights language (Merry, 2006, p. 210).

In the context of this particular research, the transformation perspective would require us to answer the following questions: What is a right for a slum dweller? Is the inadequacy of water and sanitation facilities injurious? Does it become a grievance? If there is a right, who is considered as the duty bearer? Are rights based claims formulated? What happens with these claims? Are the processes of naming, blaming and claiming inspired by the human rights language and standards, or are they based on other consideration or concepts?

1.4. RESEARCH AIMS AND QUESTIONS

RESEARCH AIMS

1. To test and refine the localizing HR approach in relation to the right to safe water and sanitation of New Delhi's urban poor.
2. To carry out a HR analysis with regard to access to water and sanitation.

RESEARCH OBJECTIVES

1. Study the existing arrangements of drinking water and sanitation services by individuals, groups of urban poor and entire slum settlements. Discover how these came about and how they are being negotiated and developed in continuously expanding urban poor settlements.
2. Study the impact of denial of access to reliable, adequate and good quality water and sanitation services on different segments of the urban poor, and their perception and demands.
3. Document the use of the human right to water and sanitation, if at all, in formulating claims when faced with lack of access, both in terms of quantity and quality.

RESEARCH QUESTIONS

The main research question is: What, if any, is the relevance,[23] of 'human rights,'[24] for urban poor in New Delhi in relation to the right to water and sanitation? The sub questions within this main question are,

1. Does the slum community use the language of Human Rights to demand water and sanitation facilities from the duty holders?
2. Is the local understanding and content of right to water different from the global one? If yes, then why is it so?
3. Given the introduction of PPP mode of privatization of water distribution in Delhi, how are the existing water and sanitation arrangements of the urban poor slum dwellers renegotiated?

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[23] 'Relevance': refers to the fact that the research may also show that human rights are not relevant: (i) Not known, (ii) Not used or (iii) Are without impact.

[24] The reference to 'Human Rights' in the main research question is not limited to claims based on international human rights law it refers also to a local understanding of HR.

4. How does the inadequate provision of essential services (water and sanitation facilities and other facilities) and management affect women and marginalized groups?

RESEARCH HYPOTHESES
1. Human Rights only work when they are localized. If they are not localized, they will not provide effective protection to people.
2. For people to resort to Human Rights, what is needed is (i) an awareness of HR, and (ii) a belief that the appeal to HR may be effective. This may depend on
- Internal factors (for example, available resources, perception as to how duty-holders might respond)
- External factors (for example availability of independent review of claims) (De Feyter, 2011, p. 16)

Besides outlining the general theoretical framework, objective and research questions, this chapter intends to offer a description of the research guiding process, tools and techniques as well as the processes followed in course of the work.

1.5. THE RESEARCH TEAM

The research focus on Water and Sanitation Rights for Urban Poor: A Case Study of Slums in Delhi was proposed by Professor Maheshwar Singh, Professor of Political Science at National Law University, Delhi. A draft research proposal was presented and discussed before in a closed seminar of international experts in Belgium on 15 March 2013. The inputs received in the seminar were integrated in the draft proposal which was accepted and approved by Professor Koen De Feyter at University of Antwerp.

This research was agreed to be an international collaborative research between National Law University, Delhi & the Law and Development Research Group at the Faculty of Law, University of Antwerp, Belgium. A MoU was signed for this purpose. Following the terms of the MoU Professor Maheshwar Singh was assigned the responsibility to carry out the research work in Delhi under the overall guidance and supervision of Professor Koen De Feyter.

A research team was set up comprising of students of National Law University, Delhi. The research group had students mostly from of 1st and 2nd year of the BA.LL.B. (Hons.) Course and two 3rd and 4th year students respectively as student research coordinators. Majority of the team members were women, not by any design, but due to large number of applications by female students than by male students. The research team at National Law University, Delhi has been responsible for carrying out the social survey in the four slums in two phases for fifteen days each in January and July-August 2014.

In order to facilitate and enrich the study, a consultative committee/advisory group with members having vast work experience in the area of water and sanitation as well as land rights issue for urban poor in Delhi, was set up. For the same purpose, a consultant having extensive experience in the water and sanitation sector was also integrated in the research team. It was felt that a team of

external experts having experience of working in slums was necessary to provide ground level support and offer their valuable advice at various stages of the study.

1.6. SELECTION OF SLUMS

The selection of slums to carry out the study was a very intensive process. It was decided after several rounds of field visits followed by intensive discussions among the members of research team. The following factors were taken into consideration in the selection the slum sites,

a) Economic profile and location of the settlements – close to commercial areas and high end residential colonies versus far away locations,
b) Smaller versus Larger settlements,
c) Settlements with different types of water and sanitation facilities – individual, community and Water Utility enabled,
d) Comparability,
e) Feasibility for the field work,
f) Contacts in the slums.

To draw comparisons on key aspects of water and sanitation issues, a selection was made to include three inner city unauthorized slums namely Begumpur, Bhanwar Singh Camp and Rangpuri Pahadi and one relocation colony called Savda Ghevra. The latter is a resettlement colony in Delhi built to house residents evicted from *Jhuggi Jhopdi* Clusters (JJCs).[25] The rest are inner city slums located either in the middle or the periphery of a well-off neighborhood. Our purposeful choice of slums allowed us to compare between slums as well as their status, that of an unauthorized slum and a resettlement colony.

Another important, but not the overwhelming, consideration in choosing the slums was related to entry into and engagement with the potential respondents. The research team was confronted with the issues emerging out of unfamiliarity with the slum environment, identification of respondents, most appropriate time to be in the slums to meet as many people, and so on. The field researchers were wary of being seen as threatening figures (middle class students of a university). Partially, all of these were sorted out by selecting slums in which NGOs were engaged in community level activity of any kind from service delivery to mobilization. In the initial stage the NGOs worked as a bridge between the research and the slum community.

1.7. THE SAMPLE AND THE RESPONDENTS

The research group in consultation with experts from University of Antwerp and the consultative and advisory group identified three set of stake holders in the water and sanitation issues for the urban poor in Delhi- The slum community (Right Holders), elected representatives (Duty Bearers) and NGOs.

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[25] Officially referred to as '*Jhuggi Jhopri* (JJ) Resettlement Colonies' by the government, these settlements should logically be understood as 'planned', as they are implemented by government design.

A comprehensive appreciation of the issues related to water and sanitation rights required soliciting the view of all the stake holders. Such an approach also offered a chance to the research team to mark out the conjunctive and disjunctive points in their respective opinions. This approach is beneficial in a grounded theory approach as it is able to capture the opinions, perspectives and practical suggestions to deal with the problem.

It was decided to carry out the socio-legal survey among the slum community in two phases, to understand the variable responses due to change in seasons.[26] The research team at National Law University Delhi, on the basis of the desk research and field visits prepared a questionnaire which was further refined in consultation with the consultant to the project, the advisory group and the experts from the University of Antwerp. The questions were left open ended to invite the qualitative response of the slum dwellers. We deliberately excluded questions related to the social category of the respondents. Strategically, we felt that caste related questions might have deterred the respondents to speak openly to the interviewers. However, whether the people felt discriminated against, due to any reason (gender, caste, economic status) was a part of the questionnaire, solving the concern for collecting data related to discrimination. The slum population largely comprises of Scheduled Caste people.[27] According to the 2011 census report Scheduled Castes (SCs) are over represented in the slums, with one out of every five slum residents belonging to the SCs. The proportion of SCs living in slums has risen over the last decade (Rukmini, 2013). Additionally, as a research team, we believe that asking respondents about their caste is impolite and retrogressive.

We followed the combination of random sampling method and snowball techniques,[28] to reach out to our prospective respondents. Our study is drawn out of a sample survey of twenty persons from each slum. The sample size of twenty was further desegregated into 10 male respondents and 10 female respondents. Added to this, 5 group discussions were conducted in each of the slums. Put together, our sample size is of 80 respondents (40 male and 40 females) from all the four slums and 20 group discussion (5 in each of the slums) in each phase. It gave us a fairly rich primary data to do a situation analysis of human rights to water and situation in the four slums of Delhi.

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[26] The research team decided to carry out the socio-legal survey split between two phases because, in our preliminary survey, many slum dwellers emphatically mentioned that availability of water is more and easy during the winter months than the summer months.

[27] Certain castes and tribes are listed in the Constitution (Scheduled Castes) Order, 1950 promulgated under Constitution of India, Art. 341 (1) and are called Scheduled castes or Scheduled tribes respectively.

[28] This sampling method involves primary data sources nominating another potential primary data sources to be used in the research. In other words, snowball sampling method is based on referrals from initial subjects to generate additional subjects. Therefore, when applying this sampling method members of the sample group are recruited via chain referral. Dudovsky, J., Snowball sampling, http://research-methodology.net/sampling-in-primary-data-collection/snowball-sampling/.

TABLE 1 SURVEY SAMPLE

Name of the slum	Individual Interviews		Focus group discussions	Total slum interviews	Elected Representatives /Officials	NGOs	CSR Initiatives
	Males	Females					
Begumpur	10	10	5	25	8	6 (overall)	2
Bhanwar Singh Camp	10	10	5	25			
Savda Ghevra	10	10	5	25			
Rangpuri Pahadi	10	10	5	25			
Total Interviews	**115**						

1.8. OTHER STAKEHOLDERS

To contextualize the research findings and obtain some policy related information, a limited number of other urban stake holders were interviewed, mainly from the government and the NGOs. The respondents from the government included bureaucrats with the Delhi Urban Slum Improvement Board (DUSIB), a nodal agency to look after the Delhi *Jal* Board [Delhi water board] and some of the elected representatives. The list of NGOs included the campaign and service delivery NGOs. See table one below for the details of the respondents.

1.9. DIRECT OBSERVATION AND DOCUMENT ANALYSIS

To partially counter the limitations inherent in interviews and focus group discussions, two other data collection techniques were used, although in a subordinate way, namely, direct observation and document analysis. As regards direct observation, the senior researcher and the interviewers observed the objective life situation of the slum dwellers, the non-verbal behavior of the interviewees, and so on. These observations were noted down immediately after the interview in the observation sheet.

Relevant documents and internet research was extensively used to corroborate and contextualize the accounts given by the slum dwellers. These included institutional networks dealing with water and sanitation issues in Delhi, published literature on the subject, newspaper articles, online blogs, central and state legislations regarding the right to water and sanitation as well as the municipal rules. All documents that have been retrieved from the internet have been retrieved or last retrieved between July-August 2017.

1.10. THE UNIT OF OPINION

Often we assume that an individual is a unit of opinion in field surveys. Our experience however, in the field has rendered this assumption invalid. Slum life is lived communally. Therefore, opinions are likely to have a communal base. A unit of opinion is more likely to be influenced by the factors such as being members of an extended/joint family, same work place and homogeneity of existence in slums and so on. Opinions on many aspects of water and sanitation rights were found to be uniform rather than differentiated. For example, women respondents in all the four slums offered more or

less similar responses when asked about the difficulties related to open defecation. This only emphasizes the argument in methodological debates on social surveys that individual opinion is also a function of group opinion. It is a social process and not merely individual.

This problem was faced directly by our interviewers as groups of men and women formed around them and their subjects in slums who helpfully answered questions, sometimes individually and sometimes after some discussion. From the point of view of eliciting the most valid answers, the strategy to pursue was by no means obvious: should the researcher ask the others to disperse or to be quiet, or would the opinion emerging from the group process really be the most reliable statement of what the individual thought?

We resolved the matter on the side of the individual interviewee for several reasons. We could not expect candid answers to several questions unless the interviewers spoke to people individually. Since we were interested in the amount of information individuals had on transgression (human right to water and sanitation claims and action), the individual was an appropriate unit. But the decisive factor was the number of individuals that had passed through the process of differentiation that would make it possible to view them as the unit or source of opinion, a question that was a central concern of our survey.

Our interviewers were therefore asked in their methodological training sessions by an expert from University of Antwerp to interview the subject alone whenever it was possible to do so without frightening him or offending others around him/her. Some of our interviewers succeeded in doing this by returning to the subject later and on the whole they had less difficulty than we had anticipated. This tact was put to severe test when men began to interject women. Our approach to this problem was to take considerable care in the recruitment, training and supervision of our team of interviewers/field investigators. Instead of the usual practice in the survey work of decent realizing the responsibility of key tasks to be performed by persons in the field where the actual interviews were to be carried out, the entire team (field investigators, senior researchers, the consultant) and sometimes, depending on their availability in India, colleagues from University of Antwerp worked together in both the phases of the social survey, checking the interviews, addressing problems as they arose and boosting the morale of the team by stressing the importance of the work and the significance of the research method. Needless to mention here, that walking into the slums of Delhi during summer or winter months for students drawn mostly out of middle and upper strata of Indian society was a challenge and experience of sorts.

1.11. SEMI-STRUCTURED INTERVIEWS

Semi-structured interviewing is an important tool for gathering data in qualitative research. Qualitative research is used to discover how, in this case, people experience their situation towards water and sanitation. This research method gathers information about the perception of people and not about the numbers (how many, when). This was the most suitable method to capture the perception and practice of the use of human rights language and instruments by the slum dwellers to claim water and sanitation rights. A semi-structured interview allows for a two way communication between the interviewer and the interviewee and provides an opportunity to the researchers to develop a keen understanding of the research in question. It is able to generate reliable, comparable

and qualitative research data (Steiner, 1983, p.174).[29] Case study approach fills the data gap on subjects not previously researched and it is best carried through semi-structured qualitative interviews. However, there are some limitations of semi- structured interviews. The most important one is the skill of the interviewer and the rapport between the interviewer and the respondent/interviewee/subject. It's quite possible that the interviewer may give out sub-conscious signals/cues that guide the respondent to give answers expected by the interviewer, when she is unable to explain her question or put it in perspective. In our case, it's hard to imagine the total cognitive reciprocation between a middle class university student and a slum dweller. For example, the response to the question, 'Do you have any water and sanitation problems? Which is the more acute one?' unleashed all possible woes of the interviewees. Some of the interviewers in our team raised the issue in our review meetings that the interviewees after answering this question, expect the interviewers would have solutions to their problems. The cognitive mismatch between parties in the interview process and the sheer desperate living conditions of people in slums raises all kinds of expectation from the interviewer and in the process the objective of the interview becomes a casualty and suffers from inconsistencies.

1.12. THE INTERVIEW PROCESS

Almost all the interviews were conducted by the research team comprising of the students from the National Law University Delhi. Each interview was conducted by a team of two/three researchers with a task assigned to each one of them. The presence of a team of two/three researchers may be questioned on the basis of numerical preponderance of the researchers over the respondents (as this may further increase the power imbalance between them). However, the decision to have a team of two/three was taken because: Firstly, it allowed for broader data collection: One member recorded the interview while the other two were taking notes and conducting the interviews. It also allowed to match the number of tasks (to observe, to hold the structure in a semi-structured interview, to follow up on the answers and the left out questions, to animate the crowd if others want to interfere) with the skills of the interviewers. For example, one of the two or three interviewers could be engaged with observations and people that intervene. The other one or two interviewers take the interview in the form of a chat, as informal as possible. The inclusion of one/two more members in the team besides the main interviewer vastly boosts the chances of having a richer data and of the reliability of observational evidence. Another important reason to have this composition was safety as the majority of the research team comprised of women who are more likely to be the target of violence, physical or verbal. Lastly, the presence of an extra member in the team facilitated the accurate transcription of the interviews.

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[29] He defines the qualitative research interview as, 'An interview, whose purpose is to gather descriptions of the life-world of the interviewee with respect to interpretation of the meaning of the described phenomena'.

The questionnaire was prepared in English. The interviews were conducted in Hindi and in one isolated incident, in Bengali. They were transcribed and translated into English. Most of the field interviewers of the research team from National Law University, Delhi are bilingual/trilingual and were well versed in both Hindi and English. This ensured that the translated transcripts of the interviews from Hindi to English remain as accurate as possible. However, a word on translation is important at this point. As is common to all scientific enquiry, reports of research which involve the use of more than one language need to include a thorough description of the translation-related issues. As we know that collecting data in one language and presenting the findings in another involves researchers taking translation-related decisions that have a direct impact on the validity of the research and its report. Also, factors which affect the quality of translation in social research include: the linguistic competence of the translator/s, the translator's knowledge of the culture of the people under study, the biography of those involved in the translation and the circumstances in which the translation takes place.

In our case the researchers and translators were very well versed in English and Hindi, knew what to expect of the surroundings of a slum and were well aware of the context of the discussion. Therefore we can safely claim to have the most accurate translation of the interviews. Because of the ability of the researchers to crisscross the linguistic boundaries smoothly, gaining conceptual equivalence of the expressions in colloquial Hindi was not a difficulty. The time frame of interviews with the slum dwellers averaged fifteen to twenty minutes. Factors that influenced the duration were, i) availability of time with the respondents and ii) the comfort level of the respondents (to determine how much they were willing to talk) which was further influenced by the perception of the slum dwellers towards the interviewees as outsiders or persons belong to a higher class; as well as the comfort level of the interviewers (cf. safety concerns, soaring temperatures, and so on that is already mentioned). The list of topics that had to be covered were the Physical and Economic Accessibility of Water and sanitation, their thoughts on the quality and quantity of water and sanitation, their conception of rights and of the right to water and sanitation, and their views on privatization. One of the questions asked in both Phase I and Phase II of the interviews was 'What do you understand about the right to water (and sanitation)?' While asking this question, the word right was translated as '*Haq*' or '*Adhikaar*' which are the common translations in languages Urdu and Hindi respectively. The respondents identified with the term and answered the questions. In the second Phase, we tried to explore the traditional understanding of these terms to find out if there is a local understanding of rights that is different from the global understanding. Finally, we analyzed the interviews with the help of the software NVivo. We defined the node structure first and then coded the interviews, creating additional nodes where necessary. The structure of nodes for NVivo can be found in Annexure 1.

1.13. INFORMED CONSENT, TAPING AND CONFIDENTIALITY

All interviewees were informed about the objective of the research project before the interviews began. Interviewers from National Law University, Delhi strictly followed the protocol of introducing themselves as well as the objectives of the research. It was stressed that the results would only be used for research purposes and would be anonymous to deflect the possibility of anyone being vulnerable to any negative consequences. To answer a question or not was optional as was to stop

the interview at any time or to not allow taping of the interview. Having provided the respondents with the information about the research and its objective, the interviewer began with the tacit and sometimes oral consent of the interviewee. It can be confirmed by us that the field researchers comprising of the B.A. LL.B (Hons.) students of National Law University, Delhi never made any promises of any benefits or promises of the resolution of any problems that they were informed about. It was stressed that the interviews are being conducted for research. The tactic of promising results is otherwise often adopted by field researchers to gain the attention of the respondents to overcome what is called the 'Survey Fatigue'[30] among the slum population. The conversation with elected representatives has not been recorded or transcribed as their consent was not granted for such activities. It was mostly noted by the researcher on an information sheet.

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[30] Increased intervention by multitude of state and non-governmental organisations to deal with urban poverty has made the slum population groups wary and tired of surveyors. This is also referred to as 'Survey Fatigue' in the literature on slum studies.

2. CONCEPTUAL FRAMEWORK OF WATER AND SANITATION RIGHTS

The purpose of this chapter is to analyze the connection between adequate housing, water and sanitation requirements from an international and domestic human rights perspective. Part I of this chapter begins with an analysis of the international right to water and sanitation, and Part II provides water and Sanitation Rights for the urban poor in the context of Indian Legal system and laws. Part III of this chapter outlines the context in Delhi to understand water and sanitation rights flowing out of the governance structure of Delhi. Part IV lists the interventions of the National Human Rights Commission and Part V explains the law regarding CSR initiatives on water and sanitation specifically affecting urban spaces.

2.1. RIGHT TO WATER AND SANITATION IN INTERNATIONAL LAW

Water and Sanitation are basic human needs. This fact alone did not bring recognition of access to water as a fully-fledged human right by the international community. It is, indeed, an understatement to say that the RTWS struggled to establish itself as a basic right within the international human rights framework. The process of international recognition of the RTWS is one that is still unfolding today, and therefore the right in question seems to keep its 'ambiguous status within international law' (Cahill-Ripley, 2011, p.52). Within the limits of this research, we will not endeavor to solve the question of the legal status of the RTWS at the international level,[31] we will nevertheless provide the reader with the key elements for understanding the development of the global normative framework on water and sanitation. The RTWS bears very little formal recognition within the legally binding norms of international law,[32] with regard to human rights treaties; the aforementioned right is explicitly recognized as a basic right in the context of the protection of specific vulnerable groups, such as women living in rural areas,[33] children,[34] and persons with disabilities.[35] The RTWS is unfortunately not explicitly enshrined in any of the documents composing the International Bill of Rights.[36] The Committee for Economic, Social and Cultural Rights (CESCR), authoritative interpreter of the International Covenant on Economic, Social and Cultural Rights (ICESCR), nevertheless derived the RTWS from Art 11(1) of the Covenant, as a fundamental guarantee for securing an adequate standard of living. The Committee also underlined the inextricable link between the RTWS and the basic right to health laid down in Art. 12 of the ICESCR (UN, 2003 a, para 4). In addition, the Human Rights Committee and scholars have argued that the RTWS can also be deduced from the broad understanding of the 'right to life' under Art. 6 of the

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[31] See, *inter alia*, Scanlon Cassar & Nemes (2004); Cahill-Ripley (2005), p. 389-410; Kirschner (2010), p. 445-487; Devido (2102), p. 518-64.

[32] The question whether the RTWS is part of customary international law or of the general principles of international law will not be examined here. See further: De Vido (2012), p. 531-549; Winkler (2012), p. 65-99.

[33] Convention on the Elimination of All forms of Discrimination against Women, Art 14(2).

[34] Convention on the Rights of the Child, Art 24 and 27(3).

[35] Convention on the Rights of Persons with Disabilities, Art 28.

[36] The International Bill of Rights is composed of the three basic UN human rights instruments, namely the UDHR, ICESCR and ICCPR, Gomez Isa (2009), p. 38.

International Covenant for Civil and Political Rights (ICCPR).[37] Aside from explicit or implicit recognition in human rights treaties, the RTWS enjoys political importance in soft law acts. Since the 1970s a high number of resolutions, declarations and statements on the right in question have been adopted.[38] The most important and recent ones are the 2010 General Assembly and Human Rights Council resolutions expressly declaring RTWS as an international human right (UN, 2010 a and UN, 2010 b). Those resolutions have been politically significant for the materialization of the RTWS on the international scene (Winkler, 2012, p. 80), and therefore the year 2010 is considered 'the most momentous year to date for authoritative confirmation of a human right to water and sanitation' (Chowdhury *et. al.*, 2011, p. 3). In light of the foregoing developments we can safely assert that, derived from a combination of various legal sources, a RTWS has emerged in the international sphere. As a minimum, states parties to the ICESCR are obliged to progressively realize this right,[39] in order to secure an adequate standard of living and the highest attainable standard of health to right holders falling under their jurisdiction.

One last issue that needs to be addressed is the link between water and sanitation. Sanitation can be defined as a 'system for the collection, transport, treatment and disposal or reuse of human excreta and associated hygiene'.[40] As previous developments demonstrate, issues of water and sanitation are often conceptualized together. This linkage is traditionally to be explained by the risk of water contamination by human excreta when individuals have to resort to open defecation.[41] Also, the 'disease-spreading potential of faeces' negatively impacts the attainment of the highest standard of health enshrined in Art. 12 of the ICESCR (UN, 1991). The interlinked nature of the issues of water, sanitation and health brings about a lot of overlap and is a compelling argument for their simultaneous analysis. Nevertheless, it is necessary to underline the significance of a self-standing Right to Sanitation (RTS). First, it is worth noting that the MDGs addressed water and sanitation as two separate issues. The former Special Rapporteur (SR) on the human right to safe drinking water and sanitation (C. De Albuquerque) also clearly supported the emergence of an independent RTS.[42] The CESCR eventually recognized that, 'it is significant [...] that sanitation has distinct features which warrant its separate treatment from water in some respects. Although much of the world relies on

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[37] In its General Comment no. 6, CESCR explained that Art. 6 must be broadly interpreted to encompass everything that is necessary to ensure a life with dignity. See, UN (1982), para 5. There are scholars who claim that water is necessarily one of the elements of a dignified life under Art. 6 of the ICCPR. *See,* Kirschner (2011), p. 460; De Vido (2012), p. 523. Inga T. Winkler points out that access to water guaranteed under the right to life only ensures respect for the bare minimum of the former. *See,* Winkler (2012), p. 54-55.

[38] See*, inter alia*, the Declaration of the UN Conference on the Human Environment, Stockholm; UN Water Conference, 1977; Rio Declaration on Environment and Development, 1992 (Agenda 21); International Conference on Population and Development, 1994 (Cairo Declaration).

[39] The obligation to progressively realize the rights, using the maximum available resources, is the underlying principle of the International Covenant on Economic, Social and Cultural Rights (ICESCR) contained in Art. 2(1).

[40] UN (2009 b), para. 63. The CESCR took over this broad definition in its Statement on the Right to Sanitation. See, UN (2011), para. 8.

[41] UN (2009 b), para. 33. 26; Ellis & Feris (2014), p. 615.

[42] She argued that there are 'infringements on the very core of human dignity that are not wholly captured by considering sanitation only as it relates to other human rights', and therefore, '[sanitation] should be considered a distinct human right'. UN (2009 b), paras. 55 and 58.

waterborne sanitation, increasingly sanitation solutions which do not use water are being promoted and encouraged' (UN, 2011, para. 7). It is clear that in the case of on-site sanitation facilities that do not require water (such as pit latrines), the right to water offers no corresponding protection from a human rights perspective. Although other very valuable arguments in favor of delinking have been put forward,[43] one can hardly argue that they are widely received and accepted within the international community. As things stand, it appears wiser to keep sanitation within the ambit of the right to water and prevent it from 'falling off the radar' (Ellis & Feris, 2014, p. 626). Moreover, we will see that both rights share the same standards at the international level, as C. de Albuquerque has transposed and adapted the norms pertaining to the right to water to the context of sanitation (UN, 2009 b). For the reasons spelled out above, we will consider the right to water and sanitation as one single right, while keeping in mind their fundamental differences in practice.

2.1.1. CONTENT OF THE RIGHT TO WATER AND SANITATION

Having explored the foundations for a human right to water and sanitation at the international level, this section will delineate its normative content, standards and scope. Before delving into the substantial analysis of this chapter, the central principle of equality and non-discrimination will be examined.

A) PRINCIPLE OF EQUALITY AND NON-DISCRIMINATION

From the outset, the ICESCR upholds equality and non-discrimination as an overarching principle that needs to be ensured with regard to every right that it outlines (ICESCR, Art. 2(2)), This 'cross-cutting obligation' of the state to guarantee formal and substantive equality is of immediate effect (UN, 2009 (a), paras 7-8), and hence, not subject to progressive realization.[44] The notion of 'informal/irregular settlements' is defined negatively as an absence of inclusion within the formal land and housing sector; it is an end result of legal, political and economic exclusion mechanism (Durand-Lasserve, 2013). As informality has a much broader scope of application, it cannot be equated with illegality. Art. 2(2) of the ICESCR suggests that the list of prohibited grounds for discrimination is non-exhaustive, as it refers in fine to 'other status'. An illustration of the latter is the prohibition of discrimination based on 'place of residence'.[45] In this respect, the state has to ensure that the 'exercise of a Covenant right [is not] conditional on, or determined by, a person's current or former place of residence; e.g. whether an individual lives or is registered in an urban or a rural area [or] in a formal or an informal settlement [...]'. The CESCR further specifies that, 'no household should be denied the right to water on the grounds of their housing or land status' (UN, 2009 a, para 34). Confirming the views of the CESCR, C. de Albuquerque adds that, 'due to the lack of secure tenure, municipalities deny informal settlements adequate services for the fear of legitimizing a settlement'

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[43] Scholars have voiced the need for delinking sanitation from water in the international legal framework: Ellis & Feris (2014), p. 607-629.
[44] The state obligation to ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalized groups, is one of the 'core obligations' outlined in UN (2003 a), para. 37(b).
[45] For example of 'other status' introduced by the CESCR, *See* UN (2009 a), paras 27-35.

(UN 2014 b, p. 23). All in all, the legal status of the land and informal character of a settlement in urban areas is key, as it too often impedes on the full realization of the right to water and sanitation.

B) Availability

The availability criterion entails that, depending on the purposes for which water is used, water supply for each person must be sufficient and continuous. These uses encompass those necessary to guarantee an adequate standard of living, such as, 'drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene' (UN 2003 a, para. 12[a]). The 'continuous' element of availability pertains to the regularity of the water supply (UN 2003 a, note 12). As a component of the right to water, there must be a sufficient number of sanitation facilities within a certain area to avoid overcrowding and waiting times (UN 2009 b, para 70). The CESCR does not directly include a specific amount of water to be secured, but refers to the guidelines of the World Health Organization (WHO) in this regard.[46] Based on Table 2, we consider 20 litre/capita/day (lpcd) of safe water to be the 'minimum essential amount of water' of the core content of the right to water.[47]

TABLE 2 SERVICE LEVEL AND QUANTITY OF WATER COLLECTED

Service level	Distance/time	Likely volumes of water collected	Public health risk from poor hygiene	Intervention priority and actions
No access	More than 1 km / more than 30 min round-trip	Very low – 5 litres per capita per day	**Very high** Hygiene practice compromised Basic consumption may be compromised	**Very high** Provision of basic level of service Hygiene education
Basic access	Within 1 km / within 30 min round-trip	Average approximately 20 litres per capita per day	**High** Hygiene may be compromised Laundry may occur off-plot	**High** Hygiene education Provision of improved level of service
Intermediate access	Water provided on-plot through at least one tap (yard level)	Average approximately 50 litres per capita per day	**Low** Hygiene should not be compromised Laundry likely to occur on-plot	**Low** Hygiene promotion still yields health gains Encourage optimal access
Optimal access	Supply of water through multiple taps within the house	Average 100–200 litres per capita per day	**Very low** Hygiene should not be compromised Laundry will occur on-plot	**Very low** Hygiene promotion still yields health gains

Source: Howard & Bartram (2003)

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[46] Howard & Bartram (2003) and Gleick (1996), p. 83-92; UN (2003 a), note 15.
[47] UN (2003 a), para 37(a). Comparatively, the South African Free Basic water Policy considers 25 lpcd to be the minimum that has to be provided to everyone.

It should be noted however that the minimum amount required varies according to the context, in order to take into account the specific needs of every individual (UN, 2003 a, para 37(a)). Enjoyment of the highest standard of health might only be secured with a minimum of 50 lpcd of water supply. Lastly, 100 lpcd of water is the optimal access that one can enjoy. It is worth flagging that those norms are not dependent nor on the type of water supply system neither on the sanitation facilities installed within the household or the community.

C) Quality

Importantly, the water used for whatever purpose must be safe. This means that it must be free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health (UN, 2003 a, para 12b). One must refer to the WHO Guidelines for Drinking Water Quality for the standards set with regard to drinking water safety (WHO, 1993, p. 91). Sanitation facilities must be hygienically safe to use. This means that the infrastructure must effectively prevent human, animal and insect contact with human excreta; ensure access to safe water for hand washing as well as menstrual hygiene; take into account the need of persons with disabilities and children; and be regularly cleaned and maintained (UN 2009 b, paras. 72-74).

D) Accessibility

The requirement for water and sanitation to be accessible presents different dimensions: a physical and an economic one. The physical accessibility of water implies that sufficient, safe and acceptable water must be within physical reach of everyone. That is, in the immediate vicinity of each household, educational institution and workplace (UN, 2003 a, para. 12c). This is linked to concerns of water quality,[48] but also to threats to the physical security of the water bearers, mainly women and girls.[49] This requirement equally applies to sanitation facilities (UN, 2009 b, para 75). Economic accessibility entails that water and access to sanitation facilities must be affordable for all. This means that the direct and indirect costs incurred for those basic amenities must not limit people's capacity to pay for other services, and ultimately hinder the realization of other rights under the ICESCR (UN 2003 a, para 12c). In this regard, the CESCR rules out arbitrary or unjustified disconnection or exclusion from water services or facilities (UN 2003 a, para 44a).

2.1.2. Right to Adequate Housing

A) International Right to Adequate Housing
The starting point for the examination of the right to adequate housing at the international level is Art. 25 of the 1948 Universal Declaration of Human Rights (UDHR). Building upon the "freedom from want" stated in the Preamble, the right to housing is established in the UDHR as one component of

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[48] Studies have shown that the distance to the water source has a strong negative impact on the quality of the water collected. See, Howard & Bartram (2003); Winkler (2012), p. 135.
[49] UN (2003 a), para. 12(c). See also, the acknowledgment in the General Comment 15 of the 'disproportionate burden women bear in the collection of water,' UN (2003 a), para, 16(a).

the holistic right to an adequate standard of living (Hohmann, 2014, p. 15-16). The ICESCR adopted in 1966 further upheld the importance of the right at the international level (Art. 11). The right to adequate housing is thus affirmed in two out of three International Bill of Rights documents.[50] Other subject specific international covenants also explicitly include the right in question.[51] Finally, numerous international declarations endorse a human rights based approach to housing needs that involves states' duties and responsibilities.[52] In light of the foregoing, we can conclude with certainty that the right to adequate housing is a basic human right recognized at the international level.

B) Substance of the Right to Adequate Housing

This section is devoted to understanding the precise content of the international right to adequate housing. For this purpose, we will first provide the reader with the definition of the basic right and examine the various elements constituting it,[53] to end with a brief discussion about the emerging concept of 'right to the city'.

Definition of the Right to Adequate Housing

The Right to Adequate Housing (RAH) must be broadly understood as the 'right to live somewhere in security, peace and dignity'. In this sense, the right encompasses much more than a 'shelter provided by merely having a roof over one's head' (UN, 1991, para. 7). Following the approach endorsed in the Global Strategy for Shelter to the year 2000, the CESCR further states that, 'adequate shelter means [...] adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities – all at a reasonable cost' (UN, 1991, para. 7). Various conditions have thus to be fulfilled for the housing to be considered as 'adequate' under Art. 11(1) of the ICESCR.

Legal Security of Tenure

The cornerstone of the right to adequate housing is the enjoyment of legal security of tenure (UN, 2009 c, p. 8). Both the international human rights and the international human settlements communities have increasingly devoted attention to this issue in the last two decades.[54] Tenure security is usually defined as a 'set of relationships with respect to housing and land [...] that enables one to live in one's home in security, peace and dignity' (UN, 2013 b, para. 3). The CESCR explains that 'notwithstanding the type of tenure, all persons should possess a degree of security of tenure

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[50] Although Art. 17 and 26, ICCPR provide for protection against discriminative and/or arbitrary interferences with a person's housing, the Covenant contains no explicit right to adequate housing. For further developments *See,* Hohmann (2014), p. 33-35.

[51] ICEARD, Art. 5; CEDAW, Art. 14.2; CRC, Art. 16 and 27; International Convention on the Protection of the Rights of All Migrant workers and Members of Their families, Art. 43.1.d.

[52] *See*, the first and second UN Conferences on Human Settlement and the adoption of the Vancouver Declaration in 1976 and UN Habitat (1996). These documents are indeed built upon strong human rights foundations. Kothari (2001), p. 37.

[53] The structure of this section is for the most part based on the constitutive elements of the fundamental right to housing developed in General Comment no. 4, UN (1991). For the sake of concision, the last aspect of cultural adequacy will be kept out of our analysis.

[54] See*,* for the former: UN (1988) and UN (2013 b). For the latter: UN Habitat (1996 a) and UN Habitat (1996 b), outcome of the UN Habitat II Conference.

which guarantees legal protection against forced eviction, harassment and other threats' (UN, 1991, para. 8a). In other words, the higher the degree of tenure security, the lower the chances that threats and acts of forced eviction take place. Security of tenure is closely linked with the occurrence of forced evictions. The notion of 'forced eviction' itself is understood by the CESCR as a 'permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate   and other forms of legal protection' (UN, 2006 a, para. 3). Aside from being a prima facie violation of the right to adequate housing (UN, 2006 a, para 1 and 4), forced eviction potentially constitutes a gross violation of a range of other related basic rights, such as food, water, health, education, work, freedom from cruel, inhuman and degrading treatment, and freedom of movement (UN, 2006 b, para. 6). In the urban context, the former Special Rapporteur on the RAH, M. Kothari, stresses that, 'forced evictions intensify inequality, social conflict, segregation and 'ghettoization,' and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society [...]' (UN, 2006 b, para. 7). The Basic Principles and Guidelines on Development-based Evictions and Displacement report published by the Special Rapporteur (SR) provides an excellent framework of protection against forcible evictions both in the urban and rural context. Central to the protection against forced evictions is that the persons affected cannot find themselves worse off than before any removal from the original dwelling occurred. Therefore, the state must ensure that all the resettlement measures, such as the provision of water and sanitation, the allocation of land and sites, electricity and schools are completed before any step toward eviction takes place (UN, 2006 b, para. 44). As tenure security constitutes a primordial safeguard against forcible evictions, states should take immediate measures conferring legal security of tenure upon those persons and households currently lacking such protection (UN, 1991, para 8a). In its Guiding Principles on Security of Tenure for the Urban Poor (UN, 2013 b), the former Special Rapporteur (SR) on the RAH, R. Rolnik, addresses specifically tenure insecurity in urban and peri-urban areas. It is important to note at the outset that the basic principle underpinning those Guiding Principles is the presumption that individuals and communities occupying land or property to fulfil their right to adequate housing because of the lack of any alternative solution, have legitimate tenure rights that should be secured and protected (UN, 2013 b, para 5).

The report first recognizes the diversity of tenure forms and the need to strengthen them equally (UN, 2013 b, para 5, 1st guiding principle). Derived from customary, religious, statutory or hybrid tenure systems, the different tenure arrangements mainly vary between possession rights,[55] use rights,[56] rental,[57] freehold,[58] or collective arrangements.[59] All those tenure forms should be protected

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[55] Possession rights entail the legal recognition of the rights of those occupying public, private or community land and housing for a prescribed period, through adverse possession of land and housing, above the rights of absentee owners or the state. UN (2013 b), para. 11.

[56] 'Use rights' are the rights of people to use public or private property for their housing needs. UN (2013 b), para. 13.

[57] Rental encompasses the renting of a plot, dwelling or room from a private or public owner. *Id*, para. 14.

[58] Freehold ownership is the individual ownership that confers full control over housing and land. *Id*, para. 17.

and promoted on an equal footing, as appropriate in the given urban and semi-urban context. The SR endorses the principle of securing tenure in situ, instead of operating eviction and resettlement of the inhabitants in question (UN, 2013 b, paras 36-40). This principle is, however, not absolute. Legitimate circumstances – such as the protection of the health and safety of inhabitants exposed to environmental hazards or the preservation of critical environmental resources – can justify state intervention to evict and resettle, in accordance with international human rights standards (cf. supra). Worth highlighting is the discrimination on the basis of tenure status that the SR denounces in this report. First, the SR recalls that property and place of residence (for example in a formal or an informal settlement) are prohibited grounds for discrimination (UN, 2013 b, para 51). Then, and building upon the CESCR's observations that Covenant's rights, such as water and sanitation, are sometimes made conditional on a person's land tenure status, the SR emphasizes that often discrimination on the basis of tenure occurs in the access for basic services and facilities:

> People without an officially recognized tenure status are often denied access to basic services and facilities. In some situations, public and private service providers, including of water, sanitation and electricity, require the presentation of title as a prerequisite for connection or delivery. [...] States should take measures to ensure that access to basic services and facilities, whether publicly or privately provided, is not dependent on tenure status, official registration of residence, or the presentation of title (UN 2013 b, para 52).

In a nutshell, tenure security – as a component of the right to adequate housing – is key for the urban poor both for the protection granted against forced evictions, and for the access to basic amenities in the city.

Availability of Services, Materials, Facilities and Infrastructure and Habitability
The aforementioned Art. 11(1) of the ICESCR must be read as referring not just to housing but to adequate housing. The CESCR explains that to be adequate a 'house must contain certain facilities essential for health, security, comfort and nutrition, that is safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services' (UN, 1991, para 8b). There must thus be non-discriminatory access to all those basic services for the housing to qualify as adequate (UN, 2009 c, p.8).

Location
The CESCR also underlines the importance of the spatial location of the home, which must allow access to employment options, healthcare services, schools, child care centres and other social facilities (UN, 1991, para 8f). This component of the right to adequate housing is particularly important in the case of resettlement (Hohmann, 2014, p. 27). This is why the SR explicitly posits that 'alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those evicted' (UN, 2006 b, para 43).

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[59] Collective tenure is a type of collective tenure arrangement in which ownership, rental or use rights over land and housing are shared under joint governance structures. *Id*, para. 18.

<u>Accessibility for Vulnerable Groups</u>

For housing to be fully accessible, the needs of disadvantaged groups must receive special attention in the housing laws and policies established by states. This is clearly related to the principle of equality and non-discrimination enshrined in Art. 2(2) of the ICESCR (Hohmann 2014, p. 26). Such vulnerable groups are, for instance, elderly people, children and… the physically disabled (UN 1991, para 8e). The OHCHR also highlighted the specific vulnerability of slum dwellers who often lack tenure security, due to the informal nature of their settlement, which renders them vulnerable to forced evictions, threats and other forms of harassment (UN, 2009 c, p. 21).

<u>A Right to the City?</u>

The Right to the city (RTTC) is a particular type of collective right developed by the French social scientist Henri Lefebvre in 1968. It entails the exercise of a collective power over the processes of urbanization where each and every inhabitant is entitled to a right to shape the city after its heart's desire (Harvey, 2008, p. 23). In other words, the RTTC is the right to 'claim some kind of shaping power over the processes of urbanization, over the ways in which our cities are made and re-made', to ultimately, exercise 'greater democratic control over the production and use of the surplus' (Harvey 2008, p. 23). More philosophical and political in nature than strictly legalistic, the right to the city is a useful tool to consolidate human rights claims in the urban context. It specifically addresses issues of spatial segregation, deepening inequalities and marginalization that is common feature of large cities today (Kothari, 2011 (a), p. 12). The RTTC is not strictly speaking a newly emerging human right, but rather an articulation of different human rights claims that can emerge within the urban space (Kothari, 2011 (a), p. 144). While the right to adequate housing is central to the RTTC, the latter goes a step further by seeking to make available to all city dwellers services, benefits and opportunities. In this sense, it is a more all-encompassing and holistic human right response for urban realities today (Kothari, 2011 (a), p. 144). It is important to note that the concept gained more and more attention within the international human settlement community.[60]

2.1.3. Convergence Between Right to Water and Sanitation & Right to Adequate Housing

Both RTWS and RAH are recognized human rights at the international level. They share a common legal background, which is Art. 11 of the ICESCR, as they both aim to guarantee an adequate standard of living. As a result, a lot of overlapping state obligations are to be derived from both norms: securing – without discrimination – access to water and sanitation facilities within or at reasonable distance from the dwelling for instance. In this sense, no shelter can be depicted as 'adequate' unless the right to water and sanitation is secured for its residents. Also, during the course of eviction processes, the state must pay particular attention to the affected communities' access to basic services during and after displacement. Distinctions based upon 'place of residence' or 'tenure status' for the enjoyment of the RTWS raise suspicion and are subject to high scrutiny under international law.

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[60] See, for example UN Habitat (2005); Osorio (2005); UN Habitat (2010).

2.2. Indian Legal System and Water and Sanitation Rights

2.2.1. DUALIST STATE

Due to British colonization, the Indian legal system draws its foundations from the Common Law. One of many consequences is that the Indian legal system, arguably, follows the 'dualist' school of law. The dualist logic views international and domestic law as separate from each other. This means that international treaties that India has ratified, unless incorporated into national law by the legislature, do not automatically become part of the national legal system.[61] Domestic laws may be interpreted in light of International law but a treaty provision cannot be given effect to by the courts in the absence of municipal law.[62] However, the Indian judiciary has played an active role in 'softening the harshness of dualism'. Taking an open stance towards international norms and standards, the courts have frequently referred to them as a source of guidance in constitutional and statutory interpretation (Agarwal, 2017). State High Courts, under the lead of the Supreme Court, have indeed developed a now well-settled practice of interpreting domestic law on the basis of international law that is binding upon the Indian State (Agarwal, 2017). Recent judgments have even digressed from the doctrine of Dualism and have used international law to explain domestic law, going so far as holding that international conventions not inconsistent with fundamental rights, must be read to enlarge their meaning,[63] and referring to treaties that India has not even ratified.[64] This has created confusion about the relationship between international and domestic law, which is clearly not strictly dualist anymore (Ranjan, *et. al.* 2016). Scholars opine that the judiciary has imbibed the constitutional guidance to 'endeavor [...] to foster respect for international law and treaty obligations',[65] and that this trend of 'creeping monism' is 'democracy denying' (Rajamani, 2016, p. 144). Table 3 below delineates the ratification status of international treaties for India.[66]

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[61] Constitution of India, Art. 253; Agarwal (2010), p. 4.

[62] State of West Bengal vs Kesoram Industries Ltd., (2004) 10 SCC 201.

[63] Vishakha vs State of Rajasthan, 1997 (6) SCC 241, 'The international conventions and norms are to be read into them [fundamental rights] in the absence of enacted domestic law occupying the fields when there is no inconsistency between them. It is now an accepted rule of judicial construction that regard must be had to international conventions and norms for construing domestic law when there is no inconsistency between them and there is a void in the domestic law'. See also, National Legal Services Authority vs Union of India, 2014 (5) SCC 438.

[64] G. Sundarrajan vs Union of India, (2013) 6 SCC 620.

[65] Constitution of India, Art. 51(c).

[66] Ratification Status for India, UNHRC, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=79&Lang=EN. Declarations and Reservations are not reflected in the table.

TABLE 3 RATIFICATION STATUS FOR INDIA

Treaty	Signature Date	Ratification Date, Accession(a), Succession(d) Date
CAT- Convention against torture and other cruel inhuman or degrading treatment or punishment	14 Oct 1997	
CAT-OP Optional Protocol of the Convention against Torture		
CCPR- International Covenant on Civil and Political Rights		10 Apr 1979 (a)
CCPR-OP2-DP- Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		
CED- Convention for the Protection of All Persons from Enforced Disappearance	06 Feb 2007	
CEDAW- Convention on the Elimination of All Forms of Discrimination against Women	30 Jul 1980	09 Jul 1993
CERD- International Convention on the Elimination of All Forms of Racial Discrimination	02 Mar 1967	03 Dec 1968
CESCR-International Covenant on Economic Social and Cultural Rights		10 Apr 1979 (a)
CMW- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families		
CRC- Convention on the Rights of the Child		11 Dec 1992 (a)
CRC-OP-AC- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	15 Nov 2004	30 Nov 2005
CRC-OP-SC- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.	15 Nov 2004	16 Aug 2005
CRPD- Convention on the Rights of Persons with Disabilities	30 Mar 2007	01 Oct 2007

2.2.2. CONSTITUTION, COURTS AND LAW

A) GENERAL CONSIDERATIONS

Despite federalism, the Union's judiciary has remained unitary,[67] with the Supreme Court (SC) at the apex, the State (or Union Territories) High Courts at the intermediary level and the District Courts at the local level. India has established a system of judicial review expressly provided for under the Constitution.[68] In the Indian context, the doctrine of judicial review is broadly understood as a means for the judiciary to review the constitutionality of any form of state action, be it a legislative act, judicial decision or administrative action.[69] The power for the judiciary to provide remedy in form of writs,[70] for the infringement of human rights (guaranteed under Title III of the Constitution) is vested in Art. 32 and 226 of the fundamental text, for the Supreme Court and the State High Courts respectively. Both the Supreme Court and the State High Courts have the power to punish for contempt.[71] The Supreme Court is the highest court in the country with constitutional, appellate and

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[67] India does not have a dual court system. O'Douglas (1955), p. 6.
[68] Constitution of India, Art. 13.
[69] L. Chandra Kumar vs Union of India, AIR 1997 SC 1125.
[70] The different types of writs shall include writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari.
[71]Constitution of India, Art. 129 and Art. 215.

advisory jurisdiction. The judicial decisions pronounced by this Court are binding upon all other courts in India.[72] The jurisprudence of State High Courts only has value of persuasive precedent towards other High Courts and the SC.[73] The post-independence Indian Constitution lays down a high number of rights and freedoms to be enjoyed by every citizen. However, the human rights recognized are divided into two categories: the 'Fundamental Rights' (Part III), which mostly cover civil and political rights, and the 'Directive Principles of State Policy' (Part IV), which require the state to strive for socio-economic justice. Contrary to the first set of guarantees, the latter is non-justiciable, as specifically provided for in Art. 37 of the fundamental text.[74] This formal separation is only the starting point of our constitutional analysis. Through creative readings of the Constitution, which some scholars qualify as expressions of its 'judicial activism' (Mehta, 2007, p. 79 and Ramachandran 2000, p. 120), the Supreme Court of India is blurring the aforementioned division and progressively enforcing the justiciability of socio-economic rights. The fundamental right to life and personal liberty enshrined in Art. 21,[75]which is a fundamental right legally enforceable under constitutional law, is construed as ensuring the broader 'right to live with human dignity'.[76] In this way, socio-economic guarantees flowing from the Directive Principles, instead of being soft goals that the state has to endeavor to achieve, become legally binding norms. For instance, in the breakthrough decision Francis Coralie Mullin,[77] a case concerning the rights of inmates in preventive detention, the apex Court held for the first time that,

> 'The right to life enshrined in Art. 21 cannot be restricted to mere animal existence. It means something much more than just physical survival. […] The right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessaries of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings'.[78]

It is important to highlight that the mechanism of public interest litigation played a major role in this expansion of the constitutional landscape (Abeyratne, 2014, p 42-47). Originally from the US, this instrument is a 'judicially innovated new strategic device for purpose of providing access to justice to large masses of people who are denied their basic human rights and to give judicial redress for legal wrong or injury caused to such determinate class of persons'.[79] As a result, the admissibility of locus standi under Article 32 of the Constitution is enlarged to any citizen who has sufficient interest, and

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[72] Constitution of India, Art. 141.

[73] M/s East India commercial Co. Ltd. vs Collector of Customs, 1963 3 SCR 338.

[74] Contrary to Constitution of India, Art. 32, Art. 37, provides that 'the provisions contained in [...] Part [IV] shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws'.

[75] 'No one shall be deprived of his life or personal liberty except according to procedures established by law'. Constitution of India, Art. 21.

[76] Francis Coralie Mullin vs Union Territory of Delhi, 1981 AIR 746.

[77] *Ibid.*

[78] *Id*, paras. 5-6.

[79] S.P. Gupta and Others vs President of India and Others, AIR 1982 SC 149.

not restricted to those who have suffered a legal injury, in bringing a community-oriented issue to the Court.

B) FUNDAMENTAL RIGHT TO WATER

It is against this general background that the fundamental right to safe drinking water emerged in India. Like the others socio-economic rights, 'the architect of the right to water is judiciary' (Priya, 2012) and Art. 21, containing the right to life its 'main legal anchor' (Thielbörger, 2014, p. 53). Notwithstanding the provisions on the allocation of powers within the federation, the Constitution contains no specific provision pertaining to the right to water. However, the National Commission on the review of the Constitution suggested otherwise in 2002.[80] The legal foundation of this basic right is hence to be found in the case law issued by the highest courts in environmental pollution cases predominantly, and more recently in cases of inadequate or denial of water supply. The first Supreme Court decision bringing the right to potable water within the scope of Art. 21 is Subhash Kumar vs State of Bihar,[81] where the judges had to adjudicate on the alleged pollution of the Bokaro River caused by the release of sludge into it by an industrial unit located on its shores. The inadmissibility of the petition for abuse of process did not prevent the Court from holding that the 'right to live is a fundamental right under Art. 21 of the Constitution and it includes the right of enjoyment of pollution-free water and air for full enjoyment of life'.[82] Similar statements on the interdependence of the rights to a dignified life and to clean water are to be found in several decisions of the highest courts.[83] They have in common the protection of the negative side of the basic right, which is the right to unpolluted water sources (Kothari 2006, p 2-3). More recently however, the highest judiciary started mentioning the state's obligation to engage positively toward the full realization of the right to water throughout the country and expanded its scope of protection beyond (traditional) environmental pollution cases. In a case dealing with the 'agonizing situation' that the inhabitants of Andhra Pradesh faced during summertime due to the insufficient level of water supply, the Andhra Pradesh High Court claimed that the 'right to safe drinking water is a fundamental right and cannot be denied to the citizens even on the ground of paucity of funds'.[84] Therefore, the state breached the fundamental right to water of almost half its population when it only provided them with 10 lpcd while the basic minimum is 40 lpcd (cf. infra). Another decision worth the mention is Vishala Kochi Kudivella Samrakshana Samithi vs State of Kerala.[85] Here, the Kerela High Court addressed the plight of the people of West Kochi who had been clamoring for decades about the supply of potable drinking water provided to them. The judges unequivocally declared that:

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[80] In 2002, the National Commission to review the working of the Indian Constitution recommended that a new Art. 30D reading as follows be created: 'every person shall have the right to safe drinking water'. Reasons of political turmoil prevented the formal incorporation of the fundamental right to water in the Constitution. Gonzales (2013).

[81] Subhash Kumar vs State of Bihar, 1991 AIR 420.

[82] Ibid.

[83] F.K. Hussain vs Union of India, AIR 1990 Ker 321; Virendra Gaur and Others vs State of Haryana and Others, (1995) 2 SCC 577; Vellore Citizens Welfare Reform vs Union of India, (1996) 5 SCC 647.

[84] Wasim Ahmed Khan vs Government of Andhra Pradesh, (2002) 2 ALD 264 (DB).

[85] Vishala Kochi Kudivella Samrakshana Samithi vs State of Kerala, 2006 (1) KLT 919.

We have no hesitation to hold that failure of the State to provide safe drinking water to the citizens in adequate quantities would amount to violation of the fundamental right to life enshrined in Art. 21 of the Constitution of India and would be a violation of human rights. Therefore, every Government, which has its priorities right, should give foremost importance to providing safe drinking water even at the cost of other development programmes. Nothing shall stand in its way whether it is lack of funds or other infrastructure ways and means have to be found out at all costs with utmost expediency instead of restricting action in that regard to mere lip service.

On the basis of the two previous judgments, the state carries the obligation to take all the necessary steps to provide safe drinking water to the people by prioritization of the infrastructures and funds available.

Lastly, the Mumbai High Court recently delivered a judgment specifically addressing the plight of inhabitants of illegal slums of the city as regard their access to basic amenities.[86] In Mumbai, a Government Circular explicitly prohibited the supply of water in un-authorized settlements, save the ones built before 1 January 2000 (GoI, 1996 c, p. 5). The government defended its position on the basis that there is nothing illegal in its policy to not grant water supply to those who are residing in illegal slums, and that ruling otherwise would encourage the construction of such unlawful constructions (GoI, 1996 c, para 7). The High Court categorically held that housing and water rights are to be separated and cannot influence each other. As far as the slums built after 1 January 2000 are concerned, 'the State cannot deny the water supply to [its inhabitants] on the ground that [they are] residing in a structure which has been illegally erected'.[87] Consequently, the mere fact that a citizen occupies an illegal dwelling and has no legal right to retain it, cannot deprive him/her of his/her fundamental right to water. The reverse is also true: providing water to citizens does not have any bearing on the legal status of their settlement. The Court highlighted that 'even if the water is provided to a person occupying an illegal hut, the same does not create any equity in such person or the same does not make lawful the structure occupied by such person which is otherwise illegal'.[88] This judgment is significant as it, for the first time at the judicial level, declares land status and basic services entitlements as being two independent issues. In this regard, the judgment is indeed a 'landmark achievement of the right to water campaign in India' (Koonan, 2015). Unfortunately, the judgment in fine indicates that 'occupants of the slums which have illegally come up after 1 January 2000 cannot claim a right to supply drinking water on par with a right of a law abiding citizen who is occupying lawfully constructed premises having occupation or completion certificate'. If both occupants of legal and illegal dwellings are entitled to the fundamental right to water, the Court still

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[86] Pani Haq Samiti & Others vs Brihan Mumbai Municipal Corporation & Others, PIL No. 10 of 2012 decided on 15/12/2014 (OOCJ Bombay).
[87] *Id*, para. 11.
[88] *Id*, para. 19.

distinguishes them as regard to the precise content and meaning of this right. Such a statement questions the very intention of the Court to realize the fundamental right to water on an equal and non-discriminatory basis. Our fear is indeed confirmed when the Court enters the policy arena. The judges first order the Municipal Corporation to formulate a policy for providing water supply in some form to the occupants of the slums which have been illegally erected after 1 January 2000.[89] In so doing, 'the Municipal Corporation may provide for payment of water charges at a higher rate than the rate which is charged for water supply to the authorized constructions'.[90] The judgment thus upholds a 'lesser fundamental right to water' (Koonan, 2015), for slum dwellers, sub-category of right-holders with regard to water.

<u>The Draft National Water Framework Bill, 2016</u>
The Ministry of Water Resources constituted the Dr. Mihir Shah Committee in December, 2015 that came up with the Draft National Water Framework Bill, 2016 (GoI, 2016 d).[91] The Bill acknowledges the integration of the fundamental right to water into the right to life by the Supreme Court.[92] Taking forward from this understanding the bill seeks to formalize a 'right to water for life'.[93] 'Water for life' is defined as the 'basic safe water requirements for realizing the fundamental right to life of each human being, including drinking, cooking, bathing, sanitation, personal hygiene and related personal or domestic uses, with an additional requirement for women for their special needs; and includes water required for domestic livestock'.[94] The right to water for life if enacted as proposed will mean that, 'every person has a right to sufficient quantity of safe water for life within easy reach of the household regardless of, among others, caste, creed, religion, community, class, gender, age, disability, economic status, land ownership and place of residence'.[95] Apart from this, the Bill contains provisions for recognizing water as a natural resource held in public trust by the states and provides for the creation of State River Basin authorities. Legislations on water cannot be made independently by the Central Legislature as water is a subject that falls in the State List.[96] The parent committee of the Bill also suggested a constitutional amendment to include water in the Concurrent List lest, the Bill will 'lack teeth'.[97] The Bill has not been introduced in the Parliament (As on the time of writing –August 2017). The Ministry of Water Resources has sought the support of all States and Union Territories in a letter dated 20 January, 2017 (The Hindu, 2017).

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[89] Pani Haq Samiti & Others vs Brihan Mumbai Municipal Corporation & Others, PIL No. 10 of 2012 decided on 15/12/2014 (OOCJ Bombay), para. 21(i).
[90] *Id*, para. 21(iv).
[91] There was an earlier version of the Bill presented for suggestions to the States in 2013.
[92] Draft National Water Framework Bill, 2016, p. 2.
[93] *Id*, p.7.
[94] *Id*, p. 6.
[95] *Id*, p. 7.
[96] The Seventh Schedule of the Constitution of India contains the three lists: Union, State and Concurrent. This is in accordance with Art. 246. The Union cannot legislate on State subjects but both the Union and the State can legislate on subjects in the Concurrent List.
[97] GoI, Ninth Report of the Standing Committee on Water Resources.

C) Fundamental Right to Sanitation

The grievous failure of local authorities to provide the basic amenity of public conveniences drives the miserable slum-dwellers to ease in the streets, on the sly for a time, and openly thereafter, because under Nature's pressure, bashfulness becomes a luxury and dignity a difficult art.[98]

Using a rather dramatic tone, the Supreme Court's judges emphasize that the lack of sanitation facilities for slum dwellers endangers the very essence of their human dignity.[99] Subsequently, the highest Court has also included issues of sanitation within the expanded construction of 'life' under Art. 21. For example, in Virendra Gaur and Others vs State of Haryana and Others, the Court held that: 'the right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed'.[100] Through the right to a healthy environment, the right to life also encompasses access to sanitation facilities. Besides, it should be noted that the Madhya Pradesh High Court established the (necessary) link between water, sanitation and health in the K.C. Malhotra case.[101] The Court held that Art. 21 of the Constitution entitles slum dwellers to basic standards, that is fresh and uncontaminated water, covered drains, a separate sewage line from which the filthy water may flow out and clean sanitation facilities, in order to prevent health and safety from being at risk.[102] In light of the foregoing jurisprudence, we observe that the development of a fully-fledged right to sanitation is rather limited at the constitutional level.

D) Fundamental Right to Adequate Housing

The list of constitutional provisions, both Fundamental Rights and Directive Principles of State Policy, which have a bearing on the right to adequate housing is extensive.[103] Illustrative thereof is the fundamental freedom to reside and settle in any part of the territory of India enshrined in Art.19 (1) (e), or the legal right to property contained in Art. 300A. However, no constitutional provision expressly provides for a right to shelter. Similarly to the right to water and sanitation, the legal foundations and scope of the constitutional right to adequate housing are to be derived from the jurisprudence of the Supreme Court and the State High Courts. Almost ten years after the right to livelihood was asserted,[104] the Apex Court deduced from the Constitution, its natural counterpart- the human right to housing. In P.G. Gupta vs State of Gujarat, through a joint reading of Art. 19 (1) (e) and 21, the judges claimed the fundamental right to residence and settlement to be a 'minimum human right' and '[inseparable] facet of [the] meaningful right to life'.[105] Furthermore, the Court referred to Art. 11 of the ICESCR and the state's duties under international law to strengthen its

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[98] Ratlam vs Shri Vardhichand and Others, 1981 SCR (1) 97.
[99] *Ibid.*
[100] Virendra Gaur and Others vs State of Haryana and Others, (1995) 2 SCC 577. *See also*, L.K. Koolwal vs State of Rajasthan, AIR 1988 Raj 2.
[101] K.C. Malhotra vs State of Madhya Pradesh, AIR 1994 MP 48.
[102] *Id*, para. 14.
[103] Cf. The complete list in National Human Right Commission (NHRC) 2011, p. 8-9.
[104] Olga Tellis vs Bombay Municipal Corporation, AIR 1986 SC 180, commonly referred to as the 'Bombay pavement dweller case'. See also, M/S Shantistar Builders vs Narayan Khimamal Totame, 1990 (1) SCC 520.
[105] P.G. Gupta vs State of Gujarat, (1995) Supp (2) SCC 182, para. 11.

position.[106] Finally, the Court claimed that to foster the realization of the right to shelter, the state has to provide the urban poor with affordable and permanent housing accommodation by undertaking housing schemes.[107] Within the ambit of the all-encompassing right to life, the right to shelter itself must be broadly understood. In the Supreme Court's understanding, shelter for a human being is also a 'home where he has opportunities to grow physically, mentally, intellectually and spiritually'.[108] As a matter of fact, shelter 'does not mean a mere right to a roof over one's head but a right to all the infrastructure necessary to enable them to live and develop as human being'.[109] Therefore, the 'right to shelter [...] includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads and so on'.[110] A wide spectrum of conditions, including access to water and sanitation, must be fulfilled in order to realize the adequate right to housing under the Indian Constitution. The highest Court, confronted with a situation of distress that falls within the ambit of Article 21, can still exercise its constitutional power of judicial review to determine whether the deprivation of life occurred as a result of a procedure which is reasonable, fair and just, and hence be justified. A fair balance has to be struck between the different interests at stake as the Supreme Court does not grant a right to encroach to pavement and slum dwellers.[111] This appears clearly in a statement in Ahmedabad Municipal Corporation vs Nawab Khan Gulab Khan,[112] when the Court held that:

> It [is] clear that though no person has a right to encroach and erect structures or otherwise on footpath, pavement or public streets or any other place reserved or earmarked for a public purpose, the State has the Constitutional duty to provide adequate facilities and opportunities by distributing its wealth and resources for settlement of life and erection of shelter over their heads to make the right to life meaningful, effective and fruitful.[113]

The aforementioned judgment reaffirms that the human right to life is not absolute, as restrictions are allowed under a procedure provided by law that is fair and reasonable. More importantly, it validates the positive duty of the state to provide adequate, accessible and permanent housing units to the urban poor, by allocating and earmarking a budget for this most vulnerable section of society, to, ultimately, making socio-economic justice a reality.[114]

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[106] *Id*, para. 8.
[107] *Id*, para. 11.
[108] Chameli Singh vs State of U.P., (1996) 2 SCC 549.
[109] *Id*.
[110] *Id*.
[111] In Olga Tellis vs Bombay Municipal Corporation AIR 1986 SC 180, the Court stated that: 'no one has the right to make use of a public property for a private purpose without the requisite authorisation and, therefore, it is erroneous to contend that the pavement dwellers have the right to encroach upon pavements by constructing dwellings thereon'.
[112] (1997) 11 SCC 645.
[113] Ahmedabad Municipal Corporation vs Nawab Khan Gulab Khan, (1997) 11 SCC 645.
[114] NHRC, 2011, p. 10-11.

Later jurisprudence of India's highest courts demonstrates that Art. 21 of the Constitution can also run counter to slum dwellers' best interests. Based upon the Supreme Court's decision in Almrita H. Patel,[115] the Pitam Pura judgment,[116] issued by the High Court of Delhi in 2002 reversed the judicial construction of Art. 21 which had so far prevailed. In those two cases, the judges, by endorsing the city beautification agenda, gave a hard blow to the existing understanding of shelter and housing for the urban poor within the human rights framework. The Almitra H. Patel vs Union of India case,[117] was originally a PIL case about garbage management in Delhi. The capital being the 'show piece' of India, the Court highly criticized the municipal authorities for the dysfunctions in the waste disposal management, flowing from the failure to prevent the growth of slums in the city. Consequently, the Court directed the state authorities to 'take appropriate steps for preventing any fresh encroachment or unauthorized occupation of public land for the purpose of dwelling resulting in creation of a slum. Further, appropriate steps be taken to improve the sanitation in the existing slums till they are removed and the land reclaimed'.[118] Additionally, no resettlement site had to be provided to the evicted slum dwellers, as 'rewarding an encroacher on public land with free alternate site is like giving a reward to a pickpocket'.[119] A scholar has observed that the use of the 'illegal encroachment' narrative and equating slums with illegality has started spreading among the Indian judiciary since the Supreme Court's judgment (Ghertner, 2008, p. 63).

Building on the Supreme Court's decision, the Delhi High Court provided the 'technical traction to the new discourse' (Ghertner, 2008, p. 63). In Pitam Pura Sudhar Samiti vs Union of India and Ors,[120] the petitioners, a Resident Welfare Association (RWA), filed a PIL alleging that the *Jhuggi Jhopdi* (JJ) clusters, encroachers of public land, were constructed in an illegal manner and were causing nuisance of various kinds for the residents in the vicinity. Phrases such as 'health hazard', 'obnoxious smell' and 'decent living' are used in the petition, but only to describe the residents' standards of living. In this case, the Court briefly mentions the right to shelter, before arguing that 'there are cleaner ways to achieve that goal than converting public property into slum lords' illegal estates'.[121] The right to shelter of slum dwellers is conceived, not from a human rights perspective, but as a means to achieve full cleanliness in the city. Against this background, the High Court operates the balance between the compelling interests at stake. Significantly enough, the welfare of the residents-petitioners is brought under the realm of public interest. This broad understanding of 'the public' has paved the way for a new judicial reading of Art. 21. As a matter of fact, 'the welfare, health, maintenance of law and order, safety and sanitation of these residents cannot be sacrificed and their right under Art. 21 is violated in the name of social justice to the slum dwellers'.[122] Because, 'these residential colonies were developed first [...] and the slums – which is the cause of nuisance and

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[115] Almrita H. Patel vs Union of India 2000(2) SCC 166.
[116] Pitam Pura Sudhar Samiti vs Union of India and Ors, ILR (2002) 2 Del 393.
[117] Almrita H. Patel vs Union of India 2000(2) SCC 166 (Supreme Court, 2000).
[118] *Id*, operating para. 6.
[119] *Id*, para. 14.
[120] Pitam Pura Sudhar Samiti vs Union of India and Ors, ILR (2002) 2 Del 393.
[121] *Id*, para. 19.
[122] *Id*, para. 18.

brooding ground of so many ills, have been created afterwards',[123] the former group's right to life should trump the latter's.

This interpretation of Art. 21 thus elevates the quality of life and enjoyment of owned land of citizens over the livelihood of slum dwellers. It was not long before scholars vehemently denounced this judicial evolution.[124] It is interesting to compare the role played by the PIL mechanism in the aforementioned cases with its original purpose of serving the interests of the people belonging to the deprived sections of society.[125] Scholars have expressed that, 'it is ironic that Public Interest Litigation, which was devised by the Supreme Court with the express intent that the indigent and the powerless could have rights, has been the vehicle for effecting large-scale demolitions of the dwellings of the urban poor' (Dupont & Ramanathan 2009, p. 337). As a matter of fact, until 2008 the Delhi High Court itself often engaged, through court orders and contempt of court mechanisms, in the eviction and removal of squatter settlements in the city. Two recent judgments of the Delhi High Court reversed the harshness of previous judgments and established new foundations for the protection of the right to housing in India. Even if the two decisions do not share a similar factual background, they re-assessed the right to shelter as a basic right and highlighted its importance in the specific context of the case.[126] In Sudama Singh and Others vs Government of Delhi and Others,[127] petitioners addressed the Delhi High Court to seek relocation and rehabilitation following their eviction from various slum clusters in the city. Most of the demolitions were carried out for the purpose of constructing new roads or widening of existing ones. The state authorities indeed argued that the inhabitants were occupying land which comes under the category of 'Right of way'[128] and therefore were not entitled to any compensation or alternative land under any policy or scheme. By referring to global standards,[129] the High Court emphasized its holistic understanding of the right to adequate housing by stipulating that 'the implementation of housing rights would include emphasis on the physical structure such as the provision of drinking water, sewer facilities, access to credit, land and building materials as well as the *de jure* recognition of security and tenure and other related

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[123] *Ibid.*

[124] *See*, the language used by U. Ramanathan when talking about the 'unidimentional understanding of the illegality of the housing of the urban poor' that had 'dramatic impact on the lives of the poor in Delhi'. Ramanathan 2006, p. 3193 or by Shri Bushan Prashant, advocate at the Supreme Court, when he describes the 'recent role of the courts in not just failing to protect the rights of the poor that they had themselves declared not long ago but spearheading the massive assault on the poor'. Prashant, 2006, p.20.

[125] S.P. Gupta and Others vs President of India and Others, AIR 1982 SC 149.

[126] See, for comments on those two judgments Housing and Land Rights Network (HLRN), 2013.

[127] 168 (2010) DLT 218.

[128] No detailed definition of the 'Right of way' is provided for in the decision, but based on the aforementioned Ahmedabad case we deduced that this right entails protection of the right of every citizen to pass or repass on the pavement, street, footpath as general amenity for convenient traffic.

[129] The High Court made extensive reference to international law on the subject of forced eviction and resettlement, such as General Comment no. 7 on the right to adequate housing, Special Rapporteur's guidelines on relocation of displaced people and the CESCR's observations on India of May 2008. The judges also referred to foreign case law, such as the Irene Grootboom and Joe Slovo cases of the South African Supreme Court (paras. 53-54).

issues'.[130] The judges underline the duality of fundamental rights that need to be articulated both at the material and the legal level. The Court then stressed the adverse impacts of forced evictions by stating that 'what very often is overlooked is that when a family living in a *jhuggi* is forcibly evicted, each member loses a bundle of rights – the right to livelihood, to shelter, to health, to education, to access to civic amenities and public transport and above all, the right to live with dignity'.[131] The interlinked nature of human rights is firmly assessed and its translation into practice has very detrimental impacts on the lives of forcibly evicted people. Eventually, the so-called policy of the 'Right to way' was dismissed by the High Court which hence declared that the denial of the benefit of rehabilitation to the petitioners violated their right to shelter guaranteed under Art. 21 of the Constitution. The P.K. Koul and Ors. vs Estate Officer and Anr. and Ors,[132] case contrasts with the Delhi High Court decision analysed previously because, firstly, petitioners were Internally Displaced People (IDPs) fleeing from the instable states of Kashmir and Jammu. The judges nevertheless upheld the judicial interpretation of Art. 21 developed in the above decision. In light of the previous developments, few would argue with the statement that judicial pronouncements by the courts have had a significant impact on the crafting of the human right to adequate housing in the Indian constitutional landscape. Although the minimum procedural guarantees for eviction and the policy of resettlement were seriously endangered, recent jurisprudence has resulted in these important procedural safeguards being recognized with regard to inhabitants of informal settlements. It should be noted however that the vast majority of shelter-related cases deal with situations of displacement, eviction and resettlement. No courts have had to rule on the matter of inadequacy of shelter due to a lack of basic amenities, such as water and sanitation, outside of the specific context of eviction and resettlement. This observation is echoed in G. Dewan Verma's book when she expresses that NGO's – through *inter alia* the PIL mechanism – have 'reduced housing rights to the right not to be evicted' (Verma, 2002, p. 74).

2.2.3. CENTRAL LEGISLATION

A) LAW AND POLICY IMPACTING WATER AND SANITATION RIGHTS
The deplorable situation regarding water and sanitation in urban areas is a source of concern for the Government of India. Improvement has been aimed for, from different angles:

(a) The prevention and protection against water pollution,
(b) The establishment of norms for water supply and sanitation and
(c) Poverty alleviation programmes.

From the outset it should be noted that none of the following documents mention the human rights to water and sanitation per se, but grant protection through different avenues which will be analysed

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[130] *Id*, para. 29.
[131] *Id*, para. 44.
[132] WP(C) No. 15239/2004 and CM No. 11011/2004, Delhi High Court, 30 November 2010.

subsequently. In order to remain within the boundaries of this study, we will not further explore national policies aimed at the rural water supply sector.[133]

Prevention and Protection against Water Pollution

Despite the absence of a constitutional mandate (cf. *supra*), the central government intervened in an area for which countrywide regulation was deemed necessary: water pollution. In that regard, the Government of India adopted the Water (Prevention and Control of Pollution) Act, 1974 that seeks the 'prevention and control of water pollution, and [...] the maintaining or restoring of wholesomeness of water in the country'.[134] The Supreme Court's judicial intervention has been crucial in establishing the link between water pollution and drinking water (Cullet, 2010, p. 334). Referring to previous developments, we can further mention the Andhra Pradesh Pollution Control Board II vs Professor M.V. Nayudu decision where the Court stated that 'the fundamental objective of the (Water Act) is to provide clean drinking water to the citizens'.[135] The highest judiciary has consistently engaged in highlighting the human rights component in environmental justice cases of water pollution. The government has also invested substantially in programs to clean up rivers such as Ganga and Yamuna. On 17 May 2016, the Ministry of Water Resources put up a bill targeting groundwater pollution for suggestions on its website.[136] The draft bill seeks to ensure groundwater security for all stakeholders in rural as well as urban areas. It declares groundwater to be a resource held in public trust by the government, thereby taking responsibility for and regulating its usage. Other important features are: An express commitment of state responsibility even if water service provisions are delegated to a private entity, demarcation of groundwater protection zones, inclusion of lowest possible administration levels for planning, power to gram panchayats to make rooftop rainwater harvesting mandatory and so on.

Norms of Water Supply and Sanitation

One can trace back the origin of norms on access to basic amenities, such as water supply and sanitation, for the urban poor to the fifth Five year Plan and the Environmental Improvement of Urban Slums (EIUS) scheme. As a matter fact, EIUS laid down for the first time basic physical standards to improve the quality of life of the urban poor (Sridhar, Reddy & Srinath, 2011, p. 102). It was a centrally sponsored programme that began in 1972 and was transferred to the state level in 1974 and is now subsumed under the Jawaharlal Nehru National Urban Renewal Mission (JNNURM). As demonstrated in Table 4 below, the scheme proposed the provision of seven basic amenities, amongst which are water supply and sanitation facilities, to enhance the living conditions in slum areas. The standards set forth are low: one tap for 150 persons and a single bath and toilet facility are supposedly to cover 20-50 persons. These guidelines will be used as a basis in subsequent

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[133] *Cf.* for example, the Rajiv Gandhi National Drinking water Mission that fosters full coverage of water supply in Indian rural villages.

[134] Preliminary provisions of the Water (Prevention and Control of Pollution) Act, 1974.

[135] Andhra Pradesh Pollution Control Board II vs Professor M.V. Nayudu (2001) 2 SCC 62.

[136] http://wrmin.nic.in/writereaddata/Model_Bill_Groundwater_May_2016.pdf

poverty alleviation programmes, such as the Urban Basic Services for the Poor (cf. *infra*) or the Prime Minister's Integrated Urban Poverty Eradication schemes.[137]

TABLE 4 PHYSICAL NORMS AND STANDARDS AS PER GOVERNMENT-SPONSORED EIUS PROGRAMME

Service components	*Level/Norms*
1. Water supply	One tap for 150 persons
2. Sewerage	Sewer open drains with normal outflow avoiding accumulation of stagnant waste water
3. Storm water drains	To drain out storm water quickly
4. Community baths	One bath room for 20-50 persons
5. Community latrines	One latrine for 20-50 persons
6. Footpaths/lanes	Widening and paving of existing lanes to make room for easy flow of pedestrians, bicycles and handcarts, lane on paved paths to avoid mud and slush
7. Street lighting	Poles 30 meters apart
8. Additional activities	Community facilities such as community centres, crèche, dispensaries, non-formal centres, parks, common work shed-cum-row materials depot for poor, common retail outlay for beneficiaries, municipal service centres for garbage disposal and maintenance have been added to the charter of activities of the EIUS programme

Source: GoI (1996 b) in Mathur *et. al.* (2007), p. 9

In 1999, the Central Public Health and Environment Engineering organisation (CPHEEO), supported by the Ministry for Urban Development and Poverty Alleviation, published the Manual on Water Supply and Treatment. This document contains recommendations and standards of municipal water supply for domestic uses. The recommended maximum per capita water supply to be delivered are specified in Table 5 below. When communities rely on public stand-posts (for example squatter settlements or resettlement colonies) the recommended maximum is 40 lpcd. This threshold almost doubles in cases where there is piped water supply coverage without a sewerage system and triples when a sewerage system is existent (GoI, 1999). The Planning Commission took over these norms of water supply in the tenth Five year Plan (2002-2007).[138]

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[137] One main component of the scheme is the provision of physical amenities as given in the EIUS scheme. (Mohanty & Mohanty, 2005, p. 68).
[138] GoI (2002), p. 636.

TABLE 5 RECOMMENDED PER CAPITA WATER SUPPLY LEVELS FOR DESIGNING SCHEMES

St. no.	Classification of towns/cities	Recommended maximum water supply levels (lpcd)
1.	Towns provided with piped water supply but without sewerage system	70
2.	Cities provided with piped water supply where sewerage system is existing/ contemplated	135
3.	Metropolitan and megacities provided with piped water supply where sewerage system is existing/contemplated	150

Note: (i) In urban areas, where water is provided through public stand-posts, 40 lpcd should be considered.
(ii) Figures exclude "Unaccounted for Water (UFW)" which should be limited to 15%.
(iii) Figures include requirements of water for commercial, institutional and minor industries, however, the bulk supply to such establishments should be assessed separately with proper justification.

Lastly, the Draft National Water Framework Bill 2013 declared 25 lpcd to be the absolute minimum of potable water (GoI, 2013 b, Art. 4), without regard to the source of supply. However, this provision is absent from the 2016 draft of the bill which leaves the decision on the appropriate government. As far as sanitation is concerned, the Swachha Bharat Mission guidelines aim to establish household toilets for everyone in urban areas.[139] It provides that a sewerage system must be available within 30 meters from the proposed household toilet and where it is not, 'an on-site treatment system (such as twin pits, septic tanks, bio-digesters, or bio-tanks) should also be constructed for the collection, treatment and/or disposal off sewage at, or near the point of generation'.[140] We can also refer to the Draft National Slum Policy (DNSP) finalized in 2001 (GoI, 2001 b). Although the document never underwent the legislative process for adoption as a bill, it provides general guidance and model legislation for states willing to adopt a slum policy.[141] Under the heading 'Physical infrastructure development', the Draft provides for 'the norms for cluster latrines at the rate of one seat for 50 people [...], with adequate institutional arrangements for maintenance and upkeep with involvement of community'. The Draft emphasizes the household responsibility for operation and Maintenance (O&M) so that the quality of the cluster latrines does not degenerate. Further on, the DNSP recommends the installation of twin-pit latrines, in the absence of underground drainage and sewerage systems, and specifies that, 'the tenurial status and likelihood of a settlement getting relocated at some point in the future should not deter promoting such systems since the benefits of such environmental improvement far exceed the initial investment incurred'.

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[139] The guidelines specify that tenure insecurity issues are to be de-linked with benefits and Beneficiary households will be targeted under this scheme irrespective of whether they live in authorized/unauthorized colonies or notified / non-notified slums. Guidelines for Swachha Bharat Mission, 2014.

[140] *Id*, p.7.

[141] See, for instance, the Bihar State Policy, 2011 that endorses the key objectives.

The Government of India, MoUDPA, launched the National Urban Sanitation Policy (NUSP) in 2008 to transform urban India into community-driven, totally sanitized, healthy and livable cities and towns (GoI, 2008, p. 7). Sanitation is broadly defined as the 'safe management of human excreta, including its safe confinement treatment, disposal and associated hygiene-related practices' (GoI, 2008, p.6). In order to achieve total sanitation in urban areas, the policy is not only focused on infrastructure development, but also on behavior change.[142] One important goal of this national policy is to achieve open defecation-free cities through access to and use of safe and hygienic sanitation facilities. As a subsidiary to the promotion of household-based safe sanitation facilities, the NUSP promotes 'community-planned and managed toilets wherever necessary, for groups of households who have constraints of space, tenure or economic constraints in gaining access to individual facilities' (GoI, 2008, p. 8). 'Constraints of tenure' seemingly hinder the construction of household-based sanitation facilities in some urban areas.

Swachh Bharat Mission (2014-2019)

The Swachh Bharat Mission (SBM) or the Clean India campaign is a joint mission of the MoUDPA and the Ministry of Drinking water and Sanitation. The former will implement the mission in urban areas, the latter in rural villages. The shared mission is supposed to bring about a 'holistic transformation of the sanitation scene' (GoI, 2014 c, p. 2) for 2019, 150th anniversary of the birth of Mahatma Gandhi. The SBM further pursues goals of the NUSP, such as the elimination of open defecation and behavioral change regarding healthy sanitation practices, but also adds new targets, the abolition of manual scavenging for instance. To achieve the eradication of open defecation, the SBM engages in the construction of household and community toilets.[143] The choice of one or the other by the ULBs is based upon the potential 'land and space constraints' in the given urban zone. Interestingly, there was a need to emphasize twice in the SBM Guidelines that: 'beneficiary households will be targeted under this scheme irrespective of whether they live in authorized/unauthorized colonies or notified/non-notified slums. Under SBM (Urban), tenure security issues are to be dissociated from benefits' (GoI, 2014 c, p. 8-9). Significant discretionary powers are vested with the ULBs to judge the feasibility of installing household latrines. In 2016 the Quality Council of India, an non-profit, accreditation society set up by the government in 1997, was commission by the Ministry of Urban Planning to conduct a *Swacch Sarvekshan* [Cleanliness Survey] to measure the progress of SBM in 73 major cities, including Delhi. Three methods of data collection were used-

i.   Service level data, based on self-assessment by municipalities (The six areas of evaluation for urban local bodies were: Strategy for Open Defecation Free town and Integrated Solid Waste Management, Information, Education and Behavior Change Communication activity, Door to door Collection, Sweeping, Collection & Transportation, Processing and Disposal of Solid Waste, Public & Community Toilet Provision and Individual Toilets)- 1000 points,

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[142] Awareness generation and behaviour change is one pillar component of the NUSP. Ravikumar (2008).

[143] In the SBM (urban) Guidelines, the community toilets are described as such: 'community toilet blocks are used primarily in low-income and/or informal settlements/slums, where space and/or land are constraints in providing a household toilet. These are for a more or less fixed user group'. GoI (2014 c), p. 4.

ii.   Citizen feedback- 500 points
iii.   Independent observation- 500 points

Assessors also visited slums and unplanned colonies as well as public toilets. Delhi ranked fourth in this survey, mainly on the basis of service level data.[144]

<u>Atal Mission for Rejuvenation and Urban Transformation (AMRUT)</u>
AMRUT was launched in April 2015 for 500 cities with a total budget of ₹50,000 crore. One of the purposes of AMRUT is to 'ensure that every household has access to a tap with assured supply of water and a sewerage connection'.[145] In the spirit of cooperative federalism, states will submit an annual action plan under the scheme, which has to be approved by the MoUD after which the States have the responsibility to give project sanctions and approval at their end.[146] Under the AMRUT guidelines Delhi will receive ₹804 crore in the five year mission period, but as of now, the MoUD has approved a budget of ₹266 crore for Delhi (PTI, 2016). Out of this, '₹215 crore will be invested in improving water supply and ₹254 crore for improving sewerage networks and septage management, while ₹ 8 crore would be spend for drainage networks and ₹12 crore for developing open and green spaces' (PTI, 2016). The components of the scheme relevant to our study are- work on the water supply systems including augmentation of existing water supply, water treatment plants and universal metering, rehabilitation of old water supply systems, including treatment plants, rejuvenation of water bodies specifically for drinking water supply and recharging of ground water and special water supply arrangement for difficult areas, including those having water quality problems (for example arsenic, fluoride). With respect to sanitation, the project aims for a decentralized, networked underground sewerage system, including augmentation of existing sewerage systems and sewage treatment plants, rehabilitation of old sewerage system and treatment plants, recycling of water for beneficial purposes and reuse of wastewater, Faecal Sludge Management- cleaning, transportation and treatment in a cost effective manner, Mechanical and Biological cleaning of sewers and septic tanks and recovery of operational cost in full, construction and improvement of drains and storm water drains in order to reduce and eliminate flooding.[147] The city-wise implementation reports for AMRUT are not available yet.

<u>Prohibition of Manual Scavenging</u>
The right to health and dignity of sanitation workers is linked to the right to sanitation (UN, 2009 b). In this regard the practice of manual scavenging, still continuing in India was addressed by the government by enacting a legislation banning it in 2013. Manual Scavenging is the practice of manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta from

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[144] Report of *Swaccha Sarvekshan* available on
http://qcin.org/pdf/swachservekshan/SBM_Report_Full_16th%20feb.pdf
[145]AMRUT, The Mission, http://www.amrut.gov.in/writereaddata/The%20Mission.pdf
[146]AMRUT Mission Statement and Guidelines,
http://www.amrut.gov.in/writereaddata/AMRUT%20Guidelines%20.pdf , p.5. See also, Pattanayak (2017); Poddar (2017) and Naidu (2017).
[147]AMRUT Mission Components, http://www.amrut.gov.in/writereaddata/Mission%20Components.pdf

insanitary latrines.[148] It is a discriminatory practice in the sense that historically, it is supposed to be carried out by people belonging to low castes. Despite the law for prohibition and rehabilitation of manual scavenging, it continues in Delhi (Jain, 2016). It was brought to the attention of the Delhi High Court through a 2007 Public Interest Litigation and the High Court is seized of the matter (Times News Network, 2017).

B) POVERTY ALLEVIATION PROGRAMMES

All of the following schemes and missions are initiatives of the central government to strive for poverty alleviation. Gradually, the specific instrument used to fight against poverty in urban areas has turned out to be the improvement of access to basic services in low-income settlements (Mathur *et. al.,* 2007, p. 8). This strategy is explicitly endorsed by the GoI in the Ninth Five year Plan (1997-2002) (GoI, 1997, s. 1.37). These national water and sanitation policies are to be understood as non-binding 'statements of intent towards the adoption of framework water legislation (by the states)' (Cullet, 2012, p. 72).

Basic Services for the Urban Poor

The Urban Basic Services for the Poor (UBSP) programme started in 1991 and got subsumed and renamed under the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) in 2005, both overseen by the Indian Ministry of Urban Development and Poverty Alleviation (MoUDPA). The Basic Services for the Urban Poor (BSUP) is a mandatory urban poverty reform for all municipal corporations under JNNURM. While JNNURM ended in 2012, the BSUP sub-mission ending date was on 21 March 2017.[149] The goal was to 'provide basic services, including water supply and sanitation, to all poor including security of tenure, and improved housing at affordable prices and ensure delivery of social services of education, health and social security to poor people' (GoI 2010, p. 2). The key for the BSUP programme was to foster universal and equitable access to basic services for all urban dwellers – including the ones living in non-notified, irregular or illegal settlements – by connecting these areas to municipal services, *inter alia*, water supply and toilets (GoI 2010, p. 7). The interrelated nature of tenure security and access to basic services, such as water and sanitation, was firmly assessed in the programme. The first step for implementing BSUP was to provide the urban poor with security of tenure. While the latter can be the result of different arrangements (lease or ownership), one secured outcome was that the urban poor begin to make investments in house upgrades and show greater readiness to pay for individual basic services (GoI 2010, p. 5). During the process of securing tenure rights, municipal service investment in community stand-posts and community toilets would foster the necessary slum upgradation. It is interesting to note that tenure security was equated with access to water and sanitation, as both are basic services entitlements for the urban poor.

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[148] Prohibition of Employment as Manual Scavengers and their rehabilitation Act, 2013, s. 2(g).
[149] Initial ending date was on 21 March 2015 but the mission got extended by two years in order to complete ongoing projects (PTI, 2015 d). The status of BSUP Projects as of February, 2017 can be found at http://delhi.gov.in/wps/wcm/connect/2d665680407053e3ad3bafa1479b7319/bsupstatue28217.pdf?MOD=AJPERES&lmod=-613218412&CACHEID=2d665680407053e3ad3bafa1479b7319

C) Right to Adequate Housing

The Union's government is formally not entitled to regulate on land tenure issues (cf. *supra*). Nevertheless, numerous model legislations and policy documents have been enacted at the national level, thus…ensuring the Ministry of Urban Development's grip on the urban land and housing sector. None of these texts of countrywide application explicitly mention the human right to adequate housing. Protection is provided however, through different channels addressing the different facets of vulnerability that flow from the breach of this basic right. These (indirect) avenues of protection are (a) the protection against forced eviction, (b) security of tenure and (c) slum upgradation. It is important to note that, as all these issues are inter-related, a lot of overlap will come about.

Protection against Forced Eviction

The Slum Areas (Improvement and Clearance) Act, 1956,[150] is the first statute enacted by the central government that deals with slums in a legislative framework. Its scope of application extends to all Union territories.[151] Later on, it was used as the statutory base by most states for the adoption of their own Slum Areas Act.[152]

The purpose of the 1956 Act is to deal with the insanitary conditions in dilapidated, overcrowded, insanitary *pucca* buildings. The Minister for Home Affairs explained to the Lok Sabha that: 'the Bill seeks to remove this evil (slums) […] and we hope that vigorous measures will be taken in order to restore some sort of decency of life to the large numbers who are living under unimaginable conditions in these areas today' (GoI, 1983, p. 64). As a result, the Act contains a definition of slum based upon the inadequacy of shelter. Indeed, slum areas are 'buildings that are in any respect unfit for human habitation, or are by reason of dilapidation, overcrowding, faulty arrangement and design of such, buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities or any combination of these factors, are detrimental to safety, health or morals'.[153] The Act has played an important role for slum dwellers in a number of ways. First, the Act entitles the competent authority to formally declare buildings being 'unfit for human habitation' as a slum area. Criteria upon which the authority can base its decision are, among others, water supply, drainage and sanitary conveniences.[154] It is the physical aspect of slums which is primarily taken into account in the Act.[155] Attention should be drawn to the fact that although the physical conditions of a slum are present in practice, it has to be formally notified by the competent authority to be considered a slum area. This is how informal settlements have existed in cities for decades at the margin of the legal housing system and invisible with regard to urban planning, because they fell through the net of

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[150] Slum Areas (Improvement and Clearance) Act, 1956.

[151] *Id,* s. 1(2).

[152] *See,* for instance, Punjab Slum Areas (Improvement and Clearance) Act, 1961; Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971; Karnataka Slum Areas (Improvement and Clearance) Act, 1973.

[153] Slum Areas (Improvement and Clearance) Act, 1956, s. 3.

[154] *Ibid.*

[155] One of the major criticism voiced by the Task force on Housing and Urban Development (set up by the Planning Commission in 1983) is that the slum definition set forth in the Act only refers to the physical aspects of the building, without any regard to the legal or illegal character of it. GoI (1983).

formal slum notification (cf. *infra*). Under the Act, a three-pronged approach has been endorsed for designated slum areas:

(i)   Clearance/Relocation;
(ii)   In-situ Upgradation; and
(iii)   The Environmental Improvement Urban Services (EIUS) scheme.

The first step under the Act is to ascertain whether or not a building in a slum area can be rendered fit for human habitation at a reasonable expense.[156] In the positive case, the owner has to execute the works of improvement (the in-situ upgradation prong). In the negative case, the competent authority can issue an order of demolition of the building (clearance/relocation prong). Before taking such a decision, the opportunity is given under the Act for the owner or any other occupant for their arguments against demolition to be heard by the authority.[157] The Act also provides for adequate notification and compensation for demolition. In any case, declaring a certain area to be a slum area makes it eligible for slum improvement under the EIUS scheme (third prong). Furthermore, notification as a slum grants protection to tenants against eviction from such areas.[158] The competent authority being the only one entitled to pass an order for demolition, tenants in slum areas will be protected against forced evictions from their land-lords. This safety net has – arguably – been described as 'implying tenure security, as residents cannot be evicted without the approval of the competent authority' (Banerjee 2011, p. 39). Nevertheless, slum dwellers encroaching on public lands do not enjoy the protection of s. 19.[159] The Public Premises (Eviction of Unauthorized Occupants) Act, 1971 specifically provides for the eviction of unauthorized occupants from public premises. It is a central government Act that applies to the whole territory of India. This national statute has a very broad scope of application. 'Un-authorized occupation' under the Act means, 'the occupation by any person of the public premises without authority for such occupation."[160] The word 'inhabitant' or 'dweller' is never used in the legislative text, but rather 'unauthorized occupant' is mentioned. This seems to suggest that the occupation of public premises is first and foremost an encroachment that needs to be wiped out, before being a shelter for people. Besides the notion of 'public premises' being very broadly defined.[161] The Act contains very little procedural safeguards for unauthorized occupants of those public premises.[162] The previous developments demonstrate that the statutory frame-work for protection against forced eviction is rather limited. One should avoid

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[156] In determining, for the purposes of this Act, whether a building can be rendered fit or human habitation at a reasonable expense, regard shall be had to the estimated cost of the works necessary to render it so fit and the value which it is estimated that the building will have when the works are completed. Slum Areas (Improvement and Clearance) Act, 1956, s. 4(3).

[157] *Id*, s. 7.

[158] Slum Areas (Improvement and Clearance) Act, 1956, s. 19.

[159] *See*, s. 21 of Chapter VI of the Act that state as follows: 'nothing in this Chapter shall apply to or in relation to the execution of any decree or order under any law for the eviction of a tenant from any building in a slum area belonging to the Government, the Delhi Improvement Trust or any local authority'.

[160] Public Premises (Eviction of Unauthorised occupants) Act, 1971, s. 2 (g).

[161] *Id*, s. 1(2).

[162] *Id*, s. 5.

concluding, ipso facto, that non-notified slums or illegal settlements on public lands lack any form of tenure security. The evolution of the narrative at the policy level is of great importance in this regard. In line with the emergence of concerns about tenure security (cf. *infra*), 'a change in the official discourse occurred from eviction toward rehabilitation'.[163] Illustrative thereof is the National Housing Policy, 1994 that clearly stipulates that: [...] the central and state governments must take steps to avoid forcible relocation or 'dis-housing' of slum dwellers. They must encourage in-situ upgrading, slum renovation and progressive housing developments with conferment of occupancy rights wherever feasible. They must undertake selective relocation with community involvement only for clearance of sites which take priority in terms of public interest (GoI, 1996 a, p. 6). The Policy contains no precise definition of the 'occupancy rights' to be conferred but we can probably refer for further enlightenments to the concept of the 'right to stay' developed by L. Weinstein (2014).

Security of Tenure

In India, there is no policy pertaining directly to the issue of tenure security. Nevertheless numerous official documents have acknowledged the importance of the issue and translation into real policy action came about with the Rajiv *Awas Yojana* Mission [Rajiv Housing Scheme] in 2013.

In 1983, the Task force on Housing and Urban Development of the Planning Commission blazed a trail emphasizing the impact of tenure security on slum improvement. In the absence of it, 'the residents are reluctant to do shelter improvements any more than absolutely necessary to attain minimum liability' (GoI, 1983, p. 64). The Task force points out that the emergence of squatter settlements in urban areas is a result of deficient land supply for the urban poor,[164] and as long as affordable housing stock is not provided, no corrective measure for slum improvement will ever achieve its goal in the case of hutments. The Seventh Five year Plan (1985-1990) echoed the views of the Task force by indicating that 'steps should be taken to provide security of tenure to the slum dwellers so that they may develop a stake in maintaining and improving their habitat' (GoI, 1985, p. 103). The Eighth Five year Plan (1992-1997) in turn observed that, with regard to EIUS, 'assurance of providing tenurial rights [...] [is an] important pre-condition(s) for the success of the programme in a longer term context' GoI, 1992, p. 73). Finally, the Draft National Slum Policy also did its bit by recommending that, 'tenure shall be granted to all residents on tenable sites owned or acquired by government. Full property rights shall be granted on resettlement and/ or rehabilitation sites' (GoI, 2001 b). Another effort to secure tenurial rights for the urban poor is the Rajiv *Awas Yojana* (RAY) Mission which was launched in 2011. The goal of RAY is to achieve a Slum-free India by 2022. In order to tackle the problem of slums in a definitive manner, the RAY establishes a set of curative and preventive measures. On the one hand, existing slums have to be upgraded to bring them into line with the formal system and enabling them to avail the same level of basic amenities as the rest of the town on the other hand, in order to prevent the development of new slums, the failure of the formal

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[163] Interview with R. Khosla, Director, Centre for Urban and Regional Excellence, Delhi, 24 April 2015.
[164] 'The emergence of hutments can be directly attributed to Town Planning legislation and building regulations which lay down standards of space, services and construction, the achievement of which is beyond the investing capacity of the low-income population'. *Id*, p. 67.

system that lie behind their creation must be redressed and shortages of urban land and housing must be dealt with (GoI, 2012 b, p. 1). One key feature of RAY was that states had to prepare legislation for assignment of property rights to slum dwellers. In this sense, one pre-condition for central government funding under RAY was for states to 'assign legal title to slum-dwellers over their dwelling space' (GoI, 2012 b, p. 1). For the purpose of extending ownership rights, the MoUDPA enacted the Draft - Model Property Rights to Slum Dwellers Act (GoI, 2011 a), to be used as model legislation for states.[165] Under the Act, entitlement to property rights is based upon residency before the cut-off date of 9 June 2009, the legal status of the land is irrelevant. It is an understatement to say that states were not really keen on granting absolute ownership rights to slum dwellers.[166] Given the 'lukewarm response,' (Kulkarni, 2013) of states to this policy, the bill was revised to replace absolute property rights with long-term lease. Revision of the Bill also introduced imprisonment sentences and fines for encroachers on public lands (GoI, 2011 a, s. 17). In addition to this, the RAY endorses a 'whole-city' approach so that a holistic plan is prepared for the upgradation of all existing slums in the city: notified as well as non-notified, all unauthorized colonies and regularized colonies not currently being served by municipal services (GoI, 2012 b, p. 12). Furthermore, a holistic approach for coverage of all basic services for each slum taken up for redevelopment is endorsed (GoI, 2012 b, p. 2).

It is worth noting that the central government strongly voiced in RAY its preference for in situ slum upgradation, instead of eviction. This implies that no eviction should take place unless 'absolutely necessary' (in the case of untenable sites), and in such cases the alternative locations must be chosen in consultation with the concerned urban poor communities. Untenable sites are defined as 'those slums which are on environmentally hazardous sites (like riverbank, pond sites, hilly or marshy terrains, and so on.), ecologically sensitive sites (like mangroves, national parks, sanctuaries, and so on.), and on land marked for public utilities and services (such as major roads, railway tracks, trunk infrastructure, and so on' (GoI, 2013 b, p. viii). Also, slum resettlement 'will be to the extent possible within the same ward/zone or the adjoining ward/zone to minimize adverse impacts on livelihoods and community assets and access to health and education facilities' (GoI, 2013 b, p. 2). Of course, it is the translation of such guidelines at the state level that is of significant importance to offer tangible protection. We shall see that in the case of Delhi, the narrative towards slums in the public arena and intervention of the High Court has placed tremendous hurdles for implementation of government policies under JNNURM and RAY.

Recently, the newly elected government launched the 'Housing for all by 2022' programme or the *Pradhan Mantri Awas Yojana* [Prime Minister's Housing Scheme] supposed to house every family in *pucca* housing by 2022 which is the 75th anniversary of India's Independence. Since 2015 to 2017 about 1.7 million houses have received approval in 2000 cities (Sharma, 2017c). The Scheme, so far, has made housing more affordable in the areas where it is being successfully implemented, for

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[165] *See*, for example, the Odisha Property Rights to Slum Dwellers and Prevention of New Slums Bill, 2012.
[166] Many states indeed expressed reluctance to give absolute ownership rights to slum dwellers. See, Das & Bhise (2014).

example, Mumbai (Saha 2017) and Srikakulam and Vizianagaram districts of Andhra Pradesh. It aims to provide central assistance to Urban Local Bodies (ULBs) and other implementing agencies through States/UTs for,[167]

- In-situ Rehabilitation of existing slum dwellers using land as a resource through private participation
- Credit Linked Subsidy
- Affordable Housing in Partnership
- Subsidy for beneficiary-led individual house construction/enhancement

All States and Union territories (UTs) are eligible under the scheme and States can choose amongst the four options under offer. As per the central guidelines under the scheme (GoI, 2016 c), a beneficiary is defined as a family comprised of a husband, a wife and unmarried children. States/UTs can decide a cut-off date on which beneficiaries may be resident in order to be eligible for the scheme. The Scheme will support houses up to 30 square meter carpet area with basic civic infrastructure, again a feature States can make additions to. The Guidelines state that slum redevelopment projects and affordable housing projects in partnership should have basic civic infrastructure like water, sanitation, sewerage, road, electricity and so on. (2.2 PMAY). Another notable feature of the Scheme is that 'the houses constructed/acquired with central assistance under the mission should be in the name of the female head of the household or in the joint name of the male head of the household and his wife, and only in cases when there is no adult female member in the family, the house can be in the name of male member of the household' (2.5 PMAY). The implementation methodology of the scheme can be captured by the following figure.

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[167] See, Ministry of Housing and Urban Affairs, http://mhupa.gov.in/User_Panel/UserView.aspx?TypeID=1434

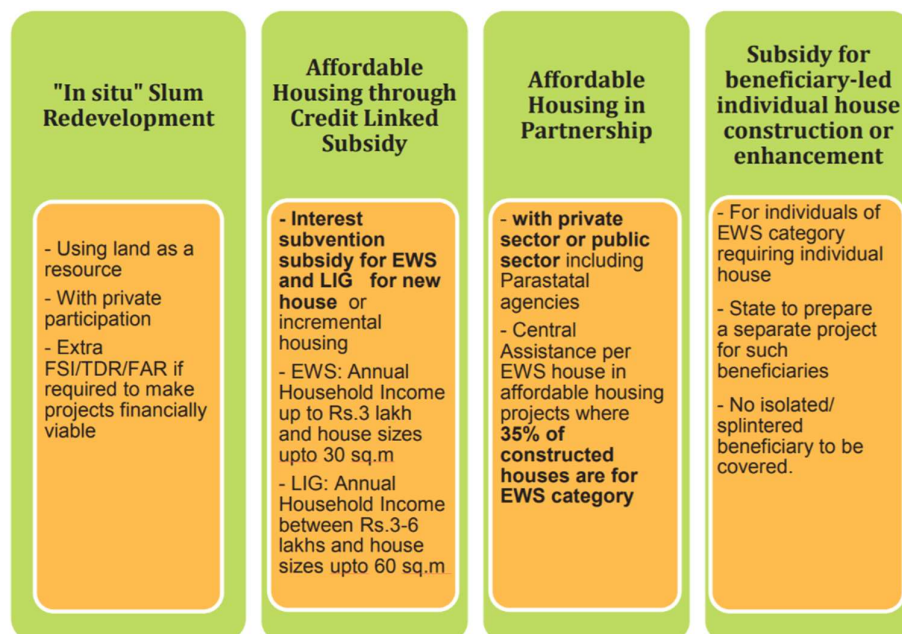| "In situ" Slum Redevelopment	Affordable Housing through Credit Linked Subsidy	Affordable Housing in Partnership	Subsidy for beneficiary-led individual house construction or enhancement
- Using land as a resource - With private participation - Extra FSI/TDR/FAR if required to make projects financially viable	- **Interest subvention subsidy for EWS and LIG for new house** or incremental housing - EWS: Annual Household Income up to Rs.3 lakh and house sizes upto 30 sq.m - LIG: Annual Household Income between Rs.3-6 lakhs and house sizes upto 60 sq.m	- **with private sector or public sector** including Parastatal agencies - Central Assistance per EWS house in affordable housing projects where **35% of constructed houses are for EWS category**	- For individuals of EWS category requiring individual house - State to prepare a separate project for such beneficiaries - No isolated/ splintered beneficiary to be covered.

FIGURE 2 IMPLEMENTATION METHODOLOGY UNDER PMAY

Source: Pradhan Mantri Awas Yojana Guidelines, March 2016.

Beneficiaries can take benefit of one component only. For in-situ redevelopment, TDR refers to Transfer of Development rights which is defined as 'making available certain amount of additional built up area in lieu of the area relinquished or surrendered by the owner of the land, so that he can use extra built up area himself in some other land'. This is aimed towards the private developers to incentivize them to take up building projects. Slums, so redeveloped will be *compulsorily* de-notified. For the credit linked subsidy, eligible beneficiaries would be eligible for a credit subsidy of 6.5% for a tenure of 15 years or for the tenure of the loan, whichever is lower. The centre will provide grants for slum redevelopment of ₹ 1 lakh per house. For the beneficiary led construction of houses, title deeds to the land are required which most slum dwellers lack. While the scheme defines its beneficiaries narrowly, it does state that, 'Manual Scavengers, Women (with overriding preference to widows), persons belonging to Scheduled Castes/Scheduled Tribes/Other Backward Classes, Minorities, Persons with disabilities and Transgender' will be given preference.

Slum Upgradation

Slum upgradation refers to the integrated development schemes that aim at improving the environmental conditions of urban slums. These programmes emerged as part of the broader goal of urban poverty alleviation, by boosting access to basic services for the urban poor, fostered by the central government (cf. *supra*). The Environment Improvement of Urban Slums (EIUS) is a centrally sponsored programme, which in 1972, as mentioned earlier, laid down for the first time minimum norms for improvement of the slum environment. Besides these norms, the programme provides for some improvements to be carried out (communal water taps and latrines, the construction of open drains, and so on.) in areas formally declared as slums under the Slum Areas Act. Moreover, the guidelines of the EIUS require the slum area not to be earmarked for clearance for at least 10 years from the start of the improvement works (GoI, 1982). The purpose of this condition was to justify

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public expenditure, but it has also led to some security of tenure for the beneficiaries, although no mention of tenure regularization is made (Banerjee, 2011, p. 39).

The fundamental rights to water and sanitation are well-established norms of constitutional law in India. Through creative readings of Art. 21 of the Constitution, the Supreme Court and the State Highest Courts have provided the rights of a socio-economic nature with a much-needed legal traction. What is less well established and remains a source of concern is the precise entitlements of the different categories of right-holders. We think – of course – of the recent judgment issued by the Mumbai High Court discussed at length above, but there are other traces of distinctions that are not necessarily justified by one's group specific vulnerability. We can refer, for instance, to the variations among the norms for water and sanitation according to the type of water supply source (stand-post or pipeline). 'Land and space constraints' also create a distinction in benefits (community-based or household-based sanitation) under the Swachh Bharat Mission. The same is true with regard to adequate housing. Discrepancy is to be noted between the universal recognition at the constitutional level, and the variations in entitlements according to the legal status of the land at the legislative level. The legal status and categorization of a given piece of land is of fundamental importance for procedural protection against forced evictions (whether notified or not, whether on public or private land) and enjoyment of benefits under the EIUS scheme. Three classifications can be recorded so far: the notified vs non-notified areas, the public vs private-owned lands and finally the tenable vs untenable sites. We will further investigate in Part III whether the various categories of RTWS holders can be linked to the categorization of land status or the other tenurial issues that have been highlighted. we must nevertheless emphasize at this point the numerous endeavors at the policy level to ensure that slum dwellers' access to basic services is not made dependent upon their tenurial status and the temporary character of their settlement (For example, the Swachh Bharat Mission). The competing interests at stake are seemingly, on one hand, the return on public investment made and, on the other hand, universal coverage of basic services.

2.3. Municipal Legislations in Delhi

The aim of this section is to provide a general picture of Delhi with regard to our subject-matter: its demography, institutional design, service providers, the water and sanitation situation and the typology of informal settlements. Setting the stage before the case study is the primarily goal, but we will also distinguish patterns that may emerge from various policies and practices through which the governing institutions engage with the poor residents in the city.

2.3.1. NCT, Delhi is the Capital of India

NCT, Delhi is spread over an area of 1,486 sq.km. There were originally a large number of villages (300) within the Delhi metropolitan region (GoI, 2011 d, p. 12), but today it has grown to be the most urbanized area of the country.[168] As per the Census 2011 (provisional figures), the total population of Delhi amounts to 16,753,235. This is a growth of 20.96% compared to 2001 when the total

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[168] As per the Census 2001, 93% of the population lived in urban areas, whereas only 7% lived in rural areas. 239 GoI (2011 d); GoI (2002), p. 3.

population in the capital reached 13,850,507. This rise is relatively low compared to previous decadal growths experienced in Delhi between 1981-1991 (51.45%) and between 1991-2001 (47.02%). Despite a lower population growth, the overall population density of Delhi has increased from 9,340 persons per sq.km. In 2001 to 11,297 persons per sq.km. In 2011, which is the highest density in the country (GoI, 2011 d). Over the years, Delhi has developed a 'strong and vibrant economy' (GoI, 2002, p. 3), the Gross State Domestic Product indicating a growth rate of 18.84 % during the year 2011-2012 (GoI, 2014 c, p. 3).

The NCT of Delhi is a Union territory with a special status, as it has both a Legislative Assembly and a Council of Ministers (commonly referred to as the Government of the National Capital Territory of Delhi, GNCTD) headed by a Chief Minister.[169] The Delhi Parliament is entrusted with the power to enact laws in the same areas as states, with exception of public order, police and land.[170] The central government thus still controls the Delhi police force; and the land, planning and development of the city remain within the purview of a central governmental body, the Delhi Development Agency (DDA). For these reasons, Delhi – although constitutionally a Union Territory – is sometimes depicted as a state without full statehood. The entire geographical territory of Delhi is divided into three statutory towns: the Municipal Corporation of Delhi comprising 272 wards, the Delhi Cantonment Board assembling eight wards and the New Delhi Municipal Committee that is not divided into wards (GoI, 2011 d, p. 11).

2.3.2. COMPLEX INSTITUTIONAL STRUCTURE

As 'Delhi sits at the intersection of local, state and national governments' (Sheikh & Mandelkern, 2014, p. 2), its institutional design is a complex one to comprehend. Within the labyrinth of service provider agencies in the Indian capital, four are of particular relevance for our investigation: the Delhi Development Authority, the Municipal Corporation of Delhi, the Delhi Jal Board and the Delhi Urban Shelter Improvement Board.

The Delhi Development Authority (DDA) was created in 1957,[171] at a time of large inflows of migrants from Pakistan and a corresponding need for efficient urban planning in Delhi. Its key responsibility is to develop and implement the statutory binding Master Plan for the whole territory of the NCT of Delhi. The last version of the Master Plan (MP) was published in 2001 and targeted its goals towards 2021. The DDA is also a developmental agency, responsible for the implementation of housing projects (Ruet, Saravanan & Zérah (2002), p. 31). As of April 2014, the agency owned 90,326 acres of land, which represents 25% of the city's total area (Sheikh & Mandelkern (2014), p. 5). The Chairman of the DDA is the Lieutenant Governor (him/herself nominated by the President of India),[172] and a vice-chairman is appointed by the central government.[173] The Municipal Corporation of Delhi was also set up in 1957 through the enactment of the Municipal Corporation of Delhi Act & New Delhi

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[169] Constitution of India, Art. 239A.
[170] Constitution of India, Art. 239A and the Seventh Schedule (entry 1, 2 and 18).
[171] Delhi Development Authority Act, 1957.
[172] Constitution of India, Art. 239.
[173] Delhi Development Authority Act, 1957, s. 3(3).

Municipal Corporation Act, 1957 by the Indian Parliament. It is entrusted with providing urban basic services to areas under its jurisdiction. Incumbent on the Corporation are the, *inter alia*, 'construction, maintenance and cleansing of drains and drainage works and of public latrines, urinals and similar conveniences, [...] the lighting, watering and cleansing of public streets and other public places'.[174] The Commissioner of the Corporation is appointed by the central government.[175] Since 1962, a slum and JJ cluster Department was created as part of the MCD (the 'slum wing'). The Department was charged with the implementation of the provisions of the Slum Areas (Improvement & Clearance) Act, 1956 and hence, the power of formally notifying an area as a 'slum' (cf. *infra*). The slum wing got transferred back and forth between the MCD and the DDA until it was finally subsumed under the Delhi Urban Shelter Improvement Board (DUSIB) in 2010 (Sheikh & Banda, 2014 (a), p. 2).

Delhi Jal Board (DJB)[176] is responsible for providing water supply and sewerage services to areas under the jurisdiction of the MCD.[177] The DJB was constituted under the Delhi Jal Board Act of 1998 which entitled the Board to more extensive power and autonomy compared to its ancestor, the Delhi water Supply and Sewerage Undertaking. For instance, the DJB may devolve some of its tasks to private bodies,[178] and enjoys enhanced freedom with regard to tariff policy (Ruet, Saravanan & Zérah, 2002, p. 31). Nevertheless, the DJB's autonomy is limited. For example, the decision to introduce private participation within the water and sewerage system must get prior approval from the state government.

The DJB feeds a growing population of 182 lakhs and a floating population of eight to ten lakhs through a piped water supply network of 12,000 km.[179] The water supply distribution network also covers about two lakh people in the unplanned areas as water is supplied to 903 unauthorized colonies and about fifty of these receive filtered water.[180] While the DJB is responsible for sewage facilities in the MCD areas, its role is limited in NDMC and DCB areas where these two local bodies are responsible for sewage facilities themselves (GNCTD, Water Supply and Sanitation Report). The

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[174] *Id*, s. 42(a) and (o).

[175] *Id*, s. 54.

[176] The Delhi Jal Board was constituted on 6th April, 1998 through an act of the Delhi Legislative Assembly incorporating the previous Delhi Water Supply and Sewage Disposal Undertaking. The Board is also responsible for the collection, treatment and disposal of Waste Water/Sewage in the capital. Its vision statement aims 'at providing safe drinking water and efficient sewerage services in an equitable and sustainable manner and to become an accountable service provider'.

[177] Both the Delhi Cantonment Board and the New Delhi Municipal Committee are responsible for distribution of water within their constituencies; the DJB only provides treated water supply in bulk to those territories.

[178] *Id*, s. 9(2).

[179] See, http://www.delhi.gov.in/wps/wcm/connect/doit_djb/DJB/Home/Citizens+Charter; Another estimate suggests that Delhi has a pipeline network of 14,000 km with about 68 per cent households having a piped connection. Narayanaamoorthy (2014). See Also, 'DJB reports coverage of about 82% of households in Delhi through piped water supply, and ensured average availability of 50 gallons per capita per day of filtered water. Water is supplied to over 17 million people in Delhi through a water supply network comprising 11,350 km pipelines and 105 underground reservoirs for rationalized distribution of supply. Delhi uses an average of 835 MGD raw water daily from a supply of about 906 MGD (as of 2014)'. Vinayak and Sewak (2016), p. 4.

[180]*Id,* p. 185.

MCD area has been divided into 12 zones and there are 1544 Community toilet complexes located in each of them.[181] These complexes were earlier being maintained by an NGO- Sulabh International which was charging ₹2 per head for use of the toilet but are now being operated by MCD free of charge (Sheikh, 2008).

Delhi Urban Shelter Improvement Board (DUSIB), [182] is the nodal administering body for implementing schemes aiming at habitat improvement for the urban poor in (Panda & Agarwala, 2012, n. 11). It was created under the DUSIB Act, 2010. Like the slum wing of the MCD, the Board is empowered with implementing the provisions of the Slum Areas (Improvement and Clearance) Act, 1956.[183] The chairperson is the Chief Minister of Delhi.[184] This body can therefore be classified as a state government agency. With an aim to make slum free city, Delhi government in its approach to the 12th Five year plan (2012-2017) committed to many initiatives, including regularizing unauthorized colonies and rehabilitating slum dwellers on MCD and DDA lands in Delhi (GNCTD, 2015 a). DUSIB is also the agency responsible for such relocations and rehabilitations so that there is a uniform approach with regards to all *jhuggis* and *JJ Bastis* (GNCTD, 2012). As per DUSIB's latest policy (2015), anyone living in a *jhuggi* before 1st January, 2015 is eligible for relocation and their *jhuggis* cannot be demolished without procedure (GNCTD, 2015 b). However, there cannot be any new *jhuggis*. It can be said that the DUSIB exercises extensive powers with regard to slum eviction, resettlement and slum improvement (cf. *infra*).

Nevertheless, the powers of the DUSIB must not be overestimated. As per the policy of the Delhi government, the ownership of the land determines the evicting body. This means that the landowner – be it the central government agencies or other Land Owning Agencies (LOAs), for example the Land and Development Office – has to carry out and bear the cost of the eviction and relocation process (GNCTD, 2013, s. 1). Although the landowner body can entrust the DUSIB (or the slum department of the MCD previously) with relocation/rehabilitation operations, experience has shown that the LOAs usually undertake operations unilaterally (Sheikh & Banda, 2014 (a), p. 10). Nevertheless, most of these LOAs, such as the DDA, are not *per se* slum rehabilitation agencies. In such circumstances, the approaches towards slums have been 'sporadic and not part of an overall strategy' (GNCTD, 2015 d, p. 1). This brief overview of the institutions involved for urban governance and service delivery in Delhi demonstrates that they did not develop in an organic way, but are rather characterized by 'fragmentation of authorities and multiplicity of power centres' (WaterAid India, 2005, p. 34). As a result, a lot of overlap comes about: the concurrent powers of the DJB (construction and maintenance of sewer lines) and the DUSIB (construction and maintenance of public toilets) with

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[181] An affidavit filed by Devendra Kumar, Joint Direstor, DEMS – II, MCD; in response to the Delhi High Court orders dated 18 September 2006 in Sheikh (2008).

[182] The DUSIB is a statutory body which has succeeded the Slum and JJ Department of MCD. The Act has created a body corporate to under the statutory control of Delhi Government. DUSIB has been also assigned the role of looking after the JJCs and squatter settlements by way of providing for civic amenities particularly water and sanitation. The department was entrusted with the work of operating the provisions of Slum Areas (Improvement & Clearance) Act, 1956. The Chief Minister of Delhi remains the Chairperson of the board.

[183] DUSIB Act, 2010, s. 3(2).

[184] *Id*, s. 3(4).

regard to sanitation for instance. Overlapping responsibilities are not necessarily problematic if accompanied by efficient collaboration between the institutions concerned. Unfortunately, the institutional arrangements in Delhi are not geared toward collaboration. Lastly, we have observed that Delhi has been the scene of a power struggle between the Delhi and the central governments. Being the capital, the Union wants to keep its influence on its development, while there is a Delhi Legislative Assembly empowered to enact laws on urban planning and set up institutions (such as the DUSIB), the Ministry of Urban Development, under the cover of the DDA and through the implementation of the Master Plans and land use regulation, still pulls the strings of urban development in Delhi (WaterAid India, 2005, p. 34).

2.3.3. TYPOLOGY OF INFORMAL SETTLEMENTS IN DELHI

As per the Census 2001, 415,637 households were living in slums in the NCT of Delhi, which amounts to 2,029,755 people. The number of slum dwellers represented 15.7% of the total urban population. In 2011, the Census (provisional figures) revealed that the number of households and people living in slums had decreased to 367,893 and 1,785,390 respectively, which thus now represents 14.6% of the total urban households.[185] The total land occupied by those slums would be less than 10 sq.km. covering less than 3% of the total residential area in Delhi (Kundu 2004, p. 267). The distribution of land on which slums (JJ clusters in particular) have been erected according to the LOA is illustrated in Table 6 below. The three levels of power are very well represented, with the central government nevertheless owning the largest share of land. According to the DUSIB's list, no JJ clusters have been constructed on private land in Delhi.

TABLE 6 LAND-OWNING AGENCIES OF JJC'S IN DELHI

Level of government	Land-owning agencies	Percent of all JJC land area in Delhi	Percent of JJCs in Delhi
Central	DDA, Railways, CPWD, L&DO, Cantonment Board	66	67
State	DUSIB, PWD, Forest, Revenue, DJB, Flood Control Department	32	23
Local	MCD, NDMC	5	10

Source: DUSIB's list of 685 JJCs in Delhi, 2011.

There are seven different types of unplanned settlement to be found in Delhi: the JJ clusters, the slum designated areas, the resettlement colonies, the unauthorized colonies, the regularized unauthorized colonies, the rural villages and the urban villages. In the year 2000, the total urban population was divided within the eight types of settlements as enumerated in Table 7 below. We can see that slum designated areas represented about 31% of the total urban population, JJ clusters 24% and resettlement colonies 20%.

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[185] This decrease might be due to the definition change of 'slum' in the Census 2011 (cf. infra).

TABLE 7 TYPE OF SETTLEMENT AND POPULATION

St. No.	Type of settlement	Type of settlement Approx. population in lakh (2000)
1.	J.J. clusters	20.72
2.	Slum designated areas	26.64
3.	Unauthorized colonies	7.40
4.	Resettlement colonies	17.76
5.	Rural villages	7.40
6.	Regularized-unauthorized colonies	17.76
7.	Urban villages	8.88
8.	Planned colonies	38.08

Source: Heller, P. (2015), p. 6.

We will focus below solely on slum designated areas, JJ clusters and resettlement colonies.[186] 'Slum designated areas' are formally notified as slums under the Slum (Clearance and Resettlement) Act, 1956. In Delhi, the competent authority to notify a slum area was the Director of the Slum and JJ Department of the Municipal Corporation of Delhi (cf. *infra*). The last notification was done in April 1994. Most of the slum designated areas are situated in the 'walled city', heritage site in old Delhi, the walled city extension and some small parts of East Delhi (Gupta, 2012). There is no slum designated area on public-owned land. The *Jhuggi Jhopri* clusters – otherwise referred to as 'slums', 'squatter settlements', '*basti*' or 'hutments' – are illegal occupations of (public or private) lands where building activities have taken place with disregard for/in total violation of development regulations (Banerjee, 2011, p. 45-46). Aside from the precariousness of the occupancy status, these settlements are marked by the physical precariousness of the housing. The Delhi Fire Service department website says the following about the structure of these *Jhuggis,*

> The materials used for constructions of these *Jhuggies* are highly combustible and produce toxic gases when involved in fire. Though small in size but very large in numbers in a pocket, *Jhuggies* are built side by side and back to back in a row. The lanes serving these rows are hardly a meter in width. Besides housing the poor, these also providing space for storage of huge quantity of rags, chemicals, plastic, PVC and so on.[187]

Under the DUSIB Act, 2010, the Board may declare a group of *jhuggies*,[188] as being a *jhuggi jhopri basti* based on the following factors: '(i) the group of *jhuggis* is unfit for human habitation; (ii) it, by reason of dilapidation, overcrowding, faulty arrangement and design of such *jhuggis*, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of

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[186] For further information on the different types of informal settlements, see Banerjee (2011), p. 45-46.
[187] Delhi Fire Safety department,
http://www.delhi.gov.in/wps/wcm/connect/doit_fire/FIRE/Home/Precautions/JJ+Clusters
[188] For the purpose of the Act, a *jhuggi* is defined as a 'structure whether temporary or *pucca*, of whatever material made, with the following characteristics: (i) it is built for residential purpose; (ii) its location is not in conformity with the land use of the Delhi Master Plan; (iii) it is not duly authorized by the local authority having jurisdiction'. DUSIB Act, 2010, s. 2(f).

these factors, is detrimental to safety, health or hygiene; and (iii) it is inhabited at least by fifty households as existing on 31st March, 2002'.[189] Except for the inclusion of a cut-off date, the definition is the same as the one provided for in the Slum Act of 1956. JJ clusters in themselves were already present since the inception of the city (GNCTD, 2015 e, p. 196). The DDA further explains their creation by the fact that 'there was a time lag between the land acquisition and implementation of the developmental projects', where 'large tracts of empty land got encroached by way of slums' (GNCTD, 2015 d, p. 1). Yet, one can argue that the DDA might have prevented the tremendous growth of informal settlements by fulfilling its mandate to provide adequate and affordable housing for a rapidly growing city (Sheikh & Mandelkern, 2014, p. 4). It is indeed the failure to properly implement the Master Plan that must be viewed as the main explanation for slum proliferation in the capital.[190] The original and revised versions of the Master Plan reserved 25% of the housing stock to Economically Weaker Sections (EWS), but the DDA lamentably failed in providing this housing supply (GoI, 2002). There are currently 672 JJ clusters listed on the DUSIB website.[191] It is worth noting that over 80% of the land occupied by the JJ clusters belongs to the DDA (GNCTD, 2006, p. 66). Resettlement colonies – officially referred to as *jhuggi jhopdi* resettlement colonies – are composed of city-dwellers that, in the process of city-beautification or other development projects, have been evicted from their dwellings in inner-city areas. Relocated from their previous JJ clusters to the periphery of the city, these inhabitants are highly vulnerable due to their economic displacement (Water Aid India 2005, p. 29). As opposed to JJ clusters, '[resettlement colonies] are explicitly included within the development area of the master plan in a zone marked for residential use" (Bhan 2013, p. 13). Yet, they are not categorized as a 'planned settlement' by the Delhi government. In August 2014, the number of resettlement colonies was estimated at 55 in Delhi (Sheikh, Banda & Mandelkern 2014, p. 2).

2.3.4. SLUM GOVERNANCE SINCE 1990
At the end of the 1990s, India entered into the era of liberalization and opening up of the economy. In such a context, the urban space devoted to slums in 'global cities' shrunk massively. Illustrative thereof is the goal to turn Delhi into a 'slum free city' with a 'world class' look, through 'slum clearance' and 'rehabilitation' which gained more and more importance at the political level (Ghertner, 2011, p. 282).[192] This is echoed in the Delhi Master Plan 2021 that envisions making Delhi a 'global metropolis and a world-class city'. This change in narrative for slum governance translated into heavy human and social costs of slum demolition. Between 1990 and 2007, the city undertook the construction of mega infrastructure projects, such as the metro railway, in preparation for hosting the 2010 Commonwealth Games.[193] In order to attract investors and 'to dispel most visitors' first impression that India is a country soaked in poverty (Ramesh 2008), massive demolition and relocation of JJ clusters took place. According to a list established by the slum department of the

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[189] *Id*, s. 2(g).

[190] *See further*, about the 'Master Plan implementation backlog': Verma (2002) and Ramanathan (2006).

[191] *See*, http://delhishelterboard.in/main/?page_id=3644

[192] For instance, the Minister of Urban Development, for his recurrent emphasis on 'slum clearance', came to be referred to as 'Demolition Man,' http://www.thehindu.com/2001/09/05/stories/02050002.htm

[193] For a comprehensive report on the 'demolition drive' prior to the Commonwealth Games, See, HLRN (2011).

MCD, 217 JJ clusters were demolished and relocated between 1990 and 2007 (GoI, 2010). It is important to note that this number does not encompass the number of evictions where no alternative arrangements were provided due to failure to meet the eligibility criteria. Other studies reveal the displacement of 64.910 families during the same period (Bhan & Shivanand 2013, p. 56). In 1990-1991, the Delhi government started implementing the three-pronged strategy under the Slum (Clearance and Removal) Act for dealing with the problem of JJ clusters (GNCTD, 2006, p. 6-10). The first prong of this strategy entails the relocation of JJ households to be carried out for only those clusters that are required by the LOA for projects of 'larger public interest'. Past encroachments which had been in existence prior to 31 January 1990 cannot be removed without providing alternative arrangements (GNCTD, 2006, p. 7-8). Furthermore, the granting of plots on a freehold basis to JJ dwellers at the relocation site has been agreed to in principle by the Delhi government.[194] Beneficiaries should contribute up to ₹7,000/9,000 under the second prong, the JJ clusters whose encroached land pockets are not required by the concerned LOAs for another 15 to 20 years for any project implementation have to be upgraded in situ.

Lastly, all JJ clusters – irrespective of the status of the encroached land – have to be improved to further enjoyment of minimum basic civic amenities for community use under the EIUS scheme.[195] Although limited, inhabitants of JJ clusters were thus provided with prospects for improvement of their living conditions and a resettlement scheme in case of eviction. However, this three-pronged strategy was never fully implemented as it was undermined by judicial pronouncements of the highest Courts. Illustrative thereof is the Lawyers Co-operative group housing society vs Union of India and others,[196] case where the Delhi High Court expressed its concern for 'the public exchequer [...] to be burdened with crores of rupees for providing alternative accommodation to *jhuggis* dwellers who are trespassers on public land'. After weighting up the pros and cons, the Court ordered rehabilitation on a license basis, instead of leaseholds rights basis as the Commissioner of the MCD intended.[197] Even more significant is the jurisprudence of both the Supreme Court and the Delhi High Court that upholds the city beautification agenda in PIL cases brought to them by various resident welfare associations. In the aforementioned Almrita Patel judgment, the Supreme Court definitely paved the way for endorsing the role of the capital as a 'showpiece' of its country, and established the primary task of the governmental agencies to 'clean up the city'. In the same vein as the Pitam Pura Sudhar Samiti judgment,[198] the Delhi High Court recalls its assigned mission to 'help to make Delhi a more liveable place and ease the problems of the residents of this town who

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[194] Okhla Factory Owners' Association vs GNCTD, 108 (2002) DLT 517, para. 11.
[195] For example Pay and Use *Jansuvidha* Complexes containing toilets and baths and also the introduction of mobile toilet vans in the JJ clusters are envisioned. GNCTD (2006), p. 9.
[196] Civil Writ Petition No. 267 of 1993 (Delhi High Court, 1993).
[197] The Commissioner of the MCD indeed justified the leasehold system on the basis that it 'has the advantage of providing a general sense of security to the urban poor beneficiaries; in addition the beneficiaries can obtain shelter loan from financial institutions. On the other hand, the license fee system is working against the National Housing Policy, that lays stress on tenurial rights; it is an anti-poor policy that treats urban poor as second class citizens' (cited in Dupont & Ramanathan (2009), p. 327).
[198] Pitam Pura Sudhar Samiti vs Union of India and Ors, ILR (2002) 2 Del 393.

undoubtedly suffer and are harassed as a consequence of this encroachment on public land.'[199] After the Lawyers Co-operative group housing society case,[200] the next moment of jeopardy for the resettlement scheme of evicted slum dwellers materialized itself in a few words, when the Supreme Court claimed that 'rewarding an encroacher on public land with free alternate site is like giving a reward to a pickpocket'[201] The Delhi High Court in the Okhla Factory Owners' Association case,[202] then completely struck down the government resettlement policy. There, the Court acknowledges that 'it is undoubtedly the duty of the Government authorities to provide shelter to the under-privileged', but such a goal, the Court argues, will be achieved by using economic criteria for the allotment of plots, rather than using the arbitrary criteria of squatting on public land. Based upon the arbitrariness of the scheme, the judges ordered that (a) 'encroachers and squatters on public land should be removed expeditiously without any pre-requisite requirement of providing them alternative sites before such encroachment is removed or cleared' and (b) 'no alternative sites are to be provided in future for removal of persons who are squatting on public land'.[203] In a nutshell, the intervention of the judiciary in urban governance has reinforced the 'perception of slum dwellers as squatters, culprits of encroachment, without recognizing them as victims of the failure of housing policy and urban development' (Dupont & Ramanathan, 2009, p. 313).

2.3.5. Economically Weak Sections (EWS) & Low-Income Groups (LIG)

EWS and LIG are the last fringes of the Indian society, supposedly the most vulnerable. Classification is based upon income ceilings (annual HH income up to ₹1 lakh => EWS, ₹1-2 lakh => LIG). Since the years 2006-2007, the face of slum governance in Delhi has changed gradually. Firstly, a steady decrease in the number of evictions has been recorded from that time on.[204] Also the narrative for dealing with slums has shifted from 'slum clearance' towards 'inclusive city development' (JNNURM) and 'whole city approach towards informal settlement' (RAY). The aim of creating 'slum-free cities' is still present, but is rather approached from the preventive side of creating affordable housing stock for EWS & LIG. The year 2010 is then revolutionary, with several achievements in terms of slum dweller protection. Firstly, the enactment of the DUSIB Act in 2010 is of significant importance. The Act granted legislative recognition of the very existence of more than hundred informal settlements.[205] Settlements on public-owned land had previously fallen through the net of formal slum notification and had existed in the city for decades at the margin of formal regular housing sector and invisible for urban planning. The Act further bestowed the DUSIB with extensive powers with regard to JJ clusters. First, the power to survey lies in its hands and this is significant as 'such data [collection] are a key factor in deciding whether a given resident is eligible for the benefits of the rehabilitation at hand' (Sheikh & Banda 2014 (a), p. 4). The Board then has the power to prepare

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[199] Okhla Factory Owners' Association vs GNCTD, 108 (2002) DLT 517, para. 50.

[200] Civil Writ Petition No. 267 of 1993 (Delhi High Court, 1993).

[201] Almrita H. Patel vs Union of India 2000(2) SCC 166, para. 14.

[202] 108 (2002) DLT 517.

[203] *Id*, operating paras. 7-8.

[204] In 2007 'only' three cases of evictions are recorded, with 240 households being relocated. This number gradually decreased since then. Bhan & Shivanand (2013), p. 56.

[205] *See*, the DUSIB website, http://delhishelterboard.in/main/?page_id=3644

a scheme for the removal of any *jhuggi jhopri*, 'and the consent of the residents of the *jhuggi jhopri basti* shall not be required for the preparation or implementation of such a scheme'.[206] Such a scheme shall define the criteria for eligibility for resettlement of evicted slum dwellers. Removal can also be decided as a result of a redevelopment scheme.[207] The DUSIB can require the local police to give assistance during the removal operations.[208] Similarly to its discretionary power to instigate removals, the Board enjoys the capacity to prepare a housing scheme for the resettlement of persons that have been evicted and are entitled to resettlement.[209] Finally, and for such slums that are not to be cleared, the Board may prepare a scheme for improvement, which may include the provision of toilets and bathing facilities, improvement of drainage, and provision of water supply, street paving and lightning, and provision of dustbins, or sites for garbage collection, and so on. [210]Later, in 2010 the Delhi High Court issued two judgments of significant importance for raising the level of protection against arbitrary evictions of slum dwellers (cf. infra). In Sudama Singh and Others vs Government of Delhi and Others, the High Court reaffirmed principles and guidelines that have to be abided by the evicting body throughout the whole process.[211] The Court firstly recalls that the logic underpinning these directives is to ensure that the forcibly evicted and relocated *jhuggi* dweller is not worse off than before the eviction.[212] In light of the 'bundle of rights' at risk during evictions, the need of due process to be carried out before evictions is underlined by the judges. Consultation with the affected families must occur in a 'meaningful manner' in order to determine eligibility for rehabilitation and relocation under the 'cut-off' date. Finally, the state authorities must identify empty plots equipped in terms of infrastructure with the civic amenities that can ensure a decent standard of living for those being relocated prior to initiating the moves for eviction.[213] As a matter of fact, the Court expresses great concern with regard to the inadequacy of the resettlement sites, especially the lack of basic amenities. [214] The obligation to rehabilitation must be properly implemented before any task for forceful eviction of a *jhuggi* cluster is undertaken by the state agencies. This is later confirmed in the P.K. Koul and Ors. vs Estate Officer and Anr. and Ors. judgment. [215] It is noteworthy that the use of a cut-off date to determine entitlement for

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[206] DUSIB Act, 2010, s. 10(1).

[207] *Id*, s. 12.

[208] *Id*, s. 10(3).

[209] *Id*, s. 21.

[210] *Id*, s. 11.

[211]168 (2010) DLT 218.

[212] *Id*, para. 57.

[213] *Id*, para. 55.

[214] The Court indeed declared that 'it is not uncommon that in the garb of evicting slums and 'beautifying' the city, the State agencies in fact end up creating more slums the only difference is that this time it is away from the gaze of the city dwellers. The relocated sites are invariably 30-40 kms away from a city centre. The situation in these relocated sites, for instance in Narela and Bhawana, are deplorable. The lack of basic amenities like drinking water, water for bathing and washing, sanitation, lack of access to affordable public transport, lack of schools and health care sectors, compound the problem for a *jhuggi* dweller at the relocated site. The places of their livelihood invariably continue to be located within the city. Naturally, therefore, their lives are worse off after forced eviction'. *Id*, para. 60.

[215] P.K. Koul and Others vs Estate Officer and Another and Others, W.P. (C) No. 15239/2004 and CM No. 11011/2004, Delhi High Court, 30 November 2010, para. 172.

resettlement after eviction was never questioned by the High Court. The concept of a cut-off date for the protection of irregular settlements entails substantive and procedural protection for those who can establish continuous residence in their dwelling since prior to the given date (Hohmann, 2010, p. 162). In the particular case of Delhi, the beneficiaries are entitled to resettlement (on a plot or in a flat) in the case of eviction or demolition. Although doubt may be cast upon the constitutionality of this cut-off date,[216] the Court seemingly considers that it offers tangible advantages to slum dwellers' day-to-day vulnerability.

 The above-mentioned directives recently issued by the High Court are yet to be fully implemented at the policy level. Addressing the housing shortage under JNNURM, the GNCTD (through the DUSIB) has undertaken the construction of flats for the economically weak sections of the urban society. These flats are to be fitted with water and sanitation facilities. Although construction has proven difficult, by the end of 2013, more than 14,000 flats were ready for occupation by EWS (Sheikh & Banda, 2014 b). The Delhi government is planning the building of an additional 27,000 flats in 2015 (PTI, 2015 b). The total number of flats under the JNNURM scheme will amount to roughly 50,000316 (PTI, 2015 b). Flats are to be initially allotted on leasehold basis for 15 years, and then converted into freehold (GNCTD, 2013, p. 3). The allotment of the flats already started in 2010 but eligibility criteria have proven to be exclusionary.[217] As of today, the conditions for relocation/ rehabilitation are, *inter alia*, the following,

> (i) The beneficiary JJ dweller must be a citizen of India and not less than 18 years of age; (ii) The JJ dweller should have been occupying the *jhuggi* on or before 4.6.2009; (iii) The JJ dweller cannot claim the allotment of a flat as a matter of right; [...] (viii) In case of multistoried *jhuggi* occupied by the same person or different persons for residential purpose, the allotment will be considered to the occupant of ground floor only; (ix) Allotment will be made in the joint-name of the husband and wife occupying the *jhuggi*; [...] (xiv) The licensee shall use the flat for residential purpose only (GNCTD, 2013, p. 3-4).

In a first phase, 44 priority JJ clusters were identified for relocation/ rehabilitation. In April 2014, 95 JJ clusters were included in the list (Sheikh & Banda 2014 b). The procedure for establishment of this priority list lacks transparency as 'no information is available explaining how a JJ cluster is given priority over another' (GNCTD, 2013, p. 3-4). It is the LOAs that approach the DUSIB for the inclusion of certain JJ clusters in the priority list, and the DUSIB which decides to undertake the relocation/rehabilitation operations. In the light of 'letters for prioritization of JJ clusters' sent by LOAs (GNCTD, 2011), it seems that the DUSIB automatically includes the JJ clusters in the priority list, with little or no regard to the 'larger public interest' justifying such relocation/rehabilitation. This

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[216] *See*, Dilip D'Souza's criticism of the arbitrariness of the cut-off date. D'Souza (2005).

[217] It is estimated that around 50% of the evicted slum dwellers have been excluded from the resettlement policy. See, Sheikh & Banda (2014 b). Additionally, the DUSIB has recognised the flaws of the system: 'sufficient number of persons did not become eligible for allotment as per the strict criteria and procedures in the guidelines'. GNCTD (2013), p. 1.

disproportionate power allocated to LOAs potentially undermines the purpose of creating affordable housing stock for the urban poor.

2.3.6. WATER SUPPLY AND SANITARY SITUATION

Delhi's water sources consist of both surface and ground water. Supply from surface water – flowing from the Yamuna, Bhakra and Ganga rivers – represents more than 90% of the total supply.[218] Most of the surface water is treated at five plants spread throughout the city.[219] Table 8 below shows the different sources of drinking water used by Delhi inhabitants. As per the 2011 Census (provisional figures), 81.3% of households in Delhi now have access to a piped water supply.[220] We can add that according to the DJB, about 73% of the Delhi population is connected to the sewer network.[221]

TABLE 8 DISTRIBUTION OF HOUSEHOLDS BY AVAILABILITY OF DRINKING WATER FACILITY & SOURCE IN DELHI

No	Source and Availability of Drinking Water	Households (%)
I.	**Sources**	
1.	**Piped Water Supply System**	**81.30**
	a. From Treated Source	75.20
	b. From Untreated Source	6.10
2.	Covered Well	0.10
3.	Hand pump	5.30
4.	Tube Well	8.40
5.	Tank, Pond, Lake	1.20
6.	Other Sources	3.70
II.	**Availability**	
1.	Within the Premises	78.40
2.	Near the Premises	15.40
3.	Away	6.20

Source: - Census of India, 2011, Houses, Household Amenities and Assets.

Although these figures represent a remarkable extension of coverage for basic services, it seems that provision deficiencies are unequally distributed among the Delhi inhabitants. This appears very clearly in a range of reports and statistical analyses. First, Dr. A.K. Susheela and other experts have explained that the city can be classified into five zones, depending upon the type of water supply (Susheela, Bhatnagar & Kumar, 1996, p. 299). In Table 9 below, we can see that the quality, safety and availability of water decreases as we move up toward the fifth zone. It is regrettable that the research did not present a map with the geographical distribution of the different zones or provides a definition of the term 'urban slums' (zone 5). Nevertheless, such distinctions in terms of the type of water supply source are very relevant for our research, as they offer some initial criteria from which to distinguish one urban settlement from another.

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[218] The surface water resources is 940 million gallons per day (mgd), and the groundwater resources 63 mgd. DJB (2004), p. 6.

[219] *Id*, p. 6.

[220] DJB website, http://www.delhi.gov.in/wps/wcm/connect/doit_djb/DJB/Home/About+Us

[221] *Ibid.*

TABLE 9 DIVISION OF ZONES IN DELHI ON THE BASIS OF TYPE OF WATER SUPPLY

Zone 1	Water is available from the tap 24 hours/day and is treated water.
Zone 2	Water is rationed and is available for a total of approximately 6 hours/day during morning, noon and evening.
Zone 3	As the water supplied by the Municipality is grossly inadequate for the population living in an area, tube well water is mixed with the Municipal supply in overhead tanks and this water is supplied through pipelines for a few hours during the day. Mixed water is invariably not tested for quality.
Zone 4	In peri-urban areas, tube well water stored in overhead tanks is supplied through pipelines, invariably not tested for quality, besides individual households dig their own tube wells with hand pumps as the Municipal supply is inadequate.
Zone 5	In the urban slums, there is no organized water supply as the water tankers provide water during certain hours of the day and the community has to collect and store water for the day's requirements. The slum dwellers dig shallow wells fitted with hand pumps and draw up subsoil water and animals and human beings live together in extremely unhygienic conditions. The concept of water quality testing does not prevail.

Second, one can link the source of drinking water to the (in)formal character of the housing. This is what Sajha Manch did (cf. Table 10 below) and the results highlight the inequitable provision of water supply and sanitation facilities in the city. As we have seen before, the norms for the provision of water supply are different according to the source of drinking water (cf. *supra* EIUS physical norms and the Manual on water Supply and Treatment published by the Central Public Health and Environment Engineering Organization). This status quo situation is compounded by the fact that the actual provision in the informal settlements is even lower than provided for in the norms.

TABLE 10 PROVISION OF BASIC SERVICES IN VARIED SETTLEMENTS

Basic Services	Norms for Formal Housing	Norms for Informal Housing	Actual Provisions in Informal Settlements
Water	363 lpcd Individual supply	40 lpcd, 1 community stand post for 150 persons	30 lpcd
Sanitation	Individual toilets connected to city level sewerage systems	Community toilets; one seat for 25 persons	One seat for 111 persons only 75 per cent with sewerage cover
Solid Waste Management	Household level collection	Deposit at nearest garbage point	44 per cent gap for all city
Electricity	Individual metered connections 150 units per individual per day	Street light and some individual metered connections through group contractor 12 units per individual per day	30 per cent gap; Complete coverage with un-metered connections 8 units per individual per day

Source: WaterAid India, 2005, p. 27

One more recent piece of statistical analysis, further upholds the conclusion of the above-mentioned research (GNCTD 2006, p. 6-7). The coverage percentage for piped water supply and sewer facility varies among the different types of settlements in the city. The *jhuggi jhopri* clusters are the worst off with 21.7% and 9.8% connected to the piped water supply and sewer system respectively.

TABLE 11 WATER AND SANITATION STATUS IN THE UNPLANNED SETTLEMENTS (2004)

Service provision in unplanned settlements	Piped water supply		Sewer facility	
	Number	% of colonies	Number	% of colonies
Regularised unauthorised colonies	557	98.2	458	80.7
Resettlement colonies	44	100	44	100
JJ Clusters	158	21.7	72	9.8

Source: Slum Department, Municipal Corporation of Delhi, New Delhi in WaterAid, 2005.

Summing up the above studies, it seems that the phenomenon of uneven coverage and disproportionate burden placed on marginalized communities (WaterAid India, 2011, p. 10), is prevalent in Delhi with regard to water supply and sanitation services in informal settlements.

It is against the background of these findings that the analysis of the case studies ought to take place. Unequal coverage is no surprise given the wide discretionary power the DJB enjoys with regard to the extension of its piped water supply and sewerage network. According to the DJB's Citizens Charter, 'any resident of Delhi – owner of premises/Tenant/occupier – who has valid identity as proof of residence/ownership', can apply for water connection.[222] Requests for water connection to the DJB are further subject to, *inter alia*, the following conditions: the colony where the applicant resides should have been taken over by the DJB for water supply; piped supply water must be technically and legally feasible and there should be valid proof of residence (ration card, voter's identity card, and so on.) or of ownership proof. With regard to sewerage connection, the DJB's Charter declares that 'the sewer connection is sanctioned only in areas where sewerage services are available'. Under such conditions we understand that an area not covered by the DJB water and sewer system, in which locality and legal status represent technical and legal difficulties has little chance of ever being connected to the piped water and sewerage network. Moreover, it is unclear whether the required residence or ownership proofs exclude inhabitants residing on public-owned land.

In the water and sanitation landscape of the national capital, it is worth mentioning the 'free water supply scheme' launched by the Aam Aadmi Party (AAP) and the declared aim of making Delhi's notified slums, open defecation free (Nath 2017). First, during its short office in 2014 and again in 2015, the AAP government headed by Chief Minister Arvind Kejriwal, promised to deliver free water to each household in the city (Lalchandani & Verma 2015). Under this scheme, 666 l. of water daily will be free of charge for every household with a metered connection. Above this amount a water tariff will be charged. This policy has been depicted as constituting a 'landmark' and a 'big step towards the realization of the fundamental right to water' (Cullet 2014 p. 6). However, one major

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[222]DJB, Citizen's Charter, http://www.delhi.gov.in/wps/wcm/connect/doit_djb/DJB/Home/Citizens+Charter

criticism of the scheme is that it only covers households that get piped water supply, in other words excluding the ones relying on tankers or bore wells. Knowing that – based upon DJB's studies – about 81% of Delhi households are connected to the water supply network, the scheme is far from being a universal entitlement.[223] As a corrective measure, the government will purchase 250 tankers to provide free water for families not linked to the piped water network (Express News Service, 2015 b). This ad hoc solution is most welcome, as long as it does not prevent the DJB from broadening the reach of its piped network.

Second, focusing on universal coverage of water and sanitation facilities, the DUSIB under the chairmanship of the current Chief Minister, is reportedly constructing almost 8000 toilets to achieve the goal of making all notified slums open defecation free by March 2018 (PTI, 2017). It seems that the DUSIB too had to navigate through Delhi's complex institutional structure. An official of the DUSIB reflected on the delay in grant of permissions in constructing toilets due to the variety of land owning agencies (Nath, 2017).

2.4. National Human Rights Commission (NHRC) on Water and Sanitation Rights

The NHRC is a statutory body established under the Protection of Human Rights Act, 1993, two years after the adoption of the Paris Principles adopted by the UN General Assembly (UN 1993). The Protection of Human Rights Act in accordance with the Paris Principles lays down the competencies and responsibility of NHRC including quasi-jurisdictional competencies. The NHRC is empowered to take up cases, including suo moto, regarding violation of human rights as well as negligence on part of public servants in preventing such violation. 'Human rights' for the purpose of the NHRC are rights to life, liberty, equality and dignity of the individual as contained in the constitution or in those international conventions that are enforceable in Indian courts (s. 2d). It can intervene in court proceedings, visit any jail to study the living conditions of inmates, review safeguards under the Constitution or any other law and take up other functions which it may consider necessary for the protection of human rights (S. 12). The Act also provides for setting up of State Human Rights Commissions and Human Rights Courts in the States.

Below is a list of NHRC interventions on water and sanitation issues in the country,

- In one case, NHRC decided that no one can be deprived of the basic amenities like water, food and electricity by the willful act of the State.[224]
- A school in West Bengal was being shut because of the non-availability of water and the NHRC held that it is a violation of the right to education and health.[225] This shows how the Commission understood the right to water in terms of the right to health and education.
- In several interventions, NHRC, taking *suo moto* cognizance on the basis of media reports has called for reports on excessive fluoride in drinking water and remedial steps taken by States.[226] The

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[223] *Ibid*.
[224] NHRC Archives, March 2016.
[225] NHRC Archives, 6 April 2016.

Commission has observed that supply of drinking water is absolutely essential considering the conditions of life and death, and if adequate clean water is not made available to the people in the area, it would amount to serious violation of human rights.[227] On 3rd April, 2013 the commission took notice of the excessive fluoride content in the drinking water of several villages in Jharkhand and asked the government for an Action Taken Report while issuing directions.[228]

• The commission, on similar lines, has also taken note of acute water shortages,[229] contaminated drinking water,[230] and arsenic in water.[231]

• The issue of the right to water has also been linked to the right against untouchability and the right to equality. The commission has taken suo moto notice of media reports about Dalits being denied access to water by the higher castes, [232]

• The right to sanitation has been enforced by the NHRC by issuing notice to the Central Government as well as Governments of States and Union Territories on the lack of toilets.[233]

• On 24th June, 2014 the NHRC took suo moto cognizance of a media report that farmers of Nidani village close to Jind City have not been getting water for irrigation as the authorities have failed to repair the dilapidated water channel for years. No water is flowing in the channel since last three years. The farmers have been constrained to use ground water which is unfit for irrigation purpose as a result their crop production has gone down. The Commission observed that the contents of the press report, if true, raise a serious issue of violation of human rights. Accordingly, it issued a notice to the Government of Haryana calling for reports within four weeks.[234]

• The commission has raised the issue of safe drinking water due to broken pipelines, lack of chlorinated water supply and provision of overhead tanks as well.[235]

2.5. CSR Activities

Globally, CSR has evolved from philanthropic activities to social and environmental consciousness in everyday conduct of business. Several global guidelines exist for CSR like 'The UN Global Compact', a set of principles derived from UN Conventions, that broadly asks business to, a) respect and support human rights including ensuring that their business does not lead to human rights abuse, b) uphold labor rights, c)be environmentally responsible and environmentally friendly and d) ensure corruption

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[226]NHRC Archives, 20 January 2015; NHRC Archives, 30 January 2015; NHRC Archives, 19 January 2015; NHRC Archives, 17 August 2011 and NHRC Archives, Case No.776/4/11/2010.

[227]NHRC Archives, 3 April 2013.

[228]*Ibid.*

[229]NHRC Archives, 20 March 2014.

[230]NHRC Archives, 12 July 2012; NHRC Archives, Other Suo Motu cases registered in the month of May, 2010; NHRC Archives, 10 June 2010; NHRC Archives, 5 January 2006.

[231]NHRC Archives, 23 May 2013; NHRC Archives, Case No.775/4/6/2010.

[232]NHRC Archives, 20 February 2013; NHRC Archives, 17 June 2011.

[233]NHRC Archives, 30 June 2014.

[234]NHRC Archives, 24 June 2014.

[235]NHRC Archives, 23 May 2014; NHRC Archives, 2 August 2011.

free corporate governance.[236] Other International standards to aid companies carry out their CSR activities and reporting are ISO26000 (International Standards Organization), AA1000 (Institute for social and ethical accountability), SA8000 (Social Accountability International), the Global Compact Assessment Tool, etc.[237] India released the National Voluntary Guidelines on CSR in 2011,[238] modelled on international principles of corporate sustainability, that is the role companies play in sustainable development. In 2013, the Department of Public Enterprises,[239] released the CSR Guidelines for public sector enterprises which requires PSUs to engage socially and economically in an environmentally sustainable way with internal (employees) as well as external stakeholders (like clients, partners and consumers).

There is no doubt however that the most legally binding instrument for CSR in India is S. 135 of the Companies Act of 2013 and the rules made thereunder. Under this Act, every company is required to have a CSR policy. Section 135 mandates companies with a) net worth of the company to be ₹500 crores or more; (b) turnover of the company to be ₹1000 crores or more; (c) net profit of the company to be ₹5 crore or more; to invest at least 2% of the average net profit accrued over the preceding three years in social initiatives.[240] Every company is required to constitute a CSR committee that shall formulate a CSR policy and ensure that the company engages in CSR activities.[241] In case the company fails to do so, the CSR committee is required to submit an annual report specifying the reasons for non-compliance.[242] Even though more than 169 companies supported the 2% rule,[243] as per a survey 52 of the country's largest 100 companies failed to spend the required 2% in 2016 (KPMG 2016). As per another survey by the Confederation of Indian Industries, of the 1,270 companies that disclosed their CSR spending, 52% had spent at least 2% on CSR (CII 2017, p. 14). Yet another survey by CRISIL showed that out of 4,887 companies listed on the Bombay Stock Exchange, 1,505 companies qualified for mandatory compliance to CSR under the Companies Act. Out of these, 1,158 had reported their CSR spending (CRISIL 2017). Their methodology further mentions that, 'About 133 companies were not able to spend or were in the process of implementing their CSR plans, while 111 said that they were not required to spend on CSR. There were 46 companies which did not report about CSR activity and for 57 others, we could not find annual reports for fiscal 2016'.

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[236] Ten Principles of UN global compact are available at https://www.unglobalcompact.org/what-is-gc/mission/principles . See also, the ILO tripartite declaration of principles on multinational enterprises and social policy and OECD guidelines for multinational enterprises.

[237] For more information on these and other guidelines, cf. CII and PWC, 2013, p. 9-10.

[238] http://www.mca.gov.in/Ministry/latestnews/National_Voluntary_Guidelines_2011_12jul2011.pdf

[239] http://www.dpemou.nic.in/MOUFiles/Revised_CSR_Guidelines.pdf

[240] Companies Act, 2013 and Companies (Corporate Social Responsibility) Rules, 2014, s. 135.

[241] *Ibid.* The activities are laid down in Schedule VII of the Companies Act, 2013. For a full list, See, KPMG (2016), p. 13.

[242] *Ibid.*

[243] See, The Mumbai declaration, https://www.globalreporting.org/SiteCollectionDocuments/Mumbai-declaration-on-sustainability-reporting-for-sustainable-development.pdf

Section 135 of the Act also includes a proviso encouraging companies to give preference to the local area and areas around which it operates.

The Companies Act, 2013 read with the CSR Rules of 2014 state that foreign companies are as much covered by the 2% rule as domestic companies. At the time the CSR Rules came into force in 2014, there was widespread confusion about whether foreign companies come under the mandatory 2% CSR Rule, however the Ministry of Corporate Affairs has maintained that they do (GoI, Ministry of Corporate Affairs, 2016). Foreign companies, however, have extra burdens when it comes to CSR spending. As per the Foreign Contribution Regulation Act, 2010 foreign companies that want to use CSR contributions through their own company foundations need to fulfil the additional requirement of getting their foundation certified by the Central government for receiving foreign funding. If they choose to spend their CSR directly, it is not an issue but if they collaborate with an NGO or any other foundation that receive their CSR (categorized as income from foreign source), then the NGO or foundation will need to obtain a certificate from the government. A certificate so obtained is valid for five years.

The VII Schedule of the Companies Act lists activities that can be undertaken by companies as CSR (GoI, 2014 b).[244]

The figure below shows the CSR spending on the activities under the VII Schedule.

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[244] This list is to be interpreted liberally, GoI, 2014 a.

2015 2016

1.97 — 1.38
10.10 — 6.36
1.05 — 0.97
0.01 — 0.01
0.74 — 0.70
1.67 — 0.98
0.07 — 0.12
10.34 — 11.46
not reported — 0.07
9.15 — 6.10
not reported — 1.89
7.15 — 6.08

27.15 / 30.61   29.97 / 33.93

10%   20%   30%   40%   50%

Legend:
- Health & Sanitation
- Education & Skill Development
- Gender Equality
- Environment & Ecology
- National Heritage, Art & Culture
- Armed Forces Veterans
- Sports Development
- Prime Minister's Relief Fund
- Technology Incubators
- Rural Development
- Slum Area Development
- Combination of All
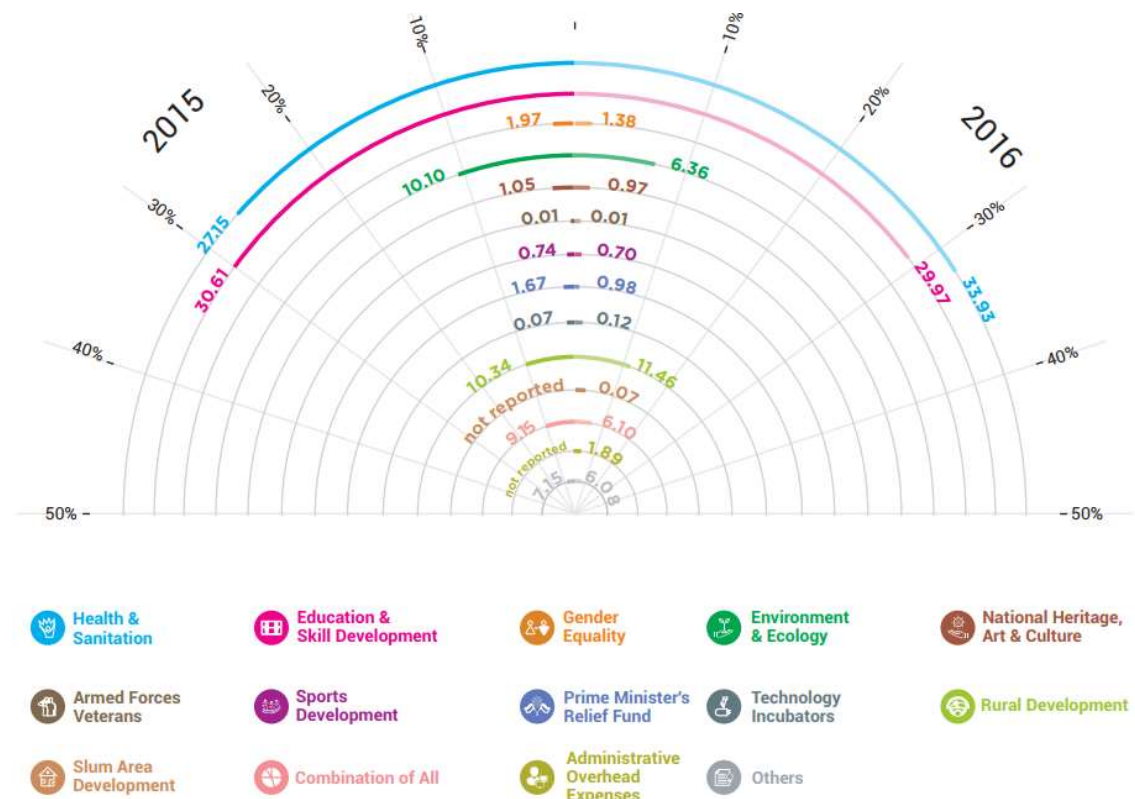- Administrative Overhead Expenses
- Others

FIGURE 3 CSR SPENDING IN 2015-2016

Source: CII Annual CSR Tracker 2016

'Slum area redevelopment' (only for notified slums) is one of the activities in the list, however so far it is not a popular option for corporate CSR funding. In 2015-16, 10 companies reported spending about ₹5 crore on it.[245] However, companies are engaging in CSR activities in slums by spending on health and sanitation (CII 2017). Another relevant activity in Schedule VII is contributing to the "*Swaccha Bharat Kosh*" set-up by the central government for the promotion of sanitation and making safe drinking water available.[246] The list of admissible activities under the *Swaccha Bharat Kosh* are aimed towards universal access to water and sanitation.[247]

The mode of implementation is also a mandatory requirement for companies under the 2013 Act along with CSR disclosure. Companies may work (i) directly, (ii) through a company foundation or (iii) through an implementing agency such as an NGO (CII 2017, p. 19). Table 12 shows the distribution of the mode of CSR implementation. In the KPMG survey of top 100 companies, majority of them chose

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[245] KPMG 2016, p. 9; *See Also,* CII 2017, p. 15.
[246] GoI, Notification under Companies Act, 2013, Ministry of Corporate Affairs.
[247] Operational Guidelines, Swaccha Bharat Kosh, http://sbkosh.gov.in/mca_csr_sbk.pdf (Retrieved 20 Jun, 2017).

to combine direct implementation with working through an implementation agency (KPMG 2016, p. 17).

TABLE 12 MODE OF IMPLEMENTATION OF CSR

	2015	2016
Direct Implementation	227	233
Through Company foundation	60	72
Through Implementing agency	251	249

Source: CII 2017, p. 19

The CRISIL survey of CSR spending in 2016 points out that the reason for more spending in CSR in 2016 as compared to 2015 is the increased role of NGOs (CRISIL 2017, p. 8). In our study Sarvajal by Piramal and activities of the GMR Group are the examples of CSR activities by companies (cf. *infra*). Several NGOs with presence in our study areas were also funded by the CSR fund of one or more companies.

3. Water and Sanitation situation in New Delhi and Findings of the Case Study

This chapter presents the general background and findings of the study in the four chosen sites in separate sections. Secondly, it presents the findings on two topics common to all four sites- land tenancy issues and people's perspectives on the 666 litre free water scheme.

3.1. Profile of Urban Poor Settlements Selected for Research

Four urban poor settlements were shortlisted for the research, based on the different typologies they offer in terms of;

• Economic profile and location of the settlements – close to commercial areas and high end residential colonies versus far away locations
• Smaller vs. Larger settlements
• Settlements with different types of water and sanitation facilities – individual, community and Water Utility enabled.
• Where the water privatization impacts most likely to be felt on the poor who are currently getting free water or paying for electricity charges for ground water boring.

The four sites covered under our study along with their land areas and populations, as per official estimates, are,

1. Savda Ghevra- a planned resettlement colony in West Delhi, built on 257 acres of land,[248]
2. Rangpuri Pahadi Milkpur Kohi- a JJ cluster, built on 2.33 acres of Delhi Development Authority (hereinafter "DDA") and Forest land, with 2511 households.[249]
3. Bhanwar Singh Camp in Vasant Vihar Phase I- a JJ cluster built on 0.81 acres of DDA land having 1088 households.[250]
4. Begumpur- a JJ cluster built on 0.68 acres of DDA land having 1,122 households.[251]

All four sites in our study are built on DDA land or partially on Forest land, in case of Rangpuri Pahadi.

With this background we proceed to a description of the four study sites including their location and brief history as well as their water and sanitation systems. The description is followed by the findings of the social survey, per site and generally.

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[248]See, DDA, Slums and JJ Rehabilitation, https://www.dda.org.in/planning/slums_jj_rehabilitate.htm
[249] See, Delhi Shelter Board, http://delhishelterboard.in/main/wp-content/uploads/2015/12/675_JJ_Cluster_List.pdf
[250] *Ibid.*
[251] *Ibid.*

3.2 SAVDA GHEVRA

Savda Ghevra is a JJ resettlement colony in North West Delhi, built on 257 acres of land,[252] near the Tikri (Delhi-Haryana) border, which is about 30-40 km. from Central Delhi. It was established in 2006, as part of the 'Sites and Services' approach of the Delhi government,[253] aimed at providing housing for Economically Weaker Sections.[254] It comprises of households relocated from 25 slums, mostly to accommodate for the 2010 Commonwealth games, in various parts of Delhi such as Lakshmi Nagar, Karkardooma, Shahdara, Palam, Raja Garden, Lodhi Road, Nizamuddin, Geeta Colony, Dilshad Garden, Khan Market,[255] Yamuna Pushta, Pragati Maidan (Naglamachi)[256] and Jawaharlal Nehru Stadium. Sited on 250 acres of land, the colony was built in two phases including a total of 8,686 plots (Sheikh, Banda and Mendelkern 2014). In March, 2011, the Delhi government launched six housing projects under the Jawaharlal Nehru National Urban Renewal Mission ('JNNURM') for slum dwellers and one of these was to construct four-storey buildings in Savda Ghevra for the Phase II.[257] A paper by the Centre for Civil Society, New Delhi reports that, the MCD allotted plots in Savda Ghevra by conducting a survey (Sheikh 2008).

> The MCD, two or three weeks prior to eviction and demolition, announces the date on which this survey is to be held. The survey is only held once. Residents of Savda Ghevra talked about how many people missed this survey, and thus, even if they were eligible for a plot, having been a resident of the slum colony prior to December 1998, they were not allotted a plot (Sheikh 2008, p. 14).

The residents were given plots of land on which they had to build a house themselves.[258] While some people sold their land, others built houses on it and gave them away on rent. The population in Savda Ghevra, therefore consists of the original allottees, buyers from the original allottees and the tenants (Sheikh, Banda and Mendelkern 2014). One of the people interviewed in Savda Ghevra recounted that,

> A lot of promises were made (at the time of allocation). In 2000 we had deposited ₹6000 for proper flats. In 2006 our *jhuggis* were broken. We were given a notice two days prior to demolition. Then they put us here. They provided us with one opportunity to go collect our stuff. But since then they haven't cared to ask after us. They gave us empty plots here. They have thrown us in barren lands away from civilization…[259]

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[252]See, DDA, Slums and JJ Rehabilitation, https://www.dda.org.in/planning/slums_jj_rehabilitate.htm
[253] This approach was followed during the 1981-2001 plan period of the DDA and the Master Plan of Delhi 2021 suggests abandoning this approach due to various aberrations and gives recommendations for a new approach. GNCTD, Master Plan of Delhi 2021, p. 37.
[254] See, http://www.cseindia.org/userfiles/Siddharth%20Pandey.pdf
[255]The Kutumb foundation, Ghevra learning centre, http://kutumb.in/ghevra-learning-centre/more/
[256]Puri and Bhatia (2009), p. 17.
[257] '6,360 flats at Savda-Ghevra Phase-II for Rs. 384 crore', The Hindu (2011).
[258] 'We were given these tiny plots of 12 metres but no money to build a house'. Sharma (2017 a).
[259] Slum Interviews, Phase I, January 2014, SG R3.

There is no official estimate of the population living in the colony, but as per a study, there are approximately 40,000 people living in Savda Ghevra at present (Sheikh, 2008). Another study suggests that it houses 10,000 families and has a total capacity of housing 20,000 families (Chakravarty and Negi 2016, p.94). According to the NGO Chetanalaya, there are 25,000 families in Savda Ghevra with a population of 1 lakh.[260] A study by the Housing and Livelihood Rights Network (HLRN) found that,

> [T]he majority of the residents are Hindus, while Muslims constitute a third of the population. The literacy rate among the respondents was reported at 70.30%, while for women it is 61%. About 41% of the individuals living in the resettlement colony are working, of which about 60% work on a temporary basis in private enterprises; around 33% are self-employed; and several others have established small shops and other enterprises at the resettlement site itself (HLRN 2014).

The colony is part of the Mundka constituency, and the electoral rolls indicate that there are 14,707 voters from the colony (Sheikh, Banda and Mendelkern 2014).

It was observed during the field work that the colony is isolated from the main city in terms of medical facilities and employment opportunities which is one of the reasons why a lot of the original allottees have sold their rights on their lands. The residents were forcefully moved here as their slums and JJ Clusters were demolished. They did not have any say in choosing what plot of land they were being allocated.[261] Being guaranteed a plot of land in Savda Ghevra and being uncertain of their and rights, made several families an ideal group for being manipulated by land mafias. The NGO Habitat for Humanity, India notes that while working at Savda Ghevra, they have faced challenges in rehabilitating families by local builders who want to grab these plots for private development (Habitat for Humanity 2013 b). 'The location, Savda Ghevra, is close to the main city and important enough to be a valuable asset. People with vested interests are on the look to manipulate and cheat unaware and illiterate dwellers/ families,' (Habitat for Humanity, 2013 b).

3.2.1 PRESENT SYSTEM OF WATER DISTRIBUTION

It was the intention of the MCD and DJB to utilize the large canal directly north of the site to serve as a main water supply for the entire settlement (HLRN 2014). However, this has not been done yet. There are 8-9 tube wells on site which are not yet operational (Jeffries, et.al. 2008, p.5). Their use even in the future is questionable due to reports of ground water contamination (India WASH Forum 2015, p. 4). Water for drinking and washing is supplied by tankers twice a week. They are met by frantic activity as people push and crowd for the limited supplies. Some of the wealthier inhabitants have private water tanks on the roofs of their properties (HLRN 2014). Some residents have installed a motor for accessing groundwater. Either they have such a connection independently or a few households get together and invest in a common bore well and they share the monthly electricity cost. Apart from these there are Sarvajal Water ATMs installed by the Piramal group (Kumar 2014).

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[260] Chetanalaya, http://www.chetanalaya.org.in/presence/north-west-delhi/savda/
[261] Slum Interviews, Phase I, January 2014, SG R3.

These ATMs make available clean and treated water at the rate of ₹20 per litre. However a person has to get a card made which costs ₹100 and gives a running balance of ₹50. The Water ATM system is relatively new and is not entirely accepted by people as per the interviews as it's not for free as compared to the tanker water.

> For a slum-dweller putting faith in a technology, regardless of the benefits over existing practices can be daunting not least because it requires trust that the underlying system will permanently change. It also requires trust in technology: that it is prudent to store something of monetary value in a pre-paid smart card, and that value will be released when required (Bhushan, et. al. 2012, p.7).

However the trend is soon catching up and customers are growing every month. A representative from Sarvajal in Delhi says,

> The challenge in a resettlement colony, where quality is not a priority, is to change mind-sets. We have been educating the residents. We tell them that if they choose this water they can save on medical bills. There is inertia and people do not want to come out of their comfort zone. They feel they are anyway getting tanker water supply and so why go for something new.[262]

The DJB has also planned to install more such ATMs in Savda (Phukan 2015). Some people also reported taking water from the community toilets for their various needs and some reported buying water in times of scarcity. The community also shares water depending on how their interpersonal relationships are. People often use water from several sources and use it for the purposes of washing, drinking and bathing depending on the quality of water and quantity of water available from one source.

3.2.2 MANAGEMENT OF SANITATION FACILITIES

The entire area is divided into 19 blocks (labelled from A to S). There are two to three community toilets on site for every block as per the respondents, but a report by Centre for Urban and Regional Excellence (hereinafter, CURE) and Centre for Civil Society say that there are nine toilet blocks and only four are operational (Jeffries 2008, p.14).[263] These public toilets are not open for twenty-four hours and so people have to depend on open defecation in the green area around the slum. ₹1 or ₹2 is charged per use to use the public toilets and as many families cannot afford this, they defecate on the side of the roads or in the fields. As per a newspaper report of 23 June, 2008, three MCD officials were suspended for irregularities including that of charging people for public toilets which were meant to be free (Times News Network 2008 and Sheikh 2008). However, using the toilets is still chargeable as per our visit of June 2014.[264] The women's section of the MCD toilets are smaller than the men's section despite the inclusion of children's facilities (boys and girls) within the women's

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[262]Interview with Sarvajal representatives, January 2014.
[263]See also, Sheikh (2008), p. 55.
[264]Slum Interviews, Phase I, January 2014, SG R6.

section. This results from the application of a standard design without considering specificities of the situation. Some people have installed toilets within the house but the system of drainage is not well managed. Septic tanks adjacent to the toilet blocks overflow to open drains. Often these open drains are not connected to the site drainage system, leading to water logging and ideal breeding grounds or mosquitos. Either it is cleaned by the people on their own or they hire someone to clean it for them.[265]

3.2.3 MAPPING OF ACTORS

Savda Ghevra has received a lot of attention from civil society organizations, both national and international, and CSR groups of Multinationals because of its critical nature of being such a large resettlement colony. What began for these organizations as an assessment of the impact of relocation of people which meant uprooting them from their places of employment and their social circle without giving them much choice, resulted in their getting involved in more issues. Not only do these organizations spread awareness about the right to water and sanitation, they also help people organize protests, file RTIs, provide vocational training and organize Self Help Groups.[266]

A) CSR INITIATIVES

Pictures of the protest, shared with us by the slum dwellers

GMR

The GMR Group has been working in Savda Ghevra since 2007 to assist the people in resettlement. They have worked on, 'facilitation of service provision including working with the authorities to expedite creation of quality infrastructure including water, sewage, street lighting, and so on'.[267] Mr. Siddhartha from GMR,[268] discussed with us their views on the water and sanitation situation in the

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[265]*Id,* SG R15.

[266] MARG, *Harshinagar Project in Karnal, Haryana,* http://www.ngo-marg.org/governance/harshingar-project, p. 50; HLRN 2014.

[267]GMR, *Overview: Community development*, http://www.gmrgroup.in/community-overview.aspx

[268]GMR's interventions in Savda Ghevra, http://www.gmrgroup.in/community-overview.aspx

colony as well as their contribution in the current system of water distribution. The GMR foundation works with the objective of empowering unemployed youth through skill training and entrepreneurship development programmes.[269] They also try to spread awareness amongst people and in collaboration with the NGO MARG. MARG helped the residents organize a protest to demand for their right to water.

Further, the foundation has installed a water kiosk with a Reverse Osmosis ('RO') system. It has a higher capacity than the one installed in homes. Everyone is welcome to avail this facility. As of December 2014, 70-80 households were availing this facility. The system has a capacity to cater to even greater demands. It pumps out 1000 litres of pure water every hour. This model can be replicated everywhere, he said.[270] NGO had conducted a survey where many families complained that very often both parents go out for work and there is no one left behind to collect water distributed by the Jal Board. Such families prefer water ATMs like this RO plant.[271]

Sarvajal Suvidha

A Sarvajal Water ATM

The next organisation working in this area was, Sarvajal Suvidha, which is a Corporate Social Responsibility (CSR) initiative by the Piramal Group for providing clean water to the residents of Savda Ghevra.[272] *Sarvajal* means Water for All in Sanskrit. Piramal Foundation, the philanthropic arm of the Piramal Group has invested in Health, Education and Water, *Sarvajal* being the initiative for

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[269] GMR, *Overview: Empowerment and Livelihoods*, http://www.gmrgroup.in/empower-overview.aspx
[270] Interview with Mr. Siddhartha Das, GMR, 6th January, 2014.
[271] *Ibid.*
[272] Sarvajal, http://www.sarvajal.com/who-we-are.php

providing affordable access to safe drinking water.[273] The model incorporates community awareness and the franchise model as its tools.[274] *Sarvajal* partners with a growing base of local entrepreneurs and in collaboration with government agencies, philanthropic organizations and private companies (HDFC General Insurance Company Ltd. 2015), like L&T Construction, Pratham, Michael and Susan Dell Foundation, Adani group, Cairn, DLF Foundation, Desh Bandhu and Manju Gupta Foundation, HSBC, Lupin, BLA Coke Pvt. Ltd., Delhi Jal Board, HDFC Ergo and Honda.[275]

Inside Sarvajal's Water treatment plant in Savda Ghevra

Sarvajal Water ATMs set up by the Piramal group provide water at nominal rates of 15-30 paise per litre (Kumar, 2014 and PTI, 13 May 2014). The rate is not decided by the company but by the DJB. For operationalizing the project, the Govt. of Delhi gave the land to the company on lease for a period of ten years. The terms and conditions of the plant have been decided as per the MoU entered into between the company and the DJB. In January 2014, the plant had been in operation for three to four months. The company issues a card for ₹100 at the start in which ₹50 is a security deposit. At various places in the colony, the huge tankers have been set up from where people can fill water. As of January, 2014 they have around 700-800 customers who have the cards.[276] Just like Mr. Siddhartha, the representatives of Sarvajal Suvidha also claim that the quality of water is low in the area. It usually contains close to 1700-1800 TDS thereby making it unfit for consumption.[277] To raise

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[273] Piramal, http://www.piramal.com/our-businesses/piramal-foundation

[274] Sarvajal, http://www.sarvajal.com/who-we-are.php

[275] Sarvajal, http://www.sarvajal.com/

[276] Interview with Sarvajal representatives, January 2014.

[277] *Ibid.*

awareness among the people for utilization of this facility, the company has done a door-to-door campaign to explain to the residents about the necessity of using clean water.[278]

B) MUNICIPAL AUTHORITIES AND LOCAL GOVERNMENT

Since Savda Ghevra is a resettlement colony, the land is regularized and the municipal bodies responsible for providing water and sanitation facilities to the rest of Delhi are responsible to wards Savda Ghevra as well. While the MCD is responsible for sewerage services, the DJB is responsible for water supply. The Member of the State Legislative Assembly ('MLA') for the Mundka constituency since 2015 is Mr. Sukhbir Singh Dalal from the AAP party.

C) CIVIL SOCIETY ORGANISATIONS

MARG

MARG conducts legal awareness and legal empowerment programs in Savda Ghevra and their signature campaigns were also captured in the interviews.[279] From June 2009 to November 2010, MARG has organized training sessions at Savda to inform the community about law and legal procedures and make them aware of their rights.[280] MARG has also been active in mobilizing the people about using the RTI Act of 2005 to demand information about the number of water tankers allotted to their slum (Sivaswamy, 2017). The NGO, along with an organization, The Flowering Tree Inc. has organized women into a group called the Harshinagar Active Women's Cadres which aims to empower women to claim their rights (Dua, 2017).

CURE

CURE, or the Centre for Urban and Regional Excellence, is an organization, 'working with urban informal and low-income communities to un-think, reimagine, innovate and de-engineer solutions that include and integrate people in the processes of city development'.[281] CURE was engaged by the Government of Delhi to help with the resettlement of people in Savda Ghevra (Khosla 2011). It was a consultant to the Sanjha Prayas project under Bhagidari, which is a partnership between the Government of Delhi and slum dwellers. Under Bhagidari, it helps in organizing Social welfare camps in Savda Ghevra (improving access to welfare schemes including transferring of pension holders from old to new areas with Welfare Department) (Jeffries, 2008, p.5). It has a sustainable livelihood initiative called '*Ajeevika*' in Savda Ghevra which helps residents resettle. It helps them find livelihood by, 'using a comprehensive framework of micro-enterprise development with market linkages, business management skills and credit; employment skilling and placements and venture capital for micro start-ups'.[282]

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[278] *Ibid.*

[279] MARG, *Harshinagar Project in Karnal, Haryana,* http://www.ngo-marg.org/governance/harshingar-project; Slum Interviews, Phase II, July 2014, SG R6.

[280] *Ibid,* MARG.

[281] CURE India, http://cureindia.org/about-us/

[282] CURE India, http://cureindia.org/projects/aajeevika-program-savda-ghevra-delhi/; *See also,* Shreshtha 2015, p.199.

The project also focuses on access to taps and toilets. Its micro enterprise helps in waste management as well as job creation by supporting start-ups with venture capital.[283] CURE has also built a Cluster Septic Tank (CST) connected to a simplified sewer line and a system that has enabled 120 houses to add toilets to their homes without risk of contaminating ground water or make houses unsafe.[284] The CST system is a low cost solution implemented in partnership with the people and financial support from the Tata Trust (Khosla, 2017). Its components can be built by the people themselves. The Bill & Melinda Gates foundation is supporting an upgraded version of the CST system which is believed to help residents treat waste and convert it into high quality manure which can be sold to fund more such toilets (Khosla 2017). Another initiative by CURE is setting up of day care centres and the staff is composed of specially trained local residents (Khosla 2017).

The Kutumb Foundation

Founded in 2002, this foundation has the Khan-market area as its primary site.[285] The admitted goal of the foundation is, 'to promote the total development of the individual by way of building language skills, bridging developmental gaps, and addressing issues of identity'.[286] As an aftermath of the relocations that happened post the 2010 Commonwealth Games, many households from Khan-market labor camp were relocated to Savda Ghevra. The foundation set up a centre in the colony to continue working with the families with whom they already had formed an effective relationship.[287] Apart from organizing a sensitization walk with NGO Pravah, the foundation has worked on maternal and child health and education. In 2011 it partnered with the Tony Blair Faith Foundation to implement a community initiative for the same. Since then, the Extension Learning Centre in Savda Ghevra, established by the Foundation educates the community in IT.[288] The foundation focuses on non-formal education for the communities by organizing football games, a theatre festival and an alternate education programme.[289] It also holds workshops on gender and pluralism.

Chetanalaya

Chetanalaya works in Delhi as well as rural Haryana. It works in the areas of promotion of education, protection of child rights, youth and skill development, gender mainstreaming, access to micro finance for sustainable livelihood,[290] community health care, rehabilitation of persons with disability & elderly, environment protection, housing, promotion of rights of domestic workers & prevention of trafficking and rural resource management.[291] Savda Ghevra is also one of its operational areas and it

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[283] *Ibid.*

[284] *Ibid.*

[285] The Kutumb foundation, http://kutumb.in/wp-content/uploads/2015/10/Report-2011.pdf

[286] *Id,* http://kutumb.in/the-kutumb-foundation/

[287] *Id,* http://kutumb.in/ghevra-learning-centre/more/

[288] *Ibid.*

[289] *Ibid.*

[290] One of the respondents also mentioned that Chetanalaya gives loans. Slum Interviews, Phase I, Savda Ghevra, January 2014, SG R6.

[291] Chetanalaya, http://www.chetanalaya.org.in/

has been active in the areas of pre-school education, non-formal education, remedial education, admission drive, facilitation centres and policy advocacy.[292]

Habitat for Humanity

Habitat for Humanity India (HFH, India) works with low-income families to build new homes and incremental housing as well as to repair and rehabilitate houses.[293] In March 2012, HFH worked closely with 30 families to ensure that their rights to land and housing are protected (Habitat for Humanity, 2013 b). HFH also worked on the Anand Niwas project to provide decent and secure housing for 19 families, who were previously homeless and destitute and living on the streets of South Delhi. (Habitat for Humanity 2013 b). The project was completed by November, 2012.

3.2.4 FINDINGS OF THE SOCIAL SURVEY

A) RESPONSES TO THE PRESENT SYSTEM OF WATER FACILITIES

Accessibility

Of the sources of water available to them, the residents depend most upon the water from the water tankers supplied by the DJB.[294] However, they complained about the uncertain timings and frequency of the tankers.[295] When tanker water is not supplied for three days or more at a stretch, people complained to the DJB.[296] Having to queue up in front of the tanker instead of having a direct connection via pipelines or an overhead tank to their houses was reported as an inconvenience.[297] This struggle is also recorded in a 2012 study,

> …[T]he majority of people in Savda Ghevra still depend on water tankers for their drinking water—tankers that still do not adhere to set routines. People rarely know when or where a tanker will appear. They know only that they must be ready if and when it does, and that they need space in their homes to store large capacities of water—in case the tanker doesn't return for several more days (Bhushan 2012).

There are often disputes between residents that turn into brawls over who will be allowed to fill water first and for how long.[298] The responses on questions about these disputes were as follows, 'How much water we get depends on luck and how much one can fill from the tankers. There are fights also. We get one tanker for four lanes, sometimes people from other blocks also crowd',[299]

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[292] *Id,* http://www.chetanalaya.org.in/interventions/promotion-of-education/
[293] Habitat for Humanity, http://www.habitat.org/where-we-build/india
[294] Slum Interviews (All), Savda Ghevra, Phase I, January, 2014.
[295] *Id,* SG GD2.
[296] *Id,* SGR1 and SGR2. *See Also,* 'Residents of the Savda Ghevra resettlement colony sometimes wait up to four days for water tankers, which are currently their only source of water'. Sarvajal, http://www.sarvajal.com/.
[297] *Id,* SG R15 and SG R16.
[298] Slum Interviews, Phase I, January 2014, SG R7, SG R10, SG R17, SG R18, SG R21 and SG GD4.
[299] *Id,* SG GD1.

'What happens is some get four buckets of water, some get two, some get five. That's all'.[300] One person mentioned an old incident when asked about water-fights,

> When we first came here in 2006, the number of tankers that came here was very less. There was this pregnant woman who had gone to get water from a tanker and nobody paid any attention to her and she died under the tanker. Everyone was so engrossed in collecting water that nobody saw her; she collapsed and fell down. Both mother and child died, this is how serious these fights become.[301]

When someone is finally able to fill water into all of their buckets, there is the trouble of carrying fully filled water buckets back to their houses. Sometimes they have to carry it all the way from another block.[302]

Sarvajal Water ATMs are another source for drinking water, however the issue of portability of water came up in case of water ATMs as it did in case of water tankers.[303] One respondent also complained about availability of water in Sarvajal ATMs- 'Sometimes, there is no water in Sarvajal also when I go. I think in the past two months, there must have been four such times when I went to Sarvajal and there was no water'.[304]

<u>Affordability</u>

Water supply via tankers is free in Savda Ghevra. However, if there is a water shortage, which is common in summer, people have to buy water.[305] Families that have installed motors, have to pay the cost of installation of the motor and monthly electricity costs.[306] The Sarvajal ATM card costs ₹100, out of which ₹50 is the available balance. The cost of water from the Sarvajal ATMs is 15 *paise* per litre.[307]

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[300] *Id,* SG R5.

[301] *Id,* SG R19.

[302] *Id,* SG GD1.

[303] Slum Interviews, Phase I, January 2014, SG R19.

[304] *Id,* Phase II, July, 2014, SG R6.

[305] *Id,* Phase I, January 2014, SG R10.

[306] *Id,* SG R1, R5, R10, R14, R16, R19, R20, R21, GD1, GD3 and GD4.

[307] See also, Sharma 2016. 20-37 *paise* per litre as per Kapil 2015.

A sign outside the Sarvajal water treatment facility saying "Sarvajal, Better health, 15 paise/litre) in Savda Ghevra (July 2014)

The Sarvajal ATM payment also appears to be an unnecessary expense to the people since they get free water otherwise.[308] As one respondent mentioned, 'We cannot afford a motor. So the only alternate we have other than tankers is to ask our neighbors who have a motor for water if we need more water that what he have collected via tankers. We do not have ₹8,000 to ₹10,000 so that we can get motor for our household. How will we have such a large amount?'[309]

Quality

There are reports of groundwater contamination in Savda Ghevra (India WASH Forum, 2015, p. 4), and the groundwater obtained via motors has to be treated before use. Respondents mentioned that the groundwater is salty or *khara* (hard) and is not suitable even for bathing or washing clothes.[310] However, not all residents were aware of this and not all of them treat water before use. There is a difference in the water quality across blocks. Some people have deeper bore-wells installed and they say that water is purer.[311]

Most residents use water supplied by tankers for drinking purposes,[312] however there were mixed responses about its quality. While some said that they thought the water is clean,[313] some others disagreed. One respondent mentioned that when the tanker water is unclean, the driver informs them and they fill water from another tanker then.[314] Another respondent mentioned that the DJB used tankers built of iron earlier and rust was mixed with water, however now they have switched to steel tankers along with iron tankers and so the quality is not always bad.[315] A couple of the respondents informed us that once a lizard was found in the tankers.[316] People reported being sick of

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[308] *Id,* SG R19; *See also*, Kapil, 2015.

[309] *Id,* SG R8.

[310] *Id,* SG R3, SG R7, SG R17.

[311] *Id,* SG R14.

[312] *Id,* SG R4.

[313] *Id,* SG GD3. *Also*, SG R1, R18 and R19.

[314] *Id,* SG R11.

[315] *Id,* SG R6.

[316] *Id,* SG R6, SG GD1.

water-borne diseases quite often.[317] For example, stomach aches, vomiting, fever and joints pain, itching, skin rashes, and so on.[318] Due to lack of awareness and of medical facilities, it is not possible for people to say definitively if their illnesses are caused by water and sanitation conditions.[319]

> These people do not come to know what is causing the diseases that they suffer. So they cannot point out that it was water. Only last month almost everyone in this lane was ill. There is impure water, open drains and a lot of mosquitos. Diseases are quite inevitable.[320]

It has been reported recently that seventy percent of the water supplied by DJB in Delhi is unsafe for drinking, mainly due to, 'Algal growth and related contamination in the water pipes of supply system (and) mixing of sewage water with drinking water in case of breakage of pipelines and outlived water pipe system',[321] It is a claim that the DJB contests as all water supplied by its tankers is chlorinated water. For the piped supply, it blames the rusty water connections on the consumers' side.

Some people in Savda Ghevra take steps to make tanker water potable by boiling it or adding chlorine tablets to it,[322] while some others use water purifying machines.[323]

Image showing a sign board at a grocery store.
'Chlorine tables and O.R.S. (Life saving mixture) packets available for free here', it reads.

Access to medicines and hospitals is inadequate as the government dispensary is open from 9.00 am to 1.00 pm and the hospital is not within their reach.[324]

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[317] *Id,* SG R6, SG R21.

[318] *Id,* SG R6, SG RGD1.

[319] *Id,* SG R12.

[320] Interview with an NGO employee from GMR, Savda Ghevra, Phase I, January 2014.

[321] Vyawahare (2017).

[322] Slum Interviews, Phase I, January 2014, SG R3, SG R6, SG R13, SG R14, SG R15.

[323] *Id,* SG R2, SG R10, SG R18, SG R21.

Quantity

The quantity of water is sufficient for drinking as per the respondents.[325] Even if they do not get enough water from the tanker in their own lanes, they go to the other lanes or for wait for a day or two. However, when the tankers are irregular, especially during summer months, it becomes a problem.

B) RESPONSES TO THE MANAGEMENT OF SANITATION FACILITIES

Accessibility

There are two-three toilets per block, constructed separately for men and women, but not all of them are functional.[326] This results in long queues in front of toilets that are functional.[327] People often have to resort to open defecation- 'We use the community toilet and also, go out in the jungle. Usually, women use the community toilet and men go out in the jungle'.[328] The public toilets are not accessible for 24 hours and due to this people have to go for open defecation.[329] 'At night the toilets are closed at around 8pm. After that we are left with no other option but to defecate in the open'.[330] Women particularly face a problem as they do not feel safe to go for open defecation at night.[331] 'Here, people are rude and prone to drinking and other bad habits. Once a woman was going for open defecation. A guy came a tore her ear off so as to get her ear rings'.[332] On being asked if they use the community toilets one response was, 'Yes. But they shut it at times and then we have to go to the jungle because then there is no other option. Sometimes it is scary, especially for the girls. But then their mother goes along with them. It is really problematic'.[333] A similar response was, 'The public toilets just do not function; hence women who cannot go to forest at nights sit along in the area of the public toilet itself. The caretaker has locked the blocked public toilet'.[334]

Affordability

The charge for using the community toilets is ₹1-2 per use and the people think that this is expensive. 'We have to pay to use this toilet. We are all poor, so we try to save that too. This is not a matter of just one day. We have to use the toilet all thirty days of a month'.[335] One respondent opined that a public toilet should not charge money.

Everyone says it is the government, but if it is so, then why does it charge money? If the government manages it in deed, it wouldn't charge money. So for us it becomes a private

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[324] *Id,* SG R1, SG R3, SG R5, SG R8, SG R13, SG R18, SG R19.
[325] *Id,* SG R15.
[326] *Id,* SG R14.
[327] *Id,* SG R3 and SG R15.
[328] *Id,* SG R15.
[329] *Id,* SG R5 and SG R7.
[330] *Id,* SG R1.
[331] *Id,* SG R3, SG R8 and SG R18.
[332] Slum Interviews, Phase I, January 2014, SG RGD2.
[333] *Id,* SG R11.
[334] *Id,* SG R9.
[335] *Id,* SG RGD3.

company toilet, because we have to pay ₹ 2 per use. Maybe it belongs to the government, which has extended it to the person who sits there and charges us money for cleaning it.[336]

They prefer open defecation to paying per use to use a toilet that does not fulfil hygiene standards.[337] 'What do we pay for when these toilets are not functional only? They have been all locked up!'[338] 'Nobody takes care of the toilets that already exist. The cleaning is not proper and they charge one rupee per person. Sometimes they ask kids and then they cannot give the money. Some people cannot afford it. Then they shoo them away and do not let them use the bathrooms. The toilets should be free'.[339] One respondent indicated that he wouldn't mind paying if the toilets were in good condition. 'Our [place he was relocated from-omitted for anonymity] had –pipelines had been laid down, sewer lines were in place; all arrangements were there. We just want all those facilities here, if not more. The toilets were also proper. We use to pay ₹30 every month and my whole family used to go there'.[340]

Some people have constructed toilets and septic tanks in their houses and they pay ₹600-₹1000 to get the tank cleaned bi-annually.[341] People also have to pay to get their lanes cleaned sometimes, which is ideally the job of Municipal Corporation workers. 'The outside streets are cleaned by the MCD but if you want to get the inside lane cleaned, each household has to pay ten rupees'.[342]

Quality

The condition of the community toilets in Savda Ghevra was deplorable and the residents were not satisfied with them. The toilet compounds were poorly maintained. 'It is not clean. The thing is that there is an open patch here. So, mostly people go out to the patch only. People use this [community] toilet only when it rains'.[343] One person who identified himself as the head of the block (*Pradhan*) said that he has closed the toilet next to his house. 'I have closed it because there is no water supply there. If we allow people to use it then it will become more dirty and unhygienic as there is no water to clean it. It smells so bad. No one can even go inside.'[344] The condition of open sewers is also a cause for concern as these responses show- 'The state of the drains is very bad. The pipes are all broken and dirty water keeps flooding the streets';[345] '…[I]n the winters there is not much of a problem, but during summers the situation is really bad. The smell becomes unbearable and we need someone to clean the sewers'.[346]

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[336] *Id,* SG R19.
[337] *Id,* SG R4.
[338] *Id,* SG R3.
[339] *Id,* SG R11.
[340] *Id,* SG R3.
[341] *Id,* SG R1, SG R3, R15.
[342] *Id,* SG R17.
[343] *Id,* SG RGD3.
[344] *Id,* SG RGD2.
[345] *Id,* SG R17.
[346] *Id,* SG R19.

The positioning of these drains is in front of the line of houses in every lane and they are open sewers. One respondent said,

> See for yourself how the drain is full and the waste from the drains is kept collected on the side of the by lane. No one has come to pick it up. No one comes to clean these drains. They say it's not their job to clean the by-lanes. They clean only the main road drains.[347]

The sight as pointed out in the interview cited above

However, another mentioned that having open drains is better as it allows them to clean it. 'But open drains are better in a way, worse in another. Because they are open, we can clean them. We switch on the motor, the water flows, and the drain gets cleaned'.[348] There are disputes over the cleaning of drains as people try to organize themselves and share the responsibility of maintaining hygiene. 'Yes, these drains cause a lot of inconvenience. When we say anything, people start fighting amongst themselves. If we ask someone to clean it, we are told that the drain will only be cleaned if we pay for it'.[349]

People often pay someone to clean the drains for them, but they complained that even when the sewers are cleaned, the waste is dumped on the road in piles which stinks and is a major cause of diseases.[350] 'During summers, you cannot even sit outside in the evening because of the mosquitoes. Nothing affects them, even if you put kerosene oil in the sewers'.[351] Groundwater contamination causes stomach problems and poisoning and poor maintenance of sewage systems attracts mosquitoes which lead to dengue and malaria (Deb 2014).

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[347] *Id,* SG R8.
[348] *Id,* SG R5.
[349] *Id,* SG R19.
[350] *Id,* SG R19.
[351] *Id,* SG R19.

Dengue and malaria is common here. We try to clean the drains with the motor water but they (pointing the houses around us) put bricks in the sewers, block the way and the water comes to a still. Now the mosquito will obviously breed in such a condition and dengue becomes common.[352]

People often fall ill due to the unhygienic conditions of the sewers and the toilets.[353] 'Last year almost everyone was down with dengue. Even this year, it occurred in quite epidemic proportions'.[354] It was noted by the respondents themselves that the water stored by them in their buckets, if left stagnant for too long, also becomes a ground for mosquitoes to breed and spread diseases like dengue, malaria and chikungunya.[355]

An image of partly covered drains. This cover is put in place by the residents themselves.
(Savda Ghevra Jan 2014)

The condition of toilets constructed in the houses is not good either. The sewage collects in septic tanks but their construction is such that it weakens the foundation of the house.[356] One respondent noted, 'Since we people do not have sewer lines here in this place, those houses having private toilets have made septic tanks where all the waste gets collected, and then when it is full they call the septic pump truck and they come and clean up the waste'.[357] The sewage from the tanks cannot drain into the open drains connected to their houses due to the non-operational drainage system.[358]

Quantity

There are one to two toilets in every block but they are not enough, according to the residents.[359] Even when they do not have to queue in front of them, it becomes an issue of quantity because the toilets are shut most of the time as per the convenience of the one managing them. Moreover, there

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[352] Slum Interviews, Phase I, January 2014, SG R6.
[353] *Id,* SG R1, SG R13, SG R18 and SG RGD1.
[354] *Id,* SG R12.
[355] *Id,* SG R4.
[356] Interview with Mr. Siddhartha, GMR Group.
[357] SG R1, Slum Interviews, Phase I, January 2014.
[358] *Id,* SG R15.
[359] *Id,* SG R3, SG R14 and SG R15.

is no provision for the people who do not have a personal toilet to defecate as the community toilets shut by 8 pm.[360]

C) Responses to Duty Bearers

People's Expectation from the Government

Since Savda Ghevra is a resettlement colony, the residents here are people who have been moved forcefully from several parts of Delhi where they were living in slums and JJ Clusters.[361] As per their understanding, the government has moved them here with the assurance of a better lifestyle and the government is obliged to provide basic facilities to them including water, sanitation, education, health, markets and employment opportunities.[362] People expressed that since their leaders have been elected through a popular vote, they are obliged to address local concerns and fulfil the promises made during election campaigns to provide better facilities.[363] There was dissatisfaction about the government's negligence towards the area and the unfulfilled promises of its representatives.[364] When politicians visit their area they did not address issues like the water pipeline or the condition of the sewers.[365] One respondent mentioned,

> I keep telling people that whosoever is the MLA candidate, we should put some conditions on him – give us water and sewer and we will vote for you but no one listens to me. There are many senior people here but no one talks with depth. They will talk relating to the temple, not about water pipeline or toilet or park. There is more debate and discussion on religion issues.[366]

Another person informed us, 'The other problem that we face here is that people here (some of them) sell alcohol, etc., openly. Whenever any politician or big official comes to visit us, they visit such people, people who operate gambling dens and so on'.[367] There was discontentment about political candidates not caring about the people after elections were over, regardless of the result of those elections.[368]

Reason for Non-Fulfilment of Duties

According to the respondents one of the reasons for non-fulfilment of government duties was that, 'In 2006, when this colony was established the government had specified certain amount of water which would be supplied in this area. In 2014, and the number of houses since then have increased magnificently and the amount of water sanctioned is the same as it was in 2006'.[369] Another reason is

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[360] *Id,* SG R1.
[361] 'Resettlement Colonies are legal and planned, the result of entirely state-driven action and specifically the sites to which evicted JJC households are relocated', Heller, 2015, p.8.
[362] Slum Interviews, Phase II, July 2014, SG R1.
[363] *Id,* SG R3, SG R6.
[364] *Id,* SG R15.
[365] *Id,* SG R6.
[366] *Id,* SG R6.
[367] *Id,* SG GD5.
[368] *Id,* SG R10.
[369] Slum Interviews, Phase I, January 2014, SG R1, SG R19.

the speculation about the corruption in delivery of water through tankers by the MCD officials.[370] One respondent mentioned,

> We get tanker from DJB. Officials from there send a full tanker to us and what we get here is only half of it. Or sometimes, they supply us only half of it and tell us that the tanker is empty now and later, they supply or sell it somewhere else. We have complained about this behavior several times.[371]

They reported that the tankers sometimes go missing and they speculate that they were being diverted for private purposes by the officials.[372] The presence of a 'tanker mafia' or 'water mafia' has also been reported in the local news (Singh 2014 and Kumar 2016), and the civil society too has recorded this corruption within the DJB.[373] According to an October 2016 report by Safe Water Network (Vinayak and Sewak, 2016),[374] the Delhi government plans to address this problem by digitally monitoring tankers.[375] There are reports of alleged irregularities in the process of awarding tenders for GPS enabled tankers and the investigation is pending with the Anti-corruption branch.[376]

There were complaints of dereliction of duty by the MCD officials as well. People also complained that some blocks on the site get preferred over others because more influential people lived there or that outer lanes are cleaner than the inner ones because they were more accessible and had more visibility for visitors.[377] People complained that political leaders sometimes visit their constituency to assess the conditions and the workers are aware that they will not check the inner lanes. People have complained to the MCD workers regarding this differentiation but they were told that MCD workers are not hired to clean the inner lanes.

> Garbage and mud was filed in the drains, so they came and took it out and dumped it on the roads. That's it. If you ask them about the clogged drains then they will say that they are doing their job of cleaning the drains and cannot be held responsible for no flow in the drains.[378]

The people did not know of any means to verify this information.

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[370] *Id,* SG R4.

[371] *Id,* SG R4.

[372] Slum Interviews, Savda Ghevra, Phase II, July 2014, SG R4.

[373] India Water Portal 2011, p. 34; Interview with Mr. Indu Prakash Singh, Action Aid, 22nd April, 2016.

[374] *See also*, India Wash Forum 2015 and Heller 2015.

[375] *Id,* p. 19; *See also*, Department of Delhi Jal Board, http://www.delhi.gov.in/wps/wcm/connect/DOIT_DJB/djb/our+services1/public+monitoring+of+drinking+water+tanker; PTI (2015 e).

[376] Ghosal, 2017. Referred to in other news reports as the 400 crore- water tanker scam.

[377] Slum Interviews, Phase I, January 2014, SG R1 and SG GD3.

[378] *Id,* SG R3.

D) Responses to Privatization of Services

Awareness about Privatization
Water is not privatized in Savda Ghevra yet and the DJB and Sarvajal ATMs are the sources of water. Some people had heard about privatization in the news but in general there was lack of awareness about a privatized system of distribution of services. One respondent mentioned, 'No, till now we haven't heard about it. We watch news channels regularly. We haven't heard about this yet'.[379] 'We have never experienced it',[380] responded another. The interviewers took the example of privatization of electricity to explain their questions. The Sarvajal water ATMs are a Public Private Partnership with the DJB and offered some semblance to what privatization can refer to for the people-'I haven't heard anything as such about it. But there is a private company working here called Sarvajal'.[381]

'Privatization means paying for services which are meant to be free'
People associate the idea of a private company taking over distribution of service with these services not being free any longer.[382] They were not comfortable with the idea of having to pay for water, a service which has been delivered free of cost by the DJB via tankers. They believed that they are entitled to free water and should not have to pay for it.[383] Not many people have subscribed to the Water ATM by buying the Water Card. There was speculation that private companies might provide water at low prices initially but as the model becomes successful, the prices might increase.[384]

Privatization means better quality of services
For others, it meant better quality of services.[385]

> If government does not work properly then it's better to delegate it to some private entity. This way government can earn its commission and we will also get better services. In present world, I do not think that there is any department not under the scope of privatization. We'll happily pay for it. At least we'll get clean water. Why do you think that electricity in India has been privatized and given to Tata? Because they provide better services.[386]

> Right now, sometimes you get water, sometimes you do not, but this way, you will always get water. So, we'll have better facilities. Public always likes better facilities. The fights that happen at the tankers will reduce. If 10 people do something, everyone follows. If I will take water from a company, my neighbors will see me do this and follow suit.[387]

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[379] Slum Interviews, Phase II, July 2014, SG R11.
[380] *Id,* SG R15.
[381] *Ibid.*
[382] *Id,* SG GD2 and SG GD3.
[383] *Id,* SG R4, SG R6, and SG R7.
[384] *Id,* SG R3.
[385] *Id,* SG R6, SG R10, SG R11, SG R13, SG R14.
[386] *Id,* SG GD4.
[387] *Id,* SG R9.

<u>Private company v/s government as service provider</u>

There were varied responses on the question of perception of private companies and preference between private companies and the government as service providers. One person said that they did not trust private companies.[388] Some others believed that in India any activity whether private or public or semi government is governed by government rules and regulations made in the Parliament and therefore it automatically becomes the responsibility of the government to keep a check on the system. They believed that the control will remain with the government ultimately.[389]

They also worried that they will not be able to complain against private companies like they can against the government.[390] They believed that there might be more popular support in opposing the government than in opposing a private company.[391] However, some people believed that since a private company is being paid, it increases its accountability.[392]

<u>Cross linkage between privatization and rights</u>

The responses were divided on the question of whether privatization will affect rights for the better or worse. Those who argued that their rights will be affected said so because: Firstly, privatization will increase the costs, thus hampering economic access.[393] Secondly, they believed that the government is more accountable than the private company.[394] Thirdly, privatization takes away the legitimacy of rights as government starts delegating responsibility.[395] The other set of people did not think it affects access to rights because they were already paying for good quality water and better access to services.[396]

E) Human Rights Challenges

<u>Perception of the problem</u>

In order to assess the importance of the right to water and sanitation, we evaluated the responses for the people's perception of the problem of accessibility to this right. While people understood the lack of water and sanitation facilities as a problem, they did not make it their priority to address it.

> Clean water may be my right. When the world demands, I will too. There are so many villages and they are not getting water either. They also take water from the tankers. We have been resettled here. This is a resettlement colony. When those who were here, who have always

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[388] *Id,* SG R3.

[389] *Id,* SG R6.

[390] *Id,* SG R1 and SG R4.

[391] *Id,* SG R3, SG R6 and SG R15.

[392] *Id,* SG R8, SG R11.

[393] Slum Interviews, Savda Ghevra, Phase II, July, 2014.

[394] *Id,* SG R1, SG R4.

[395] *Id,* SG R1, SG GD3.

[396] *Id,* SG R8.

been here are not getting water, where will we get it from? When they get it, we will get it as well [sic].[397]

<u>Barriers to effective participation</u>

"We signed a letter that someone brought from the block. He gave it to some minister who came to the area during elections. No one has ever turned up after the elections. There is no action taken against the complaints that we make. Hence it's no point to make a complaint."[398]

In Savda Ghevra, we observed four main barriers to effective participation: the power imbalance, being faced with corruption in the system, unfavorable response to complaints, and discrimination. These are explained below.

In the act of making a complaint, people felt that they are differently placed in society and their position, economically, in the caste hierarchy, on regional basis and on gender would affect the response they receive on their complaints.[399] At times, it was because they had faced discrimination on the grounds of gender, caste, class, region, etc., on their own or because they had assumed so on the basis of vicarious experiences.[400] 'People from villages work here. All *Gujjars* and *Jats*. No one listens to the colony people. We are poor.'[401]

People complained that when they approach police officers regarding disruptive activities of some youths, the police refuses to take action. This according to the residents was because the police officers and the goons belong to the same region and caste, namely, *Jats*.[402] People complained that they are sometimes bullied into voting for a certain candidate by the *Jats* as they are in majority in the region.[403] They preferred having a higher class/caste person along with them, when they went to complain.[404]

> How can we go to the government? When a person of a higher class or caste tells us to come with him, only then we can we go, otherwise how it is possible? We do not have a car or a horse! We have nothing. We are going on surviving here because the education here is good for our children, otherwise there is no reason.[405]

Some women felt that it is the role of the men to approach the tanker drivers for complaining about the quality of water as they were supposed to stay at home.[406] Another basis of distinction was between people who owned the land, the original allottees and those who were living on rented

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[397] *Ibid.*
[398] Slum Interviews, Phase II, July, 2014, SG R8.
[399] *Id,* SG R3.
[400] Slum Interviews, Phase I, January, 2014, SG R7, SG GD4.
[401] *Id,* SG GD4.
[402] *Id,* SG R7.
[403] *Ibid.*
[404] Slum Interviews, Phase II, July, 2014, SG R3.
[405] *Ibid.*
[406] Slum Interviews, Phase I, January, 2014, SG R9.

houses. The former felt more entitled to complain, while the latter felt they will not be taken seriously because they did not own the land.[407] Moreover, the authorities might question their leases. Such people complained to the landlords instead, who might or might not take any action on such complaints. The ownership of land affected their perception of rights.[408] The tenants were sometimes not allowed by their landlords to complain formally because doing so will result in the disclosure of their illegal subcontracts.[409]

Some people recognized a duty to ensure clean surroundings. They recognized an interpersonal duty when they said, 'If the people do not behave themselves, what can the government do?'[410] It was observed that there was a lack of leadership and unity between the people on common issues. They have been relocated at different times and their interpersonal bonds were not strong. There was absence of initiative. While some people were apprehensive about complaining, others would keep waiting for the others to initiate the discussion. They said they do not mind adjusting till the situation worsens. People also complained that the interpersonal duties towards one another were not being fulfilled as people often dumped solid waste outside someone's houses or did not contribute towards cleanliness efforts of the community.[411]

There were some people who got over the barriers to participation. An interesting response was, 'How can you have respect without water? How can you survive without water? Water is essential'[412] which points to the link between human dignity, the right to life and the right to water and sanitation. This is the very link which the Supreme Court establishes when it derives the right to water and sanitation from Article 21 of the constitution which is right to life.[413]

Action taken and response received

There were instances when people have come together to protest, either through the intervention of civil society organizations or by themselves. The methods were by complaining to the service providers, for example the person who came with the tanker, the DJB, the local MLA, and the representatives of political parties which frequent these areas for campaigning during elections.[414] One response was, 'We stay here, so it is our right to tell them to clean our area'.[415]

They organized themselves in groups and went to the DJB office in Karala or the Tanker Refilling station in Bawana and demanded that water be supplied to them.[416] They even held protest marches

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[407] Slum Interviews, Phase II, July, 2014, SG R3.
[408] *Ibid.*
[409] *Ibid.*
[410] Slum Interviews, Phase II, July, 2014, SG R4.
[411] *Id,* SG R13, SG GD2.
[412] Slum Interviews, Phase I, January, 2014, SG R19.
[413] A.P. Pollution Control Board II v. Professor M.V. Nayudu, (2001) 2 SCC 62.
[414] Slum Interviews, Phase I and II, July, 2014.
[415] Slum Interviews, Phase I, January, 2014, SG R9.
[416] Slum Interviews, Phase II, July, 2014, SG R4, SG R8.

by demonstrating on roads, creating road blocks and protest marches.[417] The NGO MARG also organized a signature campaign in the area to protest about the water and sanitation conditions, as reported by the respondents.[418] They also said that they have, on some occasions, sent postcards to the Delhi Chief Minister demanding for pipelines and proper sewers.[419] A regular feature is protesting in front of the DJB offices for supply of tankers. Majority of the respondents said that they received no response or a delayed response. The people were not aware of the proper complaint mechanisms and the NGOs in the area were helping in raising this awareness.[420]

> There was a tanker that used to come at this number 38, they said that this community doesn't have many people so we will give water once in 3 days and it is fine with us, we can manage on one drum for 3 days, but the tanker has not come here for 15 days. We have complained this to the new MLA but he is not listening. To whom should we complain now?[421]

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[417] *Id,* SG R14.
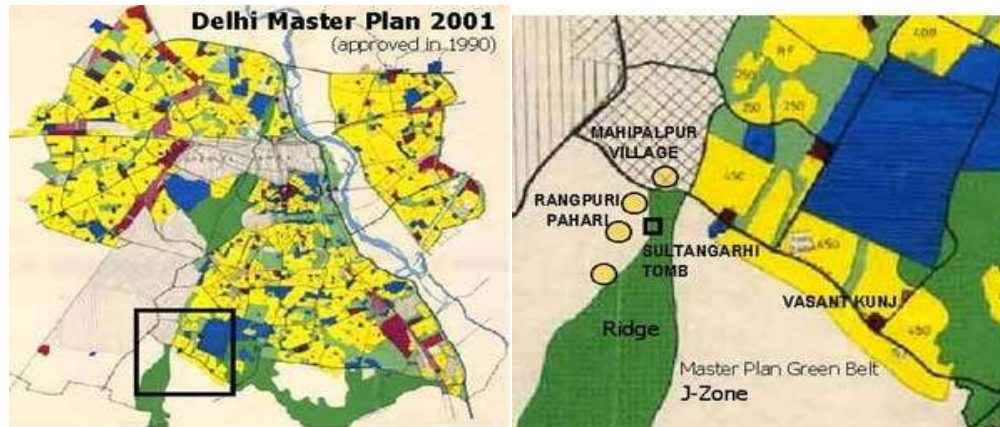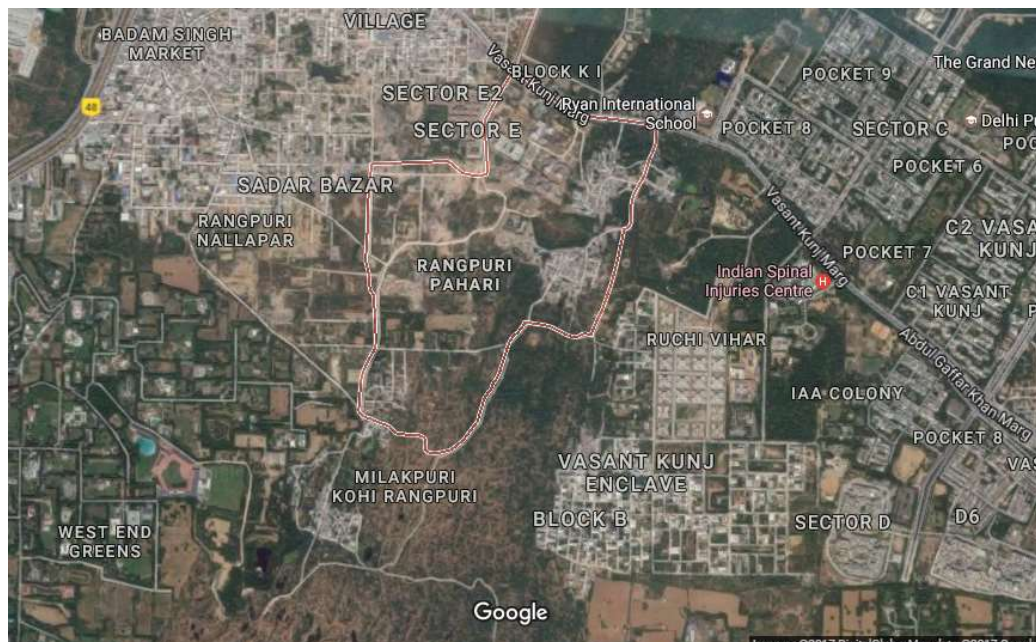[418] *Id,* SG R6.
[419] *Ibid.*
[420] *Ibid.*
[421] Slum Interviews, Phase I, January, 2014, SG R7.

3.3 RANGPURI PAHADI

Picture retrieved from, http://architexturez.net/file/rp01-jpg

Google Maps data 2017

Rangpuri Pahadi, is an unauthorized colony, located in South West Delhi close to Vasant Kunj. Part of this area is listed as a village under the Delhi Master Plan, 1957.[422] The settlement is built partly on DDA land and partly on land belonging to the Forest department.[423] The place started receiving its first inhabitants due to it being a stone quarry (Subramanyam 2007). '*Pahad*' means to a stone hill. This activity of quarrying of stone started in the 1950s.

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[422]   'Malakpur   Kohi',   Gupta,   R.G.,   Master   Plan   for   Delhi   1957, http://rgplan.org/delhi/Master%20plan%201957%20Vol-II,%20Part-3.pdf, p.89.
[423] http://delhishelterboard.in/main/wp-content/uploads/2015/12/675_JJ_Cluster_List.pdf

Contractors "settled" workers in various places. Some opted to live close to the main Mehrauli-Mahipalpur road and thus came about the settlement of Rangpuri Pahari Malakpur Kohi. Others opted to live closer to the quarries further south and thus came about the settlement of Rangpuri Pahari *Nala*. Some Muslim families opted to live separately in a settlement north across the road and thus came about the settlement of Rangpuri Pahari Sarak Paar. Later a driver engaged in transporting stone started a settlement between Malakpur Kohi and Nala, known after him as Israil Camp (Dewan Verma, 2002).

Today about 2000 households live here and the number grows by the day.[424] From the 1950s to 2010, the residents enjoyed a peaceful life, however the area was dragged into controversy when the forest department declared it to be forest land and Delhi Development Authority acting on the orders of the National Green Tribunal began claiming the land back by conducting evictions of the residents and demolition of the slums (Iqbal, 2014 and Anas, 2015). Demolitions have happened several times since then, the latest one in our knowledge, being in August 2016.[425] From the interviews it was gathered that at the time of the 2014 demolitions, though the houses were demolished, no alternative housing was provided to the residents.[426] As a result the residents rebuilt the houses and started living there again (Akram, 2015). Everyday more people come and take residence in this area as there is illegal buying and selling of property (Srivastaval, 2015).[427] The new AAP government has put a ban on demolitions for now taking a holistic approach to development (Times News Network, 2015, Garg, 2015 and PTI, 2015 a). The residents have been issued Identity cards and the address shown is Rangpuri Pahadi.[428] Even then the residents live in constant fear of being thrown out of the land in the middle of the night in the manner of the November, 2014 and August, 2016 demolitions when most of them had no prior notice.[429]

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[424] Slum Interviews, Phase1, January 2014, RP R12.
[425] Rangpur Pahadi visit report, August 2016.
[426]Slum Interviews, February, 2016, Demolitions in RP.
[427] From the Slum Interviews as well, it was observed that people buy and sell property without any exchange of proper paperwork. As a result, most people are unaware of the nature of the land when they move in Rangpur Pahadi.
[428] Observed during a follow up visit under this study in February 2016.
[429]Slum Interviews, February 2016 on demolitions in RP and Rangpur Pahadi visit report, August 2016.

Image from Rangpuri Pahadi, July 2014

3.3.1 PRESENT SYSTEM OF WATER DISTRIBUTION

The current system of water distribution in Rangpuri Pahadi is a fully community-based initiative. Bore wells (around four to five) have been dug to draw ground water.[430] Motors have been attached to these wells. The water from these motors is stored in tanks or in some cases, obtained directly through the pipelines laid down to their respective houses. The physical infrastructure for the water delivery was paid for and constructed entirely by the people,

> We have installed motors personally here. So, we get water from the pipelines. There are several pipelines in each lane. These are clustered around several common points in the lane, which are accessible to all.[431]

Another respondent said, 'We have a tank of 500 L at home where the water is stored. The water pressure is very good so one needs only ten to fifteen minutes to fill the tank'.[432] There were some who said that the initial digging was done by the government after which they never received any kind of help, 'It was only the first bore-well that was installed by the government. All the subsequent ones have been installed by the public'.[433] From the interviews, it also became evident that the water pressure and the quality differed from one area to another within the site. However, before the bore-wells were accessible, people used to get water from a tap situated at the entrance of the JJ cluster that was installed by the government.[434]

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[430] It was observed by the researchers on site visits.

[431] Slum Interviews, Phase I. January 2014, RP DGD3.

[432]*Id,* RP R12.

[433]*Id,* RP RGD2.

[434] *Id,* RP R9.

Image of the network of pipelines linked to the main water tank

For every area, there is a person responsible for operating the motor connected to the bore-well. We were able to interview one such person. He charges ₹100-₹300 per month from each household depending upon the time of usage and this way he collects approximately ₹12,000-₹13,000 in a month. [435] His wife mentioned that there is a committee of ten to fifteen members who are residents of the slum and they decide the matters of water.[436] We did not come across any respondent who could tell us how the committee members were appointed. However, we got the sense that it was mostly based on the age and experience of the respective person. One respondent did mention that 'the Pradhan has provided this system',[437] but we do not have enough data to support the same.

The water committee makes the schedule for making water available to different households at different times. They have employed one person for each area (more commonly referred to as *'paniwala'* [water man] who is responsible for operating the motor. In case of need of any repairs or maintenance, it is the committee which takes a call on collecting money from individual households, pooling it, and making the said repairs.

Apart from the monthly charge, every household also had to pay for the setting up of the initial infrastructure and then additionally for bringing the pipeline connection to their houses.[438] The water from the taps is used for all purposes including drinking. About the schedule for water distribution, one respondent said, 'The time is set for different areas. Like ours comes at 9.00 am. Say, one line serves twenty houses. So there are twenty connections. So water will come for say half an hour for

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[435] Slum Interviews, Phase I, January 2014, RP R8.
[436]*Ibid.*
[437] Slum Interviews, Phase I, January 2014, RP R18.
[438] *Ibid.*

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two houses. Then they will close it and the next two houses will get it for next half an hour'.[439] In case the bore well doesn't work due to defects in the motor or any other reason, people either buy water cans from the market or phone the DJB or the local MLA to deliver water tankers.[440] The latter sometimes yields results. Some people said that there were costs even when the MLA sends the tankers.[441] The respondents hinted that, 'there are people who earn a lot from the present system of water and setting up government water facilities would mean they will lose their profits and therefore they do not let any development take place here'.[442]

3.3.2 MANAGEMENT OF SANITATION FACILITIES

Sanitation emerged as a major concern for the people when we talked to them. There are no functioning public toilets in the area. Some of the respondents did mention a dilapidated building which was constructed around 2005 to be used as a community toilet but it remains non-functional. The respondents said that they have heard that this was built by the government.[443] Another response about the community toilet was, 'Yes they [were] built. They were not functional. They only built the walls and nothing else. People sold off its parts and are using it for other purposes. It's a junk yard'.[444] Some houses have private toilets while some do not. To collect the waste, these toilets are connected to septic tanks which have to be cleaned periodically (depending upon the size of the septic tank and the number of members who use the toilet) by private cleaners who charge around ₹2000-₹3000 for one visit.[445] One respondent mentioned, '…These septic tanks are mostly five by five. Some have a four feet deep tank because they cannot go beyond that. There are solid rocks under that'.[446] The ones who do not have the facility of a private toilet have to go to the adjoining forest area for open defecation.

There is no proper drainage system. One respondent said, 'The biggest problem is that of drainage and sewers. The water comes inside our houses. The drains overflow'.[447] MCD workers sometimes come to clean the area but they usually spend time only towards the outer areas and leave the inner areas as it is. In answer to our question, a respondent said, 'They only sweep along the main roads, no one cleans the lanes. Another thing is that they have been corrupted by being privy to bribery. They say that they will clean the lane, and charge each house ₹50 for doing their job.'[448] Another remarked, 'They clean the sewers but they leave the waste collected on the side of the sewer itself. The livestock (chickens) that people have here, disperse the waste and it goes into the sewer'.[449]

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[439] Slum Interviews, Phase I, January 2014, RP R13.

[440]*Id,* RP R3.

[441] *Id,* RP GD2.

[442] *Id,* RP GD1.

[443]*Id,* RP GD5.

[444]*Ibid.*

[445]*Id,* RP GD1.

[446]*Id,* RP GD2.

[447] Slum Interviews, Phase I, January, 2014, RP GD2.

[448]*Ibid.*

[449]*Id,* RP R8.

However, in one particular area, we came across a respondent who said, 'As you can see, sir, all our drains here are covered. All of us paid thousands to cover our drains so that our children do not fall sick. We try to keep the lane as clean as we can'.[450]

3.3.3 MAPPING OF ACTORS

A) MUNICIPAL AUTHORITIES AND LOCAL GOVERNMENT

Rangpuri Pahadi is built partly on DDA land and partly on Forest land. It is a part of the South Delhi Lok Sabha constituency.[451] The MCD is responsible for sewerage services and the DJB is responsible for water supply. As of 2014, Ramesh Bidhuri from the BJP is the MLA for the region (Ghosh 2014). The DUSIB (Delhi Urban Shelter Improvement Board) which is the agency responsible for rehabilitation of slum dwellers, laid down a policy in 2015 putting 1st January, 2015 as the deadline after which no *jhuggi* can be constructed anywhere in NCT, Delhi.[452] This move comes after the demolitions in November, 2014 reportedly sanctioned by the National Green Tribunal (Pandit 2014). The DDA is present in the area since it has been given the orders to dig up a boundary separating old *jhuggis* from the new ones.

B) CIVIL SOCIETY ORGANIZATIONS

Forum for Organized Resource Conservation & Enhancement (FORCE)
FORCE, had a very strong presence in Rangpuri Pahadi. Ms. Jyoti who is the president of FORCE in her interview,[453] mentioned that the major problem with respect to water and sanitation in this area was that of:

(a)   Regularized access
(b)   Sustainability of the current system
(c)   Poor capacity of both implementers and the users.
(d)   With respect to infrastructure, the issues relate to lack of policy on account of such area being marked as unauthorized the fact that the land on which the slum is located belongs to multiple agencies.

While the NGOs working in Rangpuri Pahadi, specifically FORCE, recognize the role of the government as the primary duty bearer for provision of water and sanitation and its accountability as well, they also emphasize the difficulties the government faces in the process. One, is technical as were told,

> If I take [the example of] Vasant Kunj which is closest to Rangpuri Pahadi, the trunk sewer system has been built keeping the population of Vasant Kunj in mind. Now you have three times

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[450]*Id,* RP GD3.
[451] http://delhishelterboard.in/main/wp-content/uploads/2015/12/675_JJ_Cluster_List.pdf
[452] Delhi Shelter Board, Delhi Slum and JJ rehabilitation and relocation policy, 2015.
[453] Interview with Ms. Jyoti, 29th October, 2014.

the population, so if sewer lines are made in these areas (adjoining slums) and linked to the trunk sewer line, it will not be able to take that load. That's just a technical problem, nothing else. Second is multi agency issues, like Forest not giving permission or DDA not giving permission or you know where coordination between two or more agencies is required so that does not happen. Third, of course, is prioritization of funds. It is not that they are floating in funds so prioritization happens. Fourth is sustainability concerns, that is, if some infrastructure is made, is it likely to be sustainable in that area or not. That also becomes a concern.[454]

Bal Vikas Dhara

The NGO Bal Vikas Dhara works, '…in the field of women empowerment, child development, youth employability and empowerment activities for more than 2 decades. The main focus of the organization had initially been the children who engaged in the exploitative climate'.[455] In the aftermath of demolitions in Rangpuri Pahadi in November, 2014, the organization provided relief material and care to the slum dwellers. Its main focus is on education of children of school-going age. An interview with a volunteer of the organization highlighted the high drop-out rate of children of Rangpuri Pahadi from schools and non-accessibility of education for other children. Other than this, it runs the Daiichi Sankyo Arogya Health Clinic which is supported by Daiichi Sankyo India Private Limited.[456] In the clinic, patients can avail the health services and medicine at very cheaper rates (25% of total cost). The organization has also been organizing free health camps in intervention area like; Israel Camp, Sanker Camp, Nalapar, and so on.[457] The NGO has established two Reverse Osmosis (RO) water treatment plants in two primary schools in Rangpuri Pahadi. 'The basic objective of project is to provide safe and pure drinking water to the students'.[458] It also runs *Mahila Panchayats,*[459] in association with the Delhi Women's Commission.

HLRN

The Housing and Livelihood Rights Network, 'works for the recognition, defense, promotion, and realization of the human rights to adequate housing and land, which involves securing a safe and secure place for all individuals and communities, especially marginalized communities, to live in peace and dignity'.[460] It is involved in Rangpuri Pahadi with regards to the housing rights for the slum dwellers.

HRLN

In the aftermath of the forced eviction drive in November 2014, the Human Rights Law Network filed a writ petition in the Delhi High Court against the evictions and the petition is still pending.[461]

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[454] *Ibid.*
[455] Bal Vikas Dhara, http://www.balvikasdhara.org/about.html
[456] Bal Vikas Dhara, http://www.balvikasdhara.org/programme.html
[457] *Ibid.*
[458] *Ibid.*
[459] Delhi Commission for Women,
http://www.delhi.gov.in/wps/wcm/connect/lib_dcw/DCW/Home/Projects/Mahila+Panchayats
[460] HLRN, *Land Rights*, http://hlrn.org.in/land-rights
[461] Mohan Ram vs Deputy Conservator of Forest and Tree Officer, W.P.(C) 8518/2014.

A) Responses to the Present System of Water Facilities

<u>Accessibility- Physical</u>
In terms of physical accessibility, the water is made accessible to individual household through taps which are connected to pipelines which draw water from the bore-wells with the help of the motors. One respondent answered that, 'every household has a pipe'.[462] In terms of the duration for which water is made accessible, the responses varied. While some mentioned that they get water supply for half an hour every day at a pre-decided time, others said it is for fifteen to twenty minutes or even around an hour. One respondent mentioned that he got water from 9.00-9.30 am.[463]Another female respondent said that the water supply started at five in the evening.[464]

In terms of sufficiency, majority of the respondents were satisfied with the quantity of water that was available to them. However, during the second phase of the interviews which were conducted in summer, most of the respondents cited sufficiency of water as a major concern, 'This is the consecutive third day when we are not getting the water. These pipelines (in the camp) many times do not provide us with water four to five days at a stretch'.[465]At times, when there is shortage of water, one respondent mentioned that, 'then we go to other places looking for a tap. There is a tap at Peergau where we usually filled the water from'.[466] Other alternatives cited were buying water cans, buying water from other lanes, coordinating with neighbors, and sometimes the people are able to call DJB and get tankers. With respect to the latter, one respondent during a Group Discussion said, 'Sometimes when politicians need votes, then they send tankers'.[467] However, in the same Group discussion, another respondent remarked, 'It's been five years since any tanker came to this area.'[468]With tankers, another issue that was mentioned was that they were not accessible to people in the inner lanes and were usually consumed in the outer lanes only.

On being asked whether people had fights over water, the wife of the man who supplies water responded in the negative, 'Fights do not happen over the fixed time but only when the water is not coming. I have to listen to their bickering'.[469] Some of the respondents also mentioned incidents of fighting and accidents in accessing drinking water during summertime (second phase of interview),

> The place opposite [our slum] gets water from Jamuna Vihar. We get the water to drink in
> buckets. When they see water children also feel very thirsty and run towards the water. One girl

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[462] Slum Interviews, Phase I, January, 2014, RP R11.
[463]*Id*, RP R1.
[464]*Id*, RP R11.
[465] Slum Interviews, Phase II, June-July 2014, RP R2.
[466] Slum Interviews, Phase I, January 2014, RP R11.
[467]*Id*, RP GD5.
[468]*Id*, RP GD2.
[469]*Id*, RP R8.

just got into an accident recently and broke her leg. A motorcyclist ran her over while she was running to get water. We pay for medicines when we become ill because of the water. We might as well pay for clean and accessible water.[470]

Another respondent while telling us about the problems she had with respect to water said, 'They fight for water. All the fights that we have here are for water. Everyday someone or the other fights over water'.[471] She further clarified that, 'Most of the fights happen in summer. In winters there is no such problem.'[472]

<u>Accessibility- Economical</u>

In Rangpuri Pahadi, the entire water system is managed by the community. There is no government involvement. During one of the Group Discussions, with respect to the expenditure incurred by the people on the entire setup, the following remark was made, 'It was an initial burden of ₹15,000-₹20,000 on each household in the lane. Setting the pipeline from the source and installing motors to spirit the water was not cheap.'[473] People pay an amount ranging from ₹100-₹200 per month for access to water depending upon the time they get the water for ranging from fifteen minutes to an hour. There is no free water. One respondent mentioned that the amount paid for water depended upon the duration of use.[474] The respondents also mentioned that not only do they have to regularly pay for water but also for any other charges needed for repair and maintenance, as and when required, further adding to their cost of accessing water. In one group discussion, a respondent remarked, 'the bill for taking out and re-installing the motor comes to around ₹2,500-₹3,000 over and above the cost of repairing the motor.[475] One person said that when the motor gets damaged, they collect money from everyone in the area and then pay for repairs.[476]

<u>Affordability</u>

On the topic of affordability, people were asked about their inclination towards getting metered water. A male respondent said, 'I do not think anyone would be okay with that. There are all poor people. The schedule here is good'.[477] 'If we get meters, then it will become like the electricity situation. People will think of ways on how to steal from the lines'.[478] When we asked a female respondent if she would be willing to pay a bill to the tune of ₹300 per month with the facility of getting metered water, her response was, '₹300 seems to be a lot for water. I do not think I would pay that much'.[479] On the other hand, a female respondent who was already paying ₹300 per month for water did not find it problematic if the metered water charged the same amount as is evinced

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[470]*Id*, RP R10.
[471]*Id*, RP GD4.
[472]*Id*, RP GD4.
[473] *Id,* RP GD3.
[474] *Id,* RP R20.
[475] *Id,* RP GD2.
[476] *Id,* RP R5.
[477] *Id,* RP R13.
[478]*Ibid.*
[479] *Id,* RP R18.

from her response – 'The problem of meter is not an issue because as it is we are still paying ₹300 per month for the current water supply'.[480] This clearly indicates the linkage of relative economic ease with preference for regular accessibility to water.

Quality

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EXCERPT (RP R15, JANUARY 2014, PHASE I)

Interviewer (I):Is the water clean?

Respondent (R): It is not always clean. There are particles of white sand in the water at times.

(I): What do you do then? Do you boil the water?

(R): No. We just fill the water in the bucket and wait for the particles to settle down. Then we take the water from the upper layers and use.

(I): Is the water always dirty or is it just once in a while?

(R): It happens at times. It is more common in the summers because the ground water dries up so the motor draws more sand particles.

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On the aspect of water quality, we got responses ranging from terming the water as 'fresh and sweet' to 'clean' to 'manageable' to 'satisfactory' to 'dirty'. However, majority of the respondents remarked that the water was mostly clean. A few people said that it was dirty and at times was accompanied by stones or other such contaminations which were allowed to settle down before consuming the water. To make the water potable, some mentioned sieving the water through cloth or simply letting the water flow till they get clean water. Boiling due to expenses related to cost of using gas cylinders, using chlorine tablets, or any other method of making water potable is not prevalent. One respondent in a GD also mentioned that the quality of water differed from one area to another within the slum.

However, the responses changed during the second phase of the interview when majority were unhappy with the quality of water and one respondent said, 'The main problem here is of water. The water we get is very dirty. It is not at all suitable for drinking. It can be used only for washing clothes and utensils and bathing. Often, we find worms and insects in the water'.[481] Another respondent mentioned, 'These tube-wells have *khadiya* at their base, so when you fill water, you get white dust. We have to drink that only. Some filter it'.[482] Yet another said, 'For poor people the filter is the stomach only. We mix that water only in alcohol and drink it. We have to die one day anyway but we cannot stay thirsty so we drink what we get'.[483] On further enquiry when we asked about any filtration process, most of them said that they do not use any such method to save money. This shift in response from first phase of interview to second could be because of the change in quality (as well as availability) of water with the change in season.

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[480] *Id,* RP R20.

[481] *Id,* RP R7.

[482] *Id,* RP GD1.

[483] *Ibid.*

B) Responses to The Management of Sanitation Facilities

Accessibility- Physical
Many respondents mentioned going to the 'jungle' to relieve themselves. When asked if there is a community toilet nearby, a little boy who was running around with the interviewer, pointed at the jungle and said, 'There's the biggest toilet.'[484] Some houses have private toilets with the provision of septic tanks. However, there is no community toilet in the area. One respondent mentioned that, 'A mobile toilet had been put up but it was soon taken away'.[485] There was one shown to us by the respondents. We were told that it had been shut for a long time and no one used it.

Cleanliness and sanitation are the two major issues that people want addressed in this area. There is a severe lack of community toilets and many do not have private toilets. Since many respondents have to go to the forest to defecate, a major issue that arose was with respect to safety of the women. A female respondent said, '…a government toilet in this area is a must because going to the forest every time is not possible and is unsafe too, especially for girls. And this will not only benefit us but also help keep the environment clean'.[486] Both men and women also have to face problems when there is rain or at night or during winter. 'We have to defecate in the open, in the jungle. Sometimes when I am going on my motorcycle in the evening, I have to shut down my head lights because at times women feel uncomfortable and have to get up because of the head light'.[487] Since Rangpuri Pahadi is a designated forest area and the slums on this land are considered illegal encroachment of land, the forest department prohibits further construction in the area and this includes building of toilets. 'We have to go to the jungle, even my two year old daughter goes there. We have been asking them to build a community toilet but they refuse. I wanted to build a toilet here for my kid but they [the forest department] refused'.[488]

Accessibility- Economical
The respondents who have constructed toilets in their respective homes have done it at their own cost.[489] The septic tank where the waste accumulates has to be cleaned at regular intervals. For the same, the respondents call someone who cleans it for ₹500-₹2000.[490] Apart from toilets, the cleaning of drains and sewers is the responsibility of the MCD workers. They do not charge anything when they come. However, a few respondents did mention calling someone to clean sewers when the drains overflowed.[491]

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[484]*Id,* RP R12.

[485] *Id,* RP R5.

[486] *Id,* RP R2.

[487] *Id,* RP R3.

[488] *Id,* RP R12.

[489] Slum Interviews, Phase I, January 2014.

[490] *Id,* RP GD1.

[491] *Id,* RP GD1.

<u>Quality</u>

The surroundings in Rangpuri Pahadi appeared unhygienic. There was no proper sewage system and littering on the roads was common which lead to a stench.[492] The drains and the roads are seldom cleaned and even when they are, there were complaints of such cleaning being restricted to the outer lanes.[493] 'They come once in a blue moon and clean only the main outer drains not the inner drains and they sometimes shift the dirt from the outer drains into the inner drains.'[494] Due to this, there is breeding of mosquitoes and other disease causing organisms.[495] Some people mentioned that the MCD officials come to spray kerosene/DDT,[496] to prevent this and people spray it themselves too.[497] Respondents were asked about the status of disease causing factors in their areas. As per the respondents, there have been instances of diseases such as Dengue and Malaria.[498] Majority of the respondents informed us that water borne diseases were not common amongst them. A few people said being sick was a routine phenomenon and they could not point out whether diseases were caused due to contaminated water or general unhygienic conditions of the area. A woman mentioned that her young son had suffered from jaundice and even had experienced stomach related problems in the past.[499] Another respondent explained that the chances of anyone suffering from dengue were very remote since they got spray done regularly and maybe people were referring to the problems of last year.[500]

C) Responses to Duty Bearers

They say they cannot do anything because this is an unauthorized area. Now, you tell me if we live in an unauthorized area, does that mean we do not need water.[501]

The people consider the government to be the primary duty bearer in providing the right to water and sanitation. 'Even if a little support is extended by the Government, we can have a very good facility for water here'.[502] People expect the government to provide services. 'If they are taking taxes, why shouldn't they give us water? When every responsibility is the governments', then they should provide every facility too'.[503] They spoke about managing the water situation by themselves for more than a decade.

> Government should do something. We laid all these drains, not by the government. I will tell you an instance of corruption. Recently roads were built here. Measurements were taken till the

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[492] *Id,* RP GD4.

[493] *Id,* RP R20.

[494] *Ibid*.

[495] *Id,* RP R1, RP R5.

[496] *Id,* RP R5.

[497] *Id,* RP R5, RP R15.

[498] Slum Interviews, Rangpur Pahadi, Phase I, January 2014.

[499]*Id,* RP R16.

[500] *Id,* RP R5.

[501] Slum Interviews, Phase II, July 2014.

[502] Slum Interviews, Phase II, July 2014, RP R6.

[503] Slum Interviews, Phase I, January 2014, RP R12.

ends of the colony but the built roads stops at the main road. The rest of the sanctioned money would have been pocketed and we are left with no road.[504]

The same person then linked the problems to the status of the slum and said, 'The government should legalize our colony. That way, this whole situation would be legitimized. Thus, we could avail a lot of facilities and better utilize our salary'.[505]

D) RESPONSES TO PRIVATIZATION

<u>Private Companies vs the Government</u>
On being directly asked whether they thought that water and sanitation were government's responsibility, a majority of the people answered in the affirmative. In one Group Discussion, a respondent emphatically said, 'We vote for them! It is their responsibility for sure'.[506] In comparison to the private companies, the people still tend to trust the government more. This was because private companies were seen as working solely for the profit motive as their experience with electricity showed them that privatization led to bills of a higher amount.[507]

> If a private company comes, they will charge us more. They will only think of their profits. But if the government continues to give us water and even if it charges us for it, it will only help us in the long run as giving money to the government means that in the next budget, things will be easier for the whole country. If the government makes money, it's good for the whole country but if the private companies make money, it will only help them.[508]

Also, government is seen having more capacity than the private sector as one response indicated, 'Private players cannot do as much as the government can'.[509] For someone with low levels of income, affordability is a major issue and it is their understanding that government has a duty to work for their welfare.[510] Apart from affordability, there were trust issues with a private company. 'We cannot trust the private company. We trust the government more. The government is more reliable, just like a government job is worth more. A private company will only be interested in moneymaking. We will not let privatization happen. We would not support it'.[511] Another respondent mentioned that he thought the service would be better placed in the hands of the local leader. On further probing, he said, 'See, the way the government is going, it shouldn't be in their hands. It should be in the hands of the person who is in charge of the area, like a Pradhan'.[512]

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[504]*Id,* RP R13.

[505] *Ibid.*

[506] Slum Interviews, Phase II, July 2014, RP GD4.

[507] *Id,* RP R20.

[508] *Id,* RP GD1.

[509] *Id,* RP R1, RP R3.

[510] *Id,* RP R11.

[511] *Id,* RP GD1.

[512] *Ibid*.

E) HUMAN RIGHTS CHALLENGES

Barriers to effective participation

A hindrance to effective participation was denial of the existence of a problem.[513] During one particular Group Discussion, when we asked them why no efforts had been made to set up a government system for water, the respondent said,

> The people here portray as if they are happy with the way the things are. Also, there are people who earn a lot from the present system of water and setting up the government water facilities would mean they will lose their profits and therefore they do not let any development take place.[514]

'The DJB can appoint their staff in this area to provide connections for water. Then, these private individuals would not be able to exercise such arbitrariness'.[515] Some people were discouraged from participating due to the response or the lack of it that they received on their complaints and requests. One respondent mentioned that he did complain to the Pradhan but nothing happened thereafter.[516] One respondent even mentioned something about the Pradhan being corrupt but she refused to give more details.[517] Another respondent mentioned that once, they had conducted a rally to raise their voices to the government but it did not yield any result.[518]

> Yes, we have a right to these amenities. But madam, are we heard? Do we get these? We would want the government to care for us and be responsible for us but the government employees worry about filling their own pockets. Nobody cares for the poor. If they die, they'd let them die.[519]

People also tend to complain to the politicians near the election season when the latter visits these areas to make their pitch.[520] One respondent said, 'There is a nearby office in Mahipalpur where we have gone as a group to complain. They tell us to go to different places and it is all futile to write an application.'[521] Yet another response along the same lines was,

> I went to complain (to the person who switches on the water supply) day before yesterday only. The matter was that our connection was with some other motor and the water level had decreased in that motor. Another motor which is also close to my house was providing water to

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[513] Slum Interviews, Phase I, January 2014, RP R13.

[514] *Id,* RP R20.

[515] Slum Interviews, Phase II, July 2014, RP R3.

[516] Slum Interviews, Phase I, January 2014, RP R12.

[517] *Id,* RP R2.

[518] *Id,* RP R17.

[519] Slum Interviews, Phase II, July 2014, RP R8.

[520] *Id,* RP R17, RP R18.

[521] Slum Interviews, Phase I, January 2014, RP R19, RP R12.

all other households. The excuse given to me was that I did not have a connection with that motor and thus, they could not interfere and provide water to me. After appeals by a number of people, I was granted permission to fill in water from our neighbors' house as one of my family members is ill. I agreed to that and filled water from there. After three days also, they refused to provide water at my house. Since four days, we were waiting for water and there was not a single drop of water left at my house. At the last moment, again they refused to provide water and did not let me fill even a bucket. Then, I complained at the police station. The police scolded him and took something in writing from him.[522]

The inability to claim rights was further reflected when we asked the same question to another respondent, '…definitely we do (have rights). But whom do we claim it from? I do not see anyone helping us and listening to us. …Everyone realizes *haq*, but we cannot exercise it. There is no unity. No one is there to support you. We cannot get a starting point'.[523] When we further asked what they were willing to do to claim their right, one response was, 'We are poor people, if we start protesting, we will be out of work. How will we feed our families? The most we can do is continue poaching water, and fill it from elsewhere'.[524] Reflecting the sentiment, another respondent said, 'We will steal. That's what people do when they do not get anything. Our children will be taught the wrong things. We do not want to teach them this but we cannot do much to help it. We need facilities to live.'[525] A similar response to the question of recourse to the shortage of water was, 'We will fill it from elsewhere. We will steal water. We will break a pipeline. Those people have a right to water. Nobody has it here. Why have they not given a pipeline connection here and why have they given it there?'[526]

People were also unable to complain also due to the lack of awareness about the authority they should approach. One response was, 'No one knows where to go and ask for toilets! Those who know do not have that kind of time.'[527] On being asked about the municipality, they said, 'No one knows what the municipality is'.[528] There did not seem to be any complaint mechanism in place. Either the respondents had never complained to anyone before or they would go to the Pradhan or the waterman to tell them about their problems.

The reason why most people do not like to engage themselves in these issues, apart from the fact that the awareness levels are low, is that a day spent in making or following a complaint implies loss of earnings. Majority of the responses to the query of actions taken by the people to enforce their rights indicated that there has been close to no community mobilisation to protest or to do anything collectively. 'We cannot raise our voice alone. No one is there to support us even if we raise our

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[522] Slum Interviews, Phase II, July 2014, RP R3.
[523] *Id,* RP R10.
[524] *Id,* RP R12.
[525] *Id,* RP R16.
[526] *Id,* RP GD1.
[527] Slum Interviews, Phase I, January 2014, RP GD4.
[528] *Id,* RP GD4.

voice. If people stand and support then it is something which is inspiring but if no one supports then that it is quite futile to voice our concerns'.[529] A respondent citing lack of collective initiative said,

> I cannot do anything alone but if 10-20 people go together and complain, maybe we would be heard. A few months ago, somebody had started making fake licenses and we went to the Secretariat with a complaint about that. It was Kejriwal's government then. A few days ago, the person was arrested by the crime branch. But they let him go. This is not in favor of our rights. This is not listening to the poor. We are sitting silently now.[530]

Interestingly, when we asked someone whether a culture of activism prevailed there, the respondent said, 'That depends on what the problem is. Earlier when there was a problem pertaining to electricity, people had gone and complained to the electricity office. That is why the private company came. Now things are fine'.[531] Corroborating this, one respondent told us of an event where people did protest collectively, though not for the right to water and sanitation. He said, 'Once there was a *dharna* against the master plan. Under that master plan, all our houses were to be demolished. So, people had protested that our houses should not be demolished at the office at Vasant Kunj. There was no problem faced after that.'[532]

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[529] *Id,* RP R18.
[530] Slum Interviews, Phase II, July 2014, RP R8.
[531] *Ibid.*
[532] *Id,* RP R3.

3.4 BHANWAR SINGH CAMP

The Bhanwar Singh Camp, is a JJ cluster and is a part of the RK Puram constituency,[533] in Vasant Vihar in the South-West district of Delhi.[534] Its population has grown from a few hundreds to thousands of people over the past years.[535] According to a newspaper report,

> Bhanwar Singh Camp was one of the four in situ redevelopment schemes announced by the ministry of urban development in 2009. According to the plan announced by DDA, six acres of the available land was to be used to build flats for poor and the rest exploited by the developer. The built-up area of each flat was set at 30.5 square metres (Munshil, 2014).

The report also mentions an RTI filed by a resident, Gagan Saran Prajapati, which reveals that,

> The camp-selected by DDA for in situ development-is a 'recreational reserve forest area'. This would imply no construction can be done here. The information was supplied by DDA's planning department which means that the Authority knew about the land use and still chose to go ahead with the inauguration a couple of months before the 2009 general election (Munshil, 2014).

It appeared from our interactions with the people that the population has mixed settlers from different parts of India and mainly from the state of Uttar Pradesh, West Bengal and other parts of Delhi. MagicBus, an NGO that works in the area reports that, 'people here are mostly migrants from Rajasthan and the more remote parts of Bihar and Uttar Pradesh'.[536] Since they live close to the posh Vasant Vihar Colony, finding work is not very difficult. The people here are mostly employed in the unorganized sector as daily wage laborers, painters, auto drivers, woodcutters, drivers, security guards and so on. Some people have their own houses and some rent them. One respondent mentioned that some landlords (ironically) own as many as seven to ten houses.[537] It was observed that almost every house had a television set and some of the houses were cemented ones (*pukka* houses). At the entrance, one finds a temple. In the interiors, there is a lane where most families living were Christians and in another lane most of the people living were Muslims. Therefore, segregation of the basis of religion is noticeable. However, the field researchers were not told about any religious conflict between the groups.

3.4.1 PRESENT SYSTEM OF WATER DISTRIBUTION
Bhanwar Singh Camp fulfils its water requirements through three to five bore wells which were installed some time back. The response of the people differed on when the bore wells were installed.

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[533]GNCTD, Constituency wise JJ Cluster / area list being covered by Mobile Dispensaries under GNCT Delhi; *See also*, GoI, Electoral Roll, 2017.

[534] GNCTD, Ward 151 to 200 data.

[535] Approximately 1088 households. Delhi Shelter Board, http://delhishelterboard.in/main/wp-content/uploads/2017/01/jjc_list_for_website.pdf; 6000 people as of May, 2014. *See,* Munshil 2014.

[536]Magic Bus, https://magicbus.org/cms/village_progress_reports/bhanwar-singh-camp

[537] Slum Interviews, Phase I, January 2014, BSC R5.

One respondent said it was 'around five to six years back',[538] while another said that, 'It has been about twenty years'.[539] There was no specific response as to exactly why the system came up. However, it can be discerned that the people, disillusioned from the absence of a water system complained to the local MLA who then installed the system. One respondent mentioned that the entire system worked on the patronage of the MLA.[540]

Before the installation of the bore wells, people would get water from various sources. There was no uniform system in place. We were told, 'Some people used to get water from [name of person omitted], others got it from a nearby masjid or from the *kothis*'.[541] One respondent mentioned that, 'earlier there used to be a hand pump, only one in this area, where we used to get twenty-four hours water supply. But, later it was removed and bore wells were installed'.[542]

From these bore wells, pipelines have been laid down. While some were laid down by the then local MLA, Ms. Bharkha Singh, others have been laid down by the people themselves by collective contribution. One respondent told us, 'The MLA from here, Barkha Singh, is the one who got this done. There was first a pipeline near the jungle, after that one was damaged she got another one laid'.[543] While another said, 'The people themselves [have laid down the pipelines]. Say five houses pool in around ₹500-₹1000 each and lay these pipes. It is a one-time expenditure'.[544] These pipelines terminate at various points/clusters where people come and fill water. As one respondent pointed out, 'Every eight to ten houses have a pipeline. We collected money and got a pipeline. Now everyone comes here and takes water, including those who did not pay to get it installed'.[545] Some respondents also mentioned that few people have installed taps at their respective houses, especially the ones who have been living here for a very long time.[546] However, the number of such people is very low and they have done so at their own cost. The timing for water is more or less fixed. The motor is switched on twice a day, once in the morning and then in the evening for approximately two hours.[547] One person mentioned that when the motor breaks down, water is supplied by tankers.[548]

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[538] *Id,* BSC GD3.
[539] *Id,* BSC R15.
[540] *Id,* BSC R4.
[541] Slum Interviews, Phase II, July 2014, BSC R7.
[542] Slum Interviews, Phase I, January 2014, BSC R15.
[543] *Id,* BSC R4.
[544] *Id,* BSC R6.
[545] *Id,* BSC R2.
[546] *Id,* BSC R3, BSC R13, BSC 17, BSC 18.
[547] *Id,* BSC GD5.
[548] *Id,* BSC GD4.

A collection of recycled water storing containers made from used oil cans, cement buckets and filtered water tanks, Bhanwar Singh Camp, July, 2014.

The water supplied is free of cost. The motor attached to the bore well has a meter which has to be recharged periodically.[549] When we enquired about the recharge system, we were told that, 'they are all on the patronage of the MLA'. On the recharge system – 'earlier recharge was gotten done by Bharkha *ji*, now (we have) no clue'.[550] Therefore, the money required to run the motor is paid for by the MLA. The recharge is done through a card which is made available to the *Pradhan* of the area, 'The *Pradhan* has the keys to the motor. Whoever he chooses to give the keys, has the responsibility of running the motor. It is usually switched on around 5-5.30 pm'.[551] At times, when the system doesn't work due to a technical issue or scarcity of water, people resort to collecting water from the *kothis* (houses) where they work, the neighboring Nepali Camp, or they call up their MLA to provide them government tankers.[552] For most part, people considered the present system to be much better than what existed before and expressed that, 'it has made life easier'.[553]

3.4.2 MANAGEMENT OF SANITATION FACILITIES

Sanitation emerged as a major concern for the people in Bhanwar Singh Camp. There is one community toilet constructed at the entrance. It has eight to ten bathrooms to cater to the needs of the entire population of the camp.[554] As a result, most people prefer going to the adjoining forest area for open defecation, to the disappointment of their posh neighbours (Mail Today Bureau, 2015). Very few houses have managed to construct toilets for themselves. One respondent said, 'Most people go to the jungle. The houses on the lower side of the camp have toilets, because the water

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[549] *Id,* BSC R4.

[550] *Ibid.*

[551] *Id,* BSC R4.

[552] *Id,* BSC R5, BSC R12.

[553] *Id,* BSC R2, Slum Interviews, Phase I, January 2014.

[554] *Ibid.*

reaches there, for everyone else, it's the jungle'.[555] Reports show that even if toilets are constructed, it doesn't lead to immediate benefits as people prefer open defecation in Bhanwar Singh Camp.[556]

Image of the open land near Bhanwar Singh Camp

While going to the jungle does not cost any money, the use of community toilet entails a recurring cost. As one respondent told us, 'they charge ₹5 every time you use it. For kids this is ₹2' and '₹10 for the shower'.[557] The common bathroom is cleaned regularly by two men who collect the money for using the facility. They are not government employees.[558]

As regards general hygiene, one respondent said, 'There is no provision for collecting and dumping garbage from our homes, at present we ourselves collect garbage from our houses and dump it at the back. For cleaning drains these people do come once in a week, but none for dumping our household waste'.[559]

Our findings on the water and sanitation facilities of Bhanwar Singh Camp and the efforts to address them have been succinctly reported in this quote from Mr. Radhey Shyam, the counsellor of Vasant Vihar,

> The residents (of Vasant Vihar) have come to me several times for a solution but it is the Delhi Urban Shelter Improvement Board (DUSIB) that has to take the action. It is the responsibility of

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[555] Slum Interviews, Phase I, January 2014, BSC R11.

[556] 'Open defecation is a socially acceptable and a traditional practice in our community. Sanitation is never discussed at home'. Kybri 2015. See further, a recent study that draws a link between open defecation, casteism and concerns of racial purity as a deterrent for safe sanitation practices (Coffey, Diane and Spears, Dean, 2017).

[557] Slum Interviews, Phase I, January 2014, BSC R19.

[558] *Id,* BSC GD2.

[559] *Id,* BSC GD2.

the state government to provide sewer lines and water connection to these slum clusters. I had written to the DUSIB a couple of weeks ago but no concrete response has come from it. Once in a while I myself get the drain clear with help of MCD staff (Mail Today Bureau, 2015).

3.4.3 MAPPING OF ACTORS

A) MUNICIPAL AUTHORITIES AND LOCAL GOVERNMENT
The MCD is responsible for sewerage services and the DJB is responsible for water supply to Bhanwar Singh Camp. During the interview period, Anil Kumar Sharma, a politician from the BJP was the MLA for the RK Puram Constituency under which Bhanwar Singh Camp falls, however, he was replaced by Pramila Tokas from the AAP in 2015.

B) CIVIL SOCIETY ORGANIZATIONS
The people noted that NGOs have played a role in spreading awareness about water purification and education.

> There was a lady who used to come and talk to us about the water. She used to tell us that we should fill the water in bottles and keep it on the roof in the sun so that it boils and then consume it. I did it for a few days but then I had other work so I could not keep up the practice.[560]

Magic bus
Magic Bus is a non-profit organization, registered as Magic Bus India Foundation under section 25 of the Companies Act 1956.[561] Magic Bus focuses on education and has been in Bhanwar Singh Camp since 2011. As per their website, 'Magic Bus started the programme in Bhanwar Singh Camp in June 2011. …Currently, there are 65 children in the programme, out of which 40 are boys and the rest are girls. There are four Community Youth Leaders (one girl and three boys).'[562]

Naya Prayas
Naya Prayas, established in 1993, runs nine schools since 2004 in Bhanwar Singh Camp and nearby areas in Vasant Vihar. It provides non-formal education to children. One in ten children are sponsored onto the secondary school program. Naya prayas also runs vocational training for children, men and women. Over 300 people (2004) avail of this opportunity and from this platform, many go on to be successful and provide support for Prayas. Vocational Training offered includes: Embroidery, Computers, and so on. It also has over health camps on this site. Speaking about the work it does, one respondent said that, 'They provide educational opportunities for children, there are women go to learn sewing. There is teaching'.[563]

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[560] Slum Interviews, Phase I, January 2014, BSC R14.
[561] Magic Bus, http://www.magicbus.org/transparency
[562] Magic Bus, https://magicbus.org/cms/village_progress_reports/bhanwar-singh-camp
[563] Slum Interviews, Phase I, January 2014, BSC R13.

3.4.4 Findings of the Social Survey

A) Responses to the Present System of Water Distribution

<u>Accessibility- Physical</u>

Image of water containers stacked together to store water, January 2014

To fill water, people have to carry their containers and gather at particular cluster points. This involves travelling from their house to the cluster point which is usually not very far off. However, the bigger issue is standing in a queue for hours to collect water which is not only time consuming but also leads to fights and quarrels. The water is made available twice a day, once in the morning and once in the evening, for about two hours every time. 'It starts at 8 and goes on till 10'.[564] In case there is no water supply due to any reason, one respondent said, 'We fill it from here and there, what else? Sometimes we fill water from the community toilet, other times we go to the bungalows. Sometimes we have to go to this end of the camp, other times we need to go to the other end'.[565] Therefore, in such an event, procurement of water becomes difficult.

Accessibility to water is a major concern for the people of Bhanwar Singh Camp. The first phase of interviews was conducted during winters but the second phase was conducted during summer. Majority of the respondents told us that, 'The summers are difficult'.[566] When we asked someone in January, we were told that, 'Right now it's cold so it's not as problematic, but in summers it's a big problem, people start fighting over water, and the meter is damaged. Then everyone has a problem'.[567]

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[564] *Id,* BSC R5.
[565] *Id,* BSC R6.
[566] *Id,* BSC R4.
[567] *Ibid.*

It seems that the problem in summers is due to the large number of people who gather to fill water from a single cluster point, 'The place is very crowded, and sometimes we are unable to fill water'.[568] Furthermore, the duration of water supply is short, especially during the summer months, 'They only run the water for two hours. And almost 100-200 people gather for taking water from there. People even get into fights over water. Sometimes we are unable to get water. In fact on that end (gestures) the water they get is also not good; it is dirty'.[569] The situation is exacerbated because, '[In summers] people need water for their water coolers as well. Where we drink one litre of water in the winters, we would require at least four litres in the summers. The consumption increases manifold'.[570]

One respondent also complained that the discretion vested with the man who holds the key to the motor also affects access to water, 'The man with the keys to the pipeline may or may not run it as he wishes; sometimes he makes excuses and doesn't let us run the water, say if he gets irritated or angry'.[571] A similar allegation was levelled by another respondent, 'The keys stay with the main people, the prominent ones. They are Barkha Singh's people and vote for her. Whoever has power gets to fill water first. Weaker people have to wait'.[572]

Summers are, however, not the only tough months. One respondent said, 'It so happens that at times, the pipelines burst due to potholes and bad roads. They should be repaired. During the monsoons, the pipes start rusting. So they should be replaced'.[573]

Due to the above mentioned difficulties in accessing water, most (not all) people are more than willing to pay for a pipeline leading to their respective homes because, 'Right now, we get late for work, or do not get to sleep. The water comes at 5.00 a.m. If we wake up at 6.00 a.m. then there is no water left for us'.[574] Similarly, a female college going student lamented that, 'There should be taps in front of the houses. It is such a waste of time, people standing in lines for so long'.[575]

It is interesting to note that only a small number of people have motors in their houses. As one respondent told us, 'Only a few people have motors, those who were Barkha Singh's followers. Only they have motors'.[576] The reason, as told by him was, 'If all of us get it, it'll be okay. But if one person gets a motor here, everyone shouts at him saying 'How dare you put a motor here?' Only a few people have it. [Name Omitted] uncle's bathroom has a motor and he doesn't let anyone fill water'.[577]

[568] *Id,* BSC R5.

[569] *Ibid*.

[570] *Id,* BSC R7.

[571] *Id,* BSC R1.

[572] *Id,* BSC R12.

[573] Slum Interviews, Phase II, July 2014, BSC R9.

[574] *Id,* BSC R19.

[575] Slum Interviews, Phase I, January 2014, BSC R13.

[576] *Id,* BSC R12.

[577] *Id,* BSC R12.

A handpump fixed to a pipeline to pump water out, Bhanwar Singh Camp, January 2014

Accessibility- Economical

The water provided is free of cost. The card which charges the motor (running the bore well) is recharged by the local MLA.[578] While most of the pipelines were laid down by the MLA, some people (possibly the newer entrants) had to pool in money to expand the pipeline system thereby incurring some cost, 'about ₹4000-₹5000 each'.[579] At times when the recharge is over and is not provided for instantly, the people have to spend money to procure water from other sources (such as buying drinking water).[580] The water provided is free of cost. However, since there are accessibility issues, people say they wouldn't mind paying a small amount of money as long as they could be assured of getting water directly at their houses.[581]

Quality

The quality of water differs from one area to the other as one respondent pointed out, 'One of the bore-wells gives clean drinkable water but the other one doesn't'.[582] This is the reason that some respondents said that, 'Yes, the water is clean and fit for drinking'[583] while some said, that the water sometimes has mud.[584] One respondent also said, 'The water supplied to us is *kaccha*. It's not purified. People living here have adapted themselves to consuming such water so anyone who moves in here for the first time has trouble adjusting to the quality of water'.[585] Corroborating the same, a

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[578] *Id,* BSC R4.

[579] *Ibid*.

[580] *Id,* BSC R1.

[581] Slum Interviews, Phase II, July 2014.

[582] Slum Interviews, Phase I, January 2014, BSC R3.

[583] *Id,* BSC R6.

[584] *Id,* BSC R3, BSC R19.

[585] Slum Interviews, Phase II, July 2014, BSC GD4.

respondent told us that, 'We only drink Bisleri water (packaged water), or else we do not drink. Some people do drink the water, but we do not'.[586]

In cases where the water is not potable, a group of women said, 'we put a filter on the pipe while filling water so it is filtered water'.[587] When we further asked whether this was the common practice, they said, 'No, only the persons who can afford to buy one filter or who are sensible enough. It depends on you'.[588] Two respondents also mentioned that earlier the water would be filtered at the source, 'Initially the water used to be filtered and they used to add some medicines to kill germs. That is not happening any more, hence, the risk of diseases has increased'.[589]

Quantity

We were told, the quantity of water being made available to the people is inadequate and the supply is erratic, because the duration of water supply is short and the water pressure is very low.[590] As a result, people make pits to collect water and that leads to lot of contamination of water and there is no monitoring of quality of water.[591]

Image of a pipe connection in one of the lanes, used to collect water, July 2014

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[586] Slum Interviews, Phase I, January 2014, BSC R2.

[587] *Id,* BSC GD5.

[588] *Id,* BSC R18.

[589] Slum Interviews, Phase II, July, 2014, BSC GD2.

[590] Slum Interviews, Phase I, January 2014, BSC R6.

[591] *Id,* BSC R13.

<u>Accessibility- Physical</u>

There is only one community toilet and people mostly go to the forest area to defecate. The opening and closing hours for the toilet are fixed- 'It opens about 4.00-4:30 in the morning and is operational till 10.00 pm at night'. [592] This creates an issue as one is forced to resort to going to the open land in case of an emergency at night. Since it is located at one end of the camp, accessibility is an issue. [593] Secondly, since only one community toilet complex caters to the entire population of the two camps, people have to wait a long time for their turn. [594] One respondent said that, 'It's far from here, so we go to the jungle (the open land nearby)'.[595] When a few respondents tried to construct a private toilet, 'the police came and broke it because drainage was difficult'.[596] Another respondent mentioned that,

> The government does not allow us to build our own toilets at home may be because of the absence of sewer lines and also because there is no place underneath the houses to dig and create septic tanks as the stones are quiet huge. But private toilets would have been the best.[597]

People prefer/resort to open defecation due to these reasons. However, we were informed that even that had become difficult since, 'These days some army has been put there, and they prevent people from using the jungle also. They catch us, and threaten to put us in lock-up'.[598] This happened during the month of January, the first phase of our interviews. Even without being stopped by the guards, going to the jungle is full of problems as one respondent said,

> The jungle is very muddy. There are young girls; there have been so many untoward incidents lately. This is all the more reason why we need more toilets. Men can go anywhere they want; we need the toilets because of our concern for the women. They cannot go too late at night. Beyond the camp, it's only the jungle.[599]

As far as general cleanliness is concerned, one respondent said, 'There is no cleanliness here. The people who come to clean the drains only clean the big ones. Half of those are not even cleaned. They do not enter the lanes. They only clean the areas, which are visible from the outside'.[600] On being asked about MCD workers, one respondent said, 'They tell us, "At least I'm cleaning the big drains. Is not that enough? Stop troubling me". They never come inside. They'll clean half of it and

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[592] Slum Interviews, Phase I, January 2014, BSC R18.
[593] *Id,* BSC GD5.
[594] Slum Interviews, Phase II, July 2014, BSC R19.
[595] *Ibid.*
[596] *Ibid.*
[597] *Id,* BSC R16.
[598] *Id,* BSC R5.
[599] *Id,* BSC R6.
[600] *Id,* BSC R12.

leave the rest of it. He swears at us [verbal abuse] telling us "How can you dirty it so much?" Imagine his audacity! He asks us why you have dirtied it. How can we not? It's a slum, not a *kothi*. He should clean it.[601]

Another respondent remarked,

> They come before important events. Like we were supposed to have the elections, so the MLAs had come. The area was quite clean at that time. In the months leading up to the elections, the area is very clean, there is no water or electricity shortage. As soon as they are over, everything goes back to normal.[602]

Accessibility- Economic

The use of open jungle is free. The community toilet, however, costs money. The man who takes care of the complex charges ₹2-₹5 per person. For kids, the rate is ₹2. And for showering, it is ₹10.[603] One respondent said, 'People use this toilet only when it rains. We have to pay ₹2 to use this toilet. We are all poor, so we try to save those ₹2 also. This is not a matter of just one day. We have to use the toilet all thirty days of a month'.[604] Apart from this, for maintaining the general hygiene, MCD workers come regularly to clean the drains.[605] Since they get their salaries from the government, there is no cost to the people.

Quality

Image showing the condition of drains, January 2014

On the question of cleanliness of community toilets, some people said they were reasonably clean, while some said, 'The toilets are not clean and thus we prefer to use the forest instead of toilet'.[606]

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[601] *Ibid.*
[602] *Id,* BSC R11.
[603] *Id,* BSC R19.
[604] *Ibid.*
[605] *Id,* BSC GD2.
[606] *Id,* BSC R19.

The quality of general cleanliness is also not good. When we asked a respondent if people fell ill often due to unhygienic surroundings, he replied,

> MCD people come to put the medicine [in the open drains]. Otherwise, in our lane, everyone knows that we should put *mitti ka tel* (turpentine oil) or petrol/kerosene and keep the lane clean. MCD people anyway only clean the big outer places. They do not clean the inside lanes. Dengue, malaria are very rare here. There is a lot of difference in cleanliness standards among the lanes. People in the other lanes are so lazy. There is a community toilet there but they would not go. They will defecate in the lane only. It stinks also![607]

With respect to the role of the MCD workers, another respondent said, 'Diseases keep happening. MCD comes here though frequently to clean the drains, it also gives *challan* [fines] in case of insects in people's coolers and so on, but people are very careless. This year it has been less though'.[608]

When we asked about the condition of the sewers, we received an interesting response, 'Yes, they do clean the sewers daily, some government workers come daily. It's our fault that we keep the sewers clogged. We should keep it clean; how much can they do'.[609]

Image showing the condition of drains, Bhanwar Singh Camp, January 2014

<u>Gender perspective</u>

The water and sanitation system is biased against the women as many responsibilities fall on them. When we asked one male respondent about the issues relating to water, he said, 'I do not know that

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[607] *Id,* BSC R12.
[608] *Id,* BSC R18.
[609] *Id,* BSC R3.

much, I am usually out working and my wife fills the water'.[610] We observed that most of the time, it was the womenfolk who along with their children would stand in lines and fill the water from the cluster points. With respect to sanitation, most respondents acknowledged that going to the jungle for open defecation was particularly unsafe for women- 'Yes, for women it's definitely a big issue. Even for children, it's difficult to convince them to go to the jungle. Plus it's muddy right now because of the rains. But we have no choice, we have to operate like this to work and fill our stomachs'.[611] One woman also said that, 'It's not safe at all that's the reason we do not eat much'.[612]

There were instances of women complaining for water as a group.

> Sometimes it does happen that the man who controls the supply does not start the water. At that point of time all the women form a big group and go to Barkha Singh's house to protest. I usually do not go. But all the other women of this lane do go every time the water does not come. Whenever we have any problems it is her door that we knock on. She always makes it a point to help us out.[613]

C) RESPONSES TO DUTY BEARER

The people considered the government to be the primary duty bearer in providing clean water and sanitation, 'We should get it (clean water and sanitation) from the government'.[614] When we asked one respondent whether he wanted a regular supply of water, his response was, 'But how it is possible until the government decides?'[615] Another said, 'It is the government, which should provide us with these facilities. The slums are usually wholly dependent on the government'.[616] This indicates that people think of government as the primary duty bearer and even if they were to get together, people do not believe that their efforts would yield much result due to biases in the system.

Most of them were aware of their local MLA (previous and the current) particularly because the water system was a result of her patronage, 'Yes. Earlier, she was from the Congress. The MLA who won this time belongs to the BJP. Anil Sharma *Ji*. Never seen the man after the elections. He promised so many things,'[617] and majority had good words for her, 'She has worked. She has lost this time but she has told us that she is still with us. Whenever you have work (for me), just come to me'[618] and 'Most of the development has been brought about by her. About 15 years ago, we had absolutely no water here. She got the boring done, so we do not have to go far looking for water'.[619]

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[610] *Id,* BSC R5.
[611] *Id,* BSC R1.
[612] *Id,* BSC R9.
[613] *Id,* BSC R14.
[614] *Id,* BSC R6.
[615] *Id,* BSC R4.
[616] Slum Interviews, Phase II, July 2014, BSC GD6.
[617] Slum Interviews, Phase I, January 2014, BSC R7.
[618] *Id,* BSC R12.
[619] *Id,* BSC R11.

Majority of the respondents told us that the representatives from political parties, both ruling and opposition, periodically visited the site to see if there are any problems. As one of them said, 'Yes, they do their rounds once every two-three months,'[620] and another said, 'There are periodic checks by the government officials. They come and inspect the water so that dengue and other water borne diseases can be controlled'.[621] One respondent told us about the current MLA, 'Yes. Anil Kumar Sharma's men have visited. They surveyed the area and promised to resolve our problems in a month. Let us see. Everyone promise but no one delivers'.[622]

While some of them expressed hope and were positive about the government, 'Yes, I trust the government, and I have hope for the future',[623] a few did not think the government would do much for them and lamented about the corruption in the system. One of them, however, said, 'Now see the government has provided us with facilities, everything cannot be perfect, some or the other problem is bound to happen'.[624]

However, many expressed disappointment due to unfulfilled promises,

> There is a park here, which Barkha Singh had said would be turned into a playground. Years have passed but that hasn't happened. In 2005 or 2006, she had even shown us this plan of making flats here by 2011 but there are no signs. Everyone was happy thinking that in six to seven years, we will also live properly but now it's 2014, and see what the state is![625]

Finally, one respondent mentioned that, 'We cannot do anything; everything has to be done by the government. If they are willing then it can be done in two minutes and if they are not then not even in five years'.[626]

Expectations from the Government

On being asked about their expectations from the government, one person responded that,

> There is no point in expecting anything from the government. At the time of elections, they promise that they will provide us with ration cards. We believe them and vote for them. But after they win, they forget about us. They make a law that everyone will get ration cards. But only those who have electricity bills get ration cards. Then what is the point in voting for them. We will keep living like this only as we are doing today. But that should not happen. The government should treat both poor and rich alike.[627]

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[620] *Id,* BSC R6.
[621] *Id,* BSC R9.
[622] Slum Interviews, Phase II, July 2014, BSC R5.
[623] Slum Interviews, Phase I, January 2014, BSC R6.
[624] *Id,* BSC R3.
[625] *Id,* BSC R12.
[626] *Id,* BSC R15.
[627] *Id,* BSC GD2.

The major problem with respect to water is that of physical access, therefore, a few respondents said, 'The government should put more taps for people. Rather they should make sure that everyone has taps for water. In reality no one bothers. I do not think that the government can do anything about it'.[628] However, one respondent gave us a more pragmatic response, 'The fact is that the government in any case cannot afford to put individual taps in every household because they are all clustered and disorganized. At most the government can make sure that there is at least one tap in each lane for four to five households to share, conveniently'.[629] Yet another respondent referring to the quality of water said, '…the government should give us a connection from Vasant Kunj water line. This water is untreated and hard'.[630]

With respect to sanitation, the main expectation from the government was to increase the number of community toilets, 'They should make more toilets. The toilets should be free. We do not want to pay for toilets'.[631] We were also told by one respondent, rather confidently that, 'Our toilets will soon have thirty cubicles. We are getting all facilities. If they have to, they can better it but we are much better off than other camps. There is not much that can be done here'.[632] However, majority of the people did not seem so sure,

> Many politicians have come here before and promised us that they will build one more community toilet. They have been saying this for the last four to five years. They have even finalized a nearby plot for making this bathroom. It is because majority of the people living here use the jungle. But the bathroom has still not materialized.[633]

Reasons for Failure of the Government to Fulfil its Responsibility
Through our interviews, we were able to identify several reasons for the failure of the duty bearer to fulfil its responsibility. The foremost reason is the status of the Camp. Being an unauthorized colony, it does not have any formal system of water and sanitation. Whatever exists is the result of the local MLA's patronage thereby relegating the position of a right (to water and sanitation) to a discretionary service. Consequently, most respondents emphasized on granting a permanent status to their colony, 'Not just Anil Sharma (from AAP), but even BJP, Congress, all the three has the same process. You can check their campaign manifesto. The construction of proper slums is their main point'.[634] Secondly, as one respondent mentioned, 'The Government cannot do much here. It would require a lot of effort to vacate individual houses to install toilets. It can probably be done in resettlement colonies'.[635] This is because Bhanwar Singh Camp, like other unauthorized colonies has a large population which has inhabited the area without any proper planning as to houses or other

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[628] Slum Interviews, Phase II, July 2014, BSC R20.
[629] *Id,* BSC R19.
[630] *Id,* BSC GD5.
[631] *Id,* BSC R22.
[632] *Id,* BSC R7.
[633] *Id,* BSC R14.
[634] *Id,* BSC R15.
[635] *Id,* BSC GD6.

facilities. Adding the facilities at a later stage is therefore, problematic. Thirdly, a few respondents mentioned that, 'There is no unity amongst people',[636] thus leading to fractured demands without any assurance of resolution. Finally, absence of a uniform policy on how to deal with such colonies is cited as a major bar by the government in fulfilling its responsibility.

D) RESPONSES TO PRIVATIZATION

Majority of the respondents did not have any knowledge about privatization. However, when our field researchers told them about the concept, they would respond, 'No, I do not know of this. It's not happening here'.[637] The people were asked to consider the example of the privatization of electricity and on being asked their experience with that, one person responded,

> The electricity services are fine. They are provided in all parts of Delhi now. We are not scared to use electricity now. The lines are not faulty now. We have to pay more, but we are not scared about anything now. There are meters and we have to pay according to our usage. And in summers, we know we have to use more electricity. We have to use the fridge, cooler, motor for water and fans at home. Then, naturally we have to pay higher bills. In winters, the bill is around ₹400 or ₹500 and the same during the summers is around ₹2000-₹2500.[638]

Therefore, people understood that privatization may lead to increasing cost of the service. When we asked whether the people would be willing to pay, one respondent said, 'Indeed people would pay for water, the BSES managed to provide every household with adequate electricity. Now, if people get clean water. They would certainly pay'.[639] 'If privatization happens then people will know the value of water and stop wasting it because they'll now have to pay for it. At present, people waste water like anything because they do not have to pay for it. I think privatization is good for us'.[640] This view was not uniform. One respondent said that water should be free. 'We only need some amount of water. We do not need so much water. But that which we need should be free. We cannot pay bills already. How will we pay for water also?'[641] The same person was not in favor of privatization because it meant increase in costs for a service that the government should provide for free. 'They will charge money won't they? Some people buy drinking water here but we cannot afford it. How will we afford water for all purposes? No, that should not happen. And why should it? What use is the government then?'[642] He was however okay with the privatization of toilets as they were already paying a cost, 'Yes that could be good. Even government toilets charge money anyway'.[643] Therefore, costs were a major concern that emerged with respect to privatized services. Since the people are

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[636] Slum Interviews, Phase I, January 2014, BSC R1.
[637] Slum Interviews, Phase II, July, 2014, BSC R7.
[638] *Id,* BSC GD6.
[639] *Id,* BSC R20.
[640] *Id,* BSC R4.
[641] *Id,* BSC R22.
[642] *Ibid.*
[643] *Ibid.*

availing of free water in the current system, not everyone is willing to pay for water, which they think to be a necessary consequence of privatization.

However, one respondent held slightly different views. She said,

> We would like this matter to be handled by someone who has been working in our area, ready to work for us. If there is a good government which is concerned with genuine welfare of the slums and knows that it is not enough to look from afar and that their problems have to be looked into and solved, then we would give this right to the government. We have recently given it to the MLA and she has done her bit. There has been change. She has helped in building concrete roads and drains.[644]

While she still considered the government to be the primary duty bearer, she also emphasized on the role of the local representative to work for the welfare of the people.

<u>Better Quality of Services</u>
On a general level, a few respondents opined that, 'I think every service which is privatized is better than the services given by the institutions working under the government' and that, 'May be the private companies work better. They work better because it's stricter. The Government work is not complete or disciplined enough ever'.[645]

However, not everyone seemed convinced that privatization would necessarily mean better services, one respondent said,

> Privatization will not benefit anyone here. They will only demand more money and when the government is providing us the same without charging us, why should we pay? The government is giving us facilities and we need to respect them and use them properly. If a private company provides water, they will take money. We would not give money for water.[646]

Some people also tried looking at the concept from both sides and said,

> It hardly matters whether it is the government that provides us water or whether it is a private company. Government supply has its own consequences. Sometimes the supply varies over winters and summers. The quantity varies as well. It is not necessary that a private company would charge double the price. It is entitled to recover the same amount of money as the amount of water spent. The only benefit of a government supply line is that it is probably a little cheaper.[647]

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[644] Slum Interviews, Phase I, January 2014, BSC R13.
[645] *Id,* Phase II, July, 2014, BSC R20.
[646] *Id,* BSC R7.
[647] *Id,* BSC GD6.

One respondent, worried about higher bills, suggested, 'No. There should be no privatization of water. Even if there privatization happens, it must happen under the system of reservations. Like in a Government colony, there are all facilities provided. The rich also live there. The same facilities should be provided for the poor, but the rates should be lowered'.[648]

On being asked to compare services from private companies and the government, one respondent answered,

> Both have their positives and negatives. Private companies often cheat the poor man when it comes to charges but provide services. Talking about government authorities, if the MLA is self-driven and wants to help the poor man, he will make sure that we get services but if he is not concerned about our well-being and just wanted to make his way through, which is often the case, we will be deprived of basic facilities and services.[649]

<u>Accountability</u>
Some people believed that the private companies are not accountable. 'I do not know. The private companies are not very accountable. (After this, the respondent mentioned a piece of news, according to which, there was a scam of ₹3000 crore involving private companies supplying electricity.[650] Then he told the interviewer about the rising prices of petrol and onions)'.[651]

Considering that government role is very less, one respondent said, 'No, there is no role for the government to play. We provide for ourselves. When we are dying here, does any MLA pay heed? What accountability are you talking about?' Another responded, 'That depends on the private player. I would still trust the government more. There is sustainability associated to them. But if a private company works for the people and delivers, we do not mind it either. Ultimately, we just want the facilities to be available.'[652]

While some believed that the government is trying to shrug responsibility by privatizing services.

> Since the time electricity has been privatized in Delhi, no audit has been done. The Government and the private company are all the same. Kejriwal had raised a voice. But now the electricity bills are so high. No one listens to the poor. That's why no one is in favor of privatization. If water is also privatized, the Jal Board would not listen to us. The politicians ask us to go and complain at the private company's office. People there ask us to go talk to the Government officials about it. They increase the rates for electricity as per their wish. Poor people protest outside the offices. But the police doesn't let us go inside. They are locked up in jails if they

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[648] *Id,* BSC R4.
[649] *Id,* BSC R20.
[650] The CAG released a report indicting private power companies. *See,* Express News Service (2015 a).
[651] Slum Interviews, Phase II, July, 2014, BSC GD4.
[652] *Id,* BSC R20.

speak too much. That's how privatization works. If there is privatization, the poor should be given the right to raise their voices. They should also be heard. Otherwise, there should be no privatization. There have been so many protests after the privatization of electricity against the increased rates. But nothing has been done. The rates remain as it is and go on increasing. As soon as Kejriwal was resigned from power, the subsidy provided was removed. The politicians shift over their responsibilities by privatization. The private company works for profits only. So, no one listens to the public.[653]

Some others believed that even if there if privatization, government accountability is not reduced. 'No. The government will still be obliged towards us. Government will always be responsible whether there is a private company or not. We have elected them. They won the elections because of our support. They have a duty to look after us'.[654]

Here we have tube wells for water, but in case they do not pump water, then we have right to approach the MLA and question him on why the tube well is not supplying water to us. We have right as these people come to power by virtue of our votes, so they are accountable to us.[655]

On the question of diminishing of accountability, one respondent said, 'I do not think there is anything like that, whenever we complain for electricity now there is an immediate response'.[656]

E) HUMAN RIGHTS CHALLENGES

Barriers to Effective Participation of the Community
To sort out their various concerns, the people participate in different manners. While one respondent said that he had never made a complaint regarding anything, His explanation, 'No, we continue to live with our troubles. Life goes on. Even if the problem is big we cannot say anything. What can we say… Even though we stay in the slums we have to pay rent'.[657] It seems that since he had moved in this area only a year ago, he had not participated in making any complaint or carrying out a protest. Considering one of their most pressing problems is that of toilets, some of the respondents told us that they do make complaints but they usually go unheard and 'They say that it is DDAs property and they cannot do anything about it'.[658]

However, one group of women told us that they did have a *Mahila Panchayat* which held meetings almost regularly.[659] But when asked about its efficacy, one woman said, 'We have meetings but there

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[653] *Id,* BSC R4.
[654] *Id,* BSC R5.
[655] *Id,* BSC GD2.
[656] *Id,* BSC R19.
[657] *Id,* BSC R5.
[658] *Id,* BSC GD1.
[659] *Id,* BSC GD5.

hasn't been much work done on that front even though we decide on a lot of things'.[660] Another one mentioned that, 'We do not know as we do not go too often, some of us haven't gone at all,' suggesting a low level of participation.[661] When we asked whether the committee had successfully resolved any issue, we were told, 'Yes once there was an internal dispute in the slum which was resolved. Some domestic matters are also resolved'.[662] Therefore, we inferred that people did get together to resolve issues internally but for the issues that required external action (such as those of water and sanitation), people did complain sometimes with no assurance of resolution.

We were told that there is no formal complaint mechanism.

> There is no complaint mechanism as such. We do not do anything about it. We just store the water that we have and use it wisely. If we face further problem, we complain to the Pradhan who in turn conveys it to the Nigam Parshad or MLA, whoever is responsible. They do it; they have been doing it since the tube wells have been installed.[663]

Another respondent remarked, 'No, there is no one who will listen to us and then act upon the complaint. But at times we do go with our complaints to Bharkha Singh, she is helpful'.[664] In the latest elections, however, a new MLA had been elected so one respondent said, 'We used to call Barkha Singh earlier. But now Anil Sharma has won so we will contact him. We haven't had the need to call him yet'.[665] Apart from this, when the complaint is specifically related to the functioning of the bore well, 'then we complain to the DJB office in RK Puram and then they fix it and for the time being we fill water from some other bore (there are four bore-wells in this area)'.[666]

There is a strong sense of community in some respondents as we were told, 'We are not saying do it for us. If anything has to happen, it should happen for the entire camp and its residents'.[667] However, there is lack of collective action. A respondent said, 'Who can we go to? We do not go to anyone. No one goes. If four-five people stand up for this, then only we can raise our voice'.[668] Some more people mentioned the lack of unity as a major hurdle in realizing their rights, 'Of course we have a right. If ten people get together and demand it we will get it. Alone we cannot do anything'.[669]

One respondent said that he had never made a complaint regarding anything and his explanation was, 'No, we continue to live with our troubles. Life goes on. Even if the problem is big we cannot say

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[660] *Id,* BSC GD1.
[661] *Id,* BSC GD5.
[662] *Ibid.*
[663] *Id,* BSC R13.
[664] *Id,* BSC R16.
[665] *Id,* BSC R18.
[666] *Id,* BSC R19.
[667] *Id,* BSC R7.
[668] *Id,* BSC GD2.
[669] Slum Interviews, Phase II, July 2014, BSC R17.

anything. What can we say… Even though we stay in the slums we have to pay rent'.[670] It seems that since he had moved in this area only a year ago, he had not participated in making any complaint or carrying out a protest.

Owing to their poverty, one man responded, 'Poor man is afraid to even ask for their own right in fear of getting deprived of other small facilities provided to him or her. No one tries to raise their voice or fight for their right because they have a family to feed and a house to run'.[671] This indicates that the fear of retribution on part of the government is a restraint on the people's exercise of their rights. On similar lines, another respondent said,

> People have been living here for the past forty years and still the houses have not been made their own. If people try to do some construction work in their houses then they are stopped by the DDA authorities. The police try to harass them and extract money in order to let them stay there.[672]

Most of them mentioned lack of time, loss of livelihood, lack of unity, and inability to effect any significant change as reasons for not being very participative.

<u>Cross Linkage between Rights and Duties</u>

Time and again, we got responses which steered the discussion towards the responsibilities of the people. An elderly man said,

> See, contrary to what you human rights activists say, I do not think that there is any problem at all. I do not believe that the government has to forcefully feed people. You can give a man a roti, but is it fair to feed him with your own hands too? No! You have to weigh the whole thing very, very seriously and then decide on it.[673]

Similarly, another respondent remarked, 'The question of *haq* doesn't arise with respect to water as we do not need to demand anything. We are getting all water facilities. The only problems we have related to water are caused by the slum itself as people make holes in the pipes and the water becomes dirty therefore'.[674] On the topic of sanitation as well, one respondent told us, 'Here, the (problem) is very little. Here we keep the cleanliness by ourselves. It does not make sense that only they (cleaners) will come, till then the problem would increase. So it is the duty of the person residing in that place to clean it by him'.[675] At the same time, emphasis was laid on the behaviour of the community itself, 'I think people should also be sensible. A lot of garbage is strewn on the streets

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[670] *Id,* BSC R5.
[671] *Id,* BSC GD1.
[672] *Ibid.*
[673] *Id,* Phase I, January 2014, BSC R8.
[674] *Id,* Phase II, July, 2014, BSC R7.
[675] *Id,* Phase I, January 2014, BSC R15.

due to him. Sweepers come every day and do their work. But people also need to be sensitive to their surroundings'.[676]

In Bhanwar Singh Camp, we found that the awareness level amongst people, be it about politics or about their right was much higher as compared to other sites. This is probably because of the location of the site. The Camp is located within the city and its close proximity to Vasant Kunj (a posh colony) has resulted in availability of better facilities. Another interesting phenomenon was where quite a few people, mostly the old guard talked about the citizen's sense of duty and not just their rights, in keeping their surroundings clean and tidy.

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[676] *Id,* Phase II, July, 2014, BSC R18.

3.5 BEGUMPUR JJ CLUSTER

The Begumpur Extension is located near Malviya Nagar in North-West Delhi.[677] It is a part of the Malviya Nagar constituency (Ashok 2016), however the category of this colony is not clear. It is a JJ Cluster as per the DUSIB, however as per an order by the 'Urban Development Department' of the Delhi government, it is an unauthorized or an unauthorized-regularized colony (GNCTD, 2015 b). Begumpur extension has two settlements called the Balmiki Camp and the Indira Camp.[678] Each settlement consists of approximately 1500 households. The northern settlement is next to the graveyard and is smaller. Being old settlements and in the heart of South Delhi, most women find work as domestic help and their children find other low paying jobs. There is a difference in the economic status and way water and sanitation are perceived by settlers in the front of the slums whose dwelling have more commercial value, than residents inside who are poorer. Residents living close to the main road want to pay for and get legal water connections from DJB. Residents living in the heart of the slum- where living conditions are difficult, with very congested lanes that do not provide fresh air and sunlight -cite affordability and inflation as a major concern.

On account of political patronage, the settlement is connected to the DJB piped water supply and also to its drainage. However, the quantity of water is insufficient and not all households are connected to the sewerage line of the DJB. There is a community toilet block that is being maintained by an NGO under a contracted out system. It provides toilet, bathing and washing facility. We witnessed during out visits that it is not well maintained and is not fit for human use. 'Area residents cite inadequate parking, lack of public toilets and an insufficient sewerage system as problems that need to be addressed' (Ashok 2016).

> The Malviya Nagar Assembly constituency is one of the largest constituencies in Delhi and is also one of a kind. Where on one hand you see a posh locality, only about a km. [ahead] you see a completely opposite picture. In planned colonial areas there are problems of corruption, lack of sanitation, transport, road blocks and parking space, while in village areas like Begumpur and Khirki the sanitation and bad roads are the main issues (Kaur 2015).

The area is known for a heritage mosque (Matra 2015). There were reports of illegal dumping and burning of plastic waste by nearby factories in the area (Thakur 2015). The crime rates are high in this part of the city with the second highest rape cases being registered by the Malviya Nagar Police Station which covers the areas of Hauz Rani, Begumpur camp, Jagdamba camp and Khirki Extension (Manral 2015). Begumpur is one of the sites where the impact of elections was seen. The local MLA changed from Ms. Kiran Walia of Congress to Mr. Somnath Bharati of Aam Admi Party (AAP) (Kaur 2015). Majority of the people reported that they were happier with the previous government where Kiran Walia was the MLA since she was very active in the area. She was a major force behind the present system of water distribution in Begumpur as per our interviews with the residents in 2014.[679]

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[677] Entry 412 and 413, http://delhishelterboard.in/main/wp-content/uploads/2015/12/675_JJ_Cluster_List.pdf
[678]Delhi Shelter Board, http://delhishelterboard.in/main/wp-content/uploads/2017/01/jjc_list_for_website.pdf
[679] Slum Interviews, Phase II, July 2014, BP R3, R7, R9, R11, R12, R14.

3.5.1 PRESENT SYSTEM OF WATER DISTRIBUTION

Water is not a luxury here but it's still quite scarce.[680]

The Begumpur area is a JJ Cluster and did not have any provision for water supply. As pointed out by the respondents, there were hand pumps for water earlier but as the population grew, the surface area for the Cluster also grew and more connections were required. That's when the people came together to demand that there be water connections and on the initiative of the local MLA, the pipelines were installed. Recently, the DJB also approved laying of more water pipelines in the Cluster (Sebastian 2015). The water and sanitation systems here are a result of the requests and complaints of the people through their MLA Ms. Kiran Walia. People got together and paid for the initial water connection. They installed pipelines to their house from the main water source. 'Whoever required a longer connection, the amount was more, and for those who required a shorter connection, the amount was less'.[681] 'We had to pay ₹17,000-₹18,000 for the water connections'.[682] 'We had to do a lot for water. We had to demonstrate and go for *dharnas* (protests) also. We used to pay from our pocket for all these demonstrations'.[683]

In 2012, '…under the plan, a public private partnership initiative, Malviya Nagar was chosen for the pilot project. The water utility had entered into a contract with Malviya Nagar Water Services Private limited, a consortium of French company Suez and infrastructure company SPML Infra Ltd. The agency was to lay a new pipeline network in the areas that received water supply from Malviya Nagar underground reservoir' (Sharma 2016). Some respondents also spoke about a privatized system of water distribution in the area that they were aware of, 'In some areas water has already been privatized and meters have been put. So in the slum, some people have to pay for water while others get it for free'.[684] Despite providing water through pipelines, the water shortage problem has not been resolved in Malviya Nagar yet (Sharma 2016).

The Begumpur slum received water twice a day from the DJB in 2014. As per the respondents the water connection was provided by the candidate for the MLA, Kiran Walia about 5 years back. The residents installed pipelines to their houses from the main water pipelines. This task was not without hardships and there were a lot of fights regarding how many houses will receive the pipeline directly. The responses on how much they paid for the initial connections range from ₹10,000 to ₹17,000.[685] Apart from that they spend ₹700-₹3000 monthly on water connection.[686] The water connection is not metered and is free but some of them pay electricity bills if they have motors installed at their houses to derive more water from the pipelines at the designated hours that it is available. 'Long

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[680] *Id,* Phase I, January 2014, BPGD3.
[681] Slum Interviews, Phase I, January 2014, BPR1.
[682] *Id,* BPR12.
[683] *Ibid.*
[684] Slum Interviews, Phase I, January 2014, BPR7.
[685] Slum Interviews, Phase I, January 2014, BPR12.
[686] *Id,* BPGD4.

time back we used to get water from hand pumps. Then we started getting water from government taps'.[687] Water is supplied for two hours in the morning and two hours in the evening via the pipelines.[688] 'We have installed motors personally here. We get water from the pipelines. There are several pipelines in each lane. These are clustered around several common points in the lane, which are accessible to all'.[689]

In 2015, The DJB gave approvals to several projects including setting up of RO plants and water dispensing units, construction of an 8 MGD waste water pumping station and extension of piped water supply to Begumpur Extension and Begum Vihar areas (PTI, 2015 c). Privatization had already begun in some areas of Malviya Nagar (PTI, 2013).[690]

In the summer when there is water shortage, water tankers are also supplied and people collect water from neighboring colonies. It is unclear if the water is supplied by the MCD or the DJB. 'When we contact the local MLA for water shortage, she sends tankers. The tankers come and park on the end of the street and everyone forms a large queue'.[691]

3.5.2 MANAGEMENT OF SANITATION FACILITIES

As per the findings of our survey, most houses have their own toilets, but there is one community toilet too. The community toilets close at 23.00 hrs. There are separate toilets for men and women. The condition of the toilets is not great and there have been reports of theft of the taps and accessories in the toilets (PTI, 2013). The sewerage infrastructure is poorly constructed and even poorly maintained.[692] There are some toilets maintained by the NGO Sulabh International.

3.5.3 MAPPING OF ACTORS

A) MUNICIPAL AUTHORITIES AND LOCAL GOVERNMENT

Begumpur Extension is a part of the Malviya Nagar constituency (Ashok 2016). The DDA is the land owning agency and therefore the DJB is responsible for providing water in this area. [693] The MCD is responsible for the sanitation facilities (GNCTD, Water Supply and Sanitation Report). During the interview phase in 2014, the local MLA was Ms. Kiran Walia of the Congress. She was replaced by Mr. Somnath Bharti in February, 2015 (Kaur 2015).

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[687] *Id,* BPR11.

[688] *Id,* BPR8 (et. al.).

[689] *Id,* BPR13.

[690] "Earlier we used to pay mere Rs 500 to Rs 600 for water, but since its privatisation we end up paying over Rs 2000 for water alone."

[691] Slum Interviews, Phase I, January 2014, BPR7.

[692]*Ibid.*

[693] http://delhishelterboard.in/main/wp-content/uploads/2015/12/675_JJ_Cluster_List.pdf

B) Civil Society Organizations

The Satark Nagrik Sangathan

Formed in 2003, Satark Nagrik Sangathan (SNS) aims to plug the gaps in transparency and accountability in governance, and does so with the help of the Right to Information (RTI) Act. Working primarily among the lower income groups of five slums settlements in South Delhi, SNS takes up issues pertaining to the basic needs and entitlements of the people.[694]

SNS has been working in Begumpur since 2003. In the beginning its work focused on the Public Distribution System- a scheme under which the government provides essential commodities for sustenance, for example food grains and kerosene at a subsidized rate for people below the poverty line (Neyazi 2014). It mobilized the slum dwellers and filed RTIs, making them aware and fixing the irregularities in the system. From the interviews taken in January 2014 under this study, we found that SNS helped create awareness about rights and about complaint mechanisms. They also created a Mahila Sangathan (Women's group).

We learnt a lot of ways to work in accordance with law, about BPL cards and other grievances. They were the ones who first went to Kiran Walia and started the discussion on water distribution in this area. They make banners during elections which state 'we do not want alcohol, we do not want money, we want our right, we want cleanliness' and they also ask for the fulfilment of our demands. It inspires people to come forward.[695]

Jagori

Jagori is another NGO working in Begumpur on issues of women's safety and inclusive essential services.[696] It conducted safety drives in Begumpur.[697] In 2013, it organized a street play 'Dastak' performed by Asmita theatre group and the engaged in discussions which involved more than 200 residents of Malviya Nagar, Begumpur village, Valmiki camp and Indira Gandhi camp.[698]

3.5.4 Findings of the Social Survey

A) Responses to The Present System of Water Distribution

Accessibility

For water supply through pipelines, people have taps at their homes. Water comes at a fixed time, say 4-6 am. People reported that, 'We have to stay up at night so we can get water'.[699] In the peak hours it becomes difficult to collect water as everyone has switched on their taps and the water pressure is low. They said, 'At many times, the water supply here is so irregular that we have to keep

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[694] Satark Nagrik Sansthan, http://www.sruti.org.in/?q=sangathan/satark-nagrik-sangathan

[695] Slum Interviews, Begumpur, Phase II, July 2014, BPR7.

[696] Safe Delhi Campaign, http://www.safedelhi.in/16-days-activism-celebration-malviya-nagar.html

[697] Jagori,http://www.jagori.org/sites/default/files/publication/Jagori_Malviya_Nagar_Safety_Audit_Report_April_2016_opt.pdf

[698] Jagori, http://www.jagori.org/wp-content/uploads/2012/04/Jagori-Annual-Report-2012-13.pdf

[699] Slum Interviews, Begumpur, Phase I, January 2014, BPR7.

ourselves up till 2 am to get water'.[700] When there is water shortage, the local authorities send water tankers. The people are not satisfied with it and they say, 'We just gather around the tanker with our vessels to collect water. It's difficult to get water…fights break out. We hardly get a bucket. That too after too much difficulty'.[701] Since not everyone has installed pipelines and there are a few free-riders on the system, some respondents said, 'The families that have installed the pipelines gain access to the water from the pipelines first since they have invested money. Anything left is what the poorer people can afford. But overall, families here are considerate, so no one goes without water'.[702]

Affordability

In Begumpur, not all people pay for water. Other residents, do get free water but they have to pay for the electricity required to pump water from the main source, through the pipelines, to their houses. There was a perception amongst the interviewees that people who own land in the area receive free water and the others are supposed to pay.[703] When asked if they would be willing to pay for water meters and get a twenty-four hours supply of water, while some people answered that it would be very expensive for them as they already pay for electricity charges, others were willing considering the prospect of having continuous water supply. However, the latter group did not anticipate that the charges can be high. They expect the charges to be around ₹300-₹500 per month.[704]

To establish the present system of water distribution, residents had to install pipelines. However, the area still faces water scarcity during summer and some well off people prefer buying good quality water for drinking purposes. 'We pay ₹28-₹30 for two litres of water. It gets quite expensive. Many people do not get it also. They drink dirty water'.[705] There are several others who cannot afford it and manage with poor quality water. 'We have to drink it, there is no other option. We poor people cannot buy bottled water'.[706] If the water pipeline breaks, there are costs for getting those repaired.

Quality

While some people thought that the water quality is absolutely fine, others disagreed. People added chlorine tablets in the water or boiled it to make it potable. The government also provides chlorine tablets, however those are not easily accessible. 'The government provides chlorine tablets. We do not get it due to long queues'.[707] People reported cases of diarrhea and vomiting due to consumption of dirty and unhygienic water. 'The politicians of this area were requested for sewage pipelines of more than twelve inches but now due to the backlog, there is mixing of drinking water with sewage'.[708] Some people have filters in their houses and some buy drinking water since they have the

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[700] *Id*, Phase II, July 2014, BPR26.
[701] *Id,* Phase I, January 2014, BPGD2.
[702] *Id,* BPGD3.
[703] Slum Interviews, Begumpur, Phase I, January 2014, BPGD2.
[704] *Id,* Phase II, January 2014, BPR13.
[705] *Id,* Phase I, January 2014, BPGD2.
[706] *Id,* BPGD4.
[707] *Id,* BPR12.
[708] *Id,* BPR5.

means to do so. They were being supplied Aquafina bottles by the private water suppliers. It was recently reported that the brand Aquafina supplies untreated tap water as bottled water, which is as unhygienic (Taub, 2015). People also complained that sometimes due to the dilapidated conditions of the old pipelines, water gets polluted.[709] Sometimes there is dirty water in the beginning but after a bit of waiting, clean water flows out. This must be due to the residue in the pipes but this means the pipes are not cleaned regularly.

Quantity

The respondents in general seemed satisfied with the quantity of water available. They get sufficient water from the pipelines and when there is shortage, then there is a provision of the water tankers by the local authorities- 'There has never been a shortage as such. At times water doesn't come for two-three days when the pipelines are cleaned. We are informed about it and we fill water in advance. We manage'.[710] They use the water from the pipelines for all purposes.

B) Responses to The Management of Sanitation facilities

Accessibility

Some of the residents have constructed another floor to the existing buildings and have rented them out. It was observed that it is the tenants that use the community toilets. They said, 'There are long queues to use the common toilet'.[711] Those who have toilets at their houses said, 'We do not have the concept of septic tanks, our bathrooms are directly connected to the sewers'.[712] Whereas some others said that they do have septic tanks. Since the toilets shut at 23.00, it was reported that it becomes difficult for the people to go to the toilet beyond that time and then they have to go for open defecation. 'We have to go in the woods or to some secluded place. For us women it is very awkward and troublesome to go out for things like this. In addition to that, it is not safe out there. We have managed to build a toilet in our house'.[713]

Affordability

The sanitation system in Begumpur is composed of private toilets and one community toilet complex. For the private toilets, there is a common septic tank and some houses have their own septic tanks. For the common tank, people contribute ₹50-₹100 and get it cleaned every month.[714] The total cost is between ₹1500 to ₹2000.[715] For the community toilets, the males have to pay ₹2-₹5 every time they use it while there is no charge for women and children.[716] People also use the community toilet for bathing and the charge is ₹10. '₹5 per person. Earlier it was ₹2. They do not charge ladies. Bathing: ₹10. The conditions are not good. It is not safe for our wives-daughters to use it. All of us

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[709] Slum Interviews, Begumpur, Phase I, January 2014, BPR15.
[710] Slum Interviews, Phase I, January 2014, BPR12.
[711] *Id,* BP R12, BP R15 and BPGD 2.
[712] *Id,* BP R7.
[713] *Id,* Phase II, July 2014, BP R24.
[714] *Id,* BPR12, BPR16 and BPR17.
[715] *Id,* Phase I, January 2014, BPR16.
[716] *Id,* BP R8.

even contributed to get it repaired'.[717] Apart from these expenses, people have to pay to get their lanes and drains cleaned. They pool in money to get their lanes cleaned.

Quality

The people were unsatisfied with the general cleanliness of the place as the workers employed by the government were reported to be inefficient. The respondents said, 'The cleaners come twice a week. Out of 30, only 10 show up. The workers are not efficient'.[718] It was also reported that the toilets are not safe for use as squatters and homeless men enter the loo at night and it becomes a den of drug addicts.[719] Apart from being unsafe, they are not cleaned regularly. A respondent complained that sweeping and cleaning happens only three to four days in a week.[720] 'When we go and complain it to the DJB to ask for the machine that sucks in the dirty water, they refuse and say that this camp does not come within their domain and it comes under the Slum Development Authority'.[721] 'They are in such a bad shape that we are ready to go anywhere else'.[722] We noticed during our visits that the open drains were filled with filth and were also unsafe for pedestrians. There were reports of children falling in the open drains and also that these drains are a hotspot for the breeding of disease spreading mosquitoes. Diseases like dengue, malaria are common here because of the unhygienic conditions- 'Of course there are various disease here and there. If we are sitting here and the gutter is right next to us then it is obvious that we cannot live healthily'.[723] 'Since the sewers have been cemented there are less mosquitoes'.[724]

Quantity

There was dissatisfaction with the quantity of toilets- 'More toilets should be constructed. Some of the existing ones are not in condition to be used. They should be made operational'.[725] 'The number should be increased and they should be open at night too'. 'Children have to defecate on open roads'.[726] The Quantity is a major problem in the area as we also received responses like the following, 'Earlier we used to go in the jungle. But now we cannot go there. We eat less food or at times no food at all at night because of this'.[727]

C) Responses to Duty Bearer

In general people believed that the government is responsible for water and sanitation facilities in the area since they have the right to them. They derived this right because they were tax payers and were living on the particular land. On being asked if the government's responsibility will decrease if

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[717] *Ibid.*
[718] *Id,* BPR7.
[719] *Id,* BGD1.
[720] *Id,* BPR7.
[721] *Id,* BPR7.
[722] *Id,* BPR12.
[723] *Id,* BPR3.
[724] *Id,* BPGD4.
[725] *Id,* BPR12.
[726] *Ibid.*
[727] *Ibid.*

privatization happens, an interesting response was that since the government regulates private companies, the government can still be made accountable. On being asked if anyone approaches the MLAs, they said, 'Shouldn't MLAs come to us as they are government employees'.[728] 'It is the government's responsibility to provide water and to see that people who have illegal extra connections or have broken their pipes are penalized. It owns the Jal Board and its officers. The sewers should be cleaned regularly by the government'.[729] When asked about the DJB, one person responded that, 'The DJB people do not know where the lines begin and end. They do not have proper maps. They are now making them. They are saying the supply lines for Begumpur will change. They are just talking right now, let's see when they actually do it'.[730] The DJB was indeed making new plans for water supply which were announced in 2015 (PTI, 2015 c).

People responded that the area faces government apathy and all the attention the area receives is during elections as the population here is an important vote-bank- 'They only respond to our requests and demands when they want our votes'.[731] More specifically, they felt that they have been overcharged for electricity.

People's Expectations from the Government

The residents of Begumpur have often suffered government apathy after the election season is over and have also seen dereliction of duty on the part of the government workers. 'No one comes here except political parties when they are hungry for votes. They do not care otherwise whether we are alive or dead. Just look at all the garbage and dirt that has piled up here'.[732] Therefore their expectations from the government were low, even though they believed that the government owes a duty to them- 'We do not have basic amenities and the government must ensure that'.[733] They expect that the charges for electricity should be low for their area. They expect there are to be covered under some form of subsidy- 'They have written 'house' over our meters, they should have written 'camp'. So we are being charged the same as that of the bungalows. They have placed us on equal footing as them (rich people)'.[734]

In the second phase of the project (July 2014), the AAP government which has made election promises in December, 2013 and had been successfully elected then, had by this time resigned from their duties, due to political instability in the State. The residents were happy with the AAP as the government under the AAP rule had managed to reduce the electricity tariff.

> …With the new elections the new MLA belongs to the AAP and has done brilliant work in the short fifteen days that he has been here. He has devised this new system wherein every week

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[728] *Id,* Phase I, January 2014, BPR3.

[729] *Id,* BPR1.

[730] *Id,* BPGD2.

[731] Slum Interviews, Phase I, Jan. 2014, BPGD1.

[732] *Id,* Phase I, January 2014, BPR18.

[733] *Id,* Phase II, July 2014, BPR8.

[734] *Id,* Phase I, January 2014, BPGD4.

there is a meeting where everybody addresses their problems to her. Last week she got the MCD worker along to see to the cleaning of the streets. She made his number public. Everyone who needs to get cleaning done just has to contact him. He gives them a specific span of like fifteen days or twenty days and if the work is not done by that time, the MLA takes responsibility for it. In one meeting she got people's ration cards made. But there has been no meeting regarding the water. Though she said that she spoke to the head of the DJB and he explained that the main problem was that the Board did not have a map of this area and thus has no idea of the quality and quantity of water that reaches every household. They are now planning to change the entire pipeline and they also said that they will make sure that we receive water for twenty four hours a day once the new pipelines are laid down.[735]

'If the party has to resign then we will be back to square one. People had expectations from them'.[736]

D) RESPONSES TO PRIVATIZATION

Awareness
On being asked what privatization would entail, the people answered that, 'It means that a private player operates in that market and that there will be bills for water just like there are bills for electricity'.[737] If there is privatization it means,

> [T]hey will close the water supply from the main valve and fresh connection will be available when you give an application in the concerned office and then take payment. Since they have blocked the water supply by the government, whoever wants water from the private company will follow this procedure.[738]

In parts of the area, however privatization of water facilities have already happened and the responses were, 'After the privatization of water there has been no official enquiry to check on our access to water'.[739] 'They have also fixed meters everywhere. They came about two years ago and changed the already existing meters to their own ones'.[740] 'The meter issue has started because of privatization of water in Malviya Nagar. That is the reason they have started charging exorbitant amounts of money'.[741] Therefore privatization is synonymous now to increase in water prices or beginning of levying of charges, where it is free.

Prior Experience with Privatization
The experience with private water suppliers includes the experience with common toilets because people rightly believe that they are not provided by the government. An NGO, Sulabh International

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[735] *Id,* BPR7.
[736] *Id,* BPGD2.
[737] *Id,* Phase II, July 2014, BPR8.
[738] *Id,* BPR18.
[739] *Id,* Phase I, January 2014, BPR5.
[740] *Id,* BPR7.
[741] *Id,* Phase II, July 2014, BPR7.

maintains those and they charge a nominal amount. They think that earlier the toilets were managed by the government and that they are private now and have been given to the contractors. On being asked to share their experience about the privatization of electricity and link it to what can be expected by privatization of water, one person mentioned,

> It will be good but the government has 51% stake in BSES. People working in BSES want to make some extra money under the table. The initiative is good (BSES) that they give us 24/7 electricity regular and consistent. But the people working for BSES cheat it and sometimes make illegal connections.[742]

Another person responded in a related vein, 'Our experience with privatization has been very bad. We have to pay such high bills. In winters, we cannot switch on the heaters in fear of high bills. The prices of gas have also increased'.[743]

People's Perception of Private Companies

While some people showed inherent distrust in the ethics and working of a private corporation supplying water and sanitation facilities, others were expecting that the private company will be ultimately working under government laws and additionally the quality of services will improve if privatization happens- 'There will be no control on rates of water if it is privatized. Today they may charge one rupee and hike it to ₹5 the next day'.[744] Some other related responses were: 'Private companies do not work for welfare. They are profit oriented,'[745] 'Private companies have a contract with the government. They are not responsible to us,'[746] and 'Private companies cannot give us rebate in terms of fines. They will extract it from us. Government can reduce our fines'.[747]

People differentiated between sanitation and water facilities being privatized. They said yes to the privatization of sanitation facilities, probably because they were already being charged for the same-

> Yes sanitation should be privatized but not the water distribution. 20 to 50% of workers enrolled by the government work and the D class workers do not work at all. Sweepers have their duty here from 7:00 AM to 3:00 PM and its 1:30 PM now and they are all gone. In privatization we will have the right to direct the sweeper to work properly. He will have to do so because there is the fear of losing your job. For government workers this fear does not exist because no one can fire them not even a councilor.[748]

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[742] *Ibid.*
[743] *Id,* BPR12.
[744] *Id,* BPR10.
[745] *Id,* BPR11.
[746] *Id,* BPR9.
[747] *Id,* BPGD2.
[748] *Id,* BPR7.

<u>Privatization and Accountability</u>

Some people believed that even if private companies take over, the government will still be responsible. 'The government will still be responsible as they are the one giving tenders to these private companies. Private companies cannot function on their own. They need government's assistance. We will have to go the government to ask for help. Private companies function properly because they know that if they do not work properly they'll lose the tender. So they have an obligation and also a fear of losing the tender which accounts for their efficiency. Government does not want to work at all. They'll either take money from the people or from the private companies'.[749]

<u>Privatization and Perceived Impact on Rights</u>

On being asked what people would do if they do not receive good services from the private company, they responded, 'We would fight to get them. If things do not work our way, we will go to their offices and cause a riot. When you pay out of your pocket, awareness about your rights grips you automatically'.[750] However a counter view was that, 'The government would not be directly responsible to us if privatization happens'.[751] Some other people thought that their rights will be affected if privatization happens because, 'If we then go and protest in front of them they will tell us that they have signed the contract with the government for a fixed budget and are working according to that. We will have no reply then, unlike the government, private companies are not responsible to us'.[752]

E) HUMAN RIGHTS CHALLENGES

<u>Perception of the Problem</u>

Before we consider participation of the people, it is important to note that the perception of their problems varied majorly. No one seemed to consider the supply of water at the early hours in the morning, for example between 4:00 AM to 6:00 AM, as an accessibility issue.

> I'll be very honest with you, sir. We have bigger problems than the quality of water here. Yes, indeed sometimes the water is slightly muddy. In those cases we just let it flow for a bit so that the sediments settle down. After that, I think that the water is good enough for drinking.[753]

'If the water is dirty today, it is alright because it will be better tomorrow. If some problem is there, it is ignored. Even if the water stinks or is yellow, people would consume it'.[754] One noteworthy response in contrast to the above views was:

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[749] *Id,* BPR26.
[750] *Id,* BPR8.
[751] *Id,* BPR10.
[752] *Id,* BPR9.
[753] *Id,* Phase II, July 2014, BPGD3.
[754] *Id,* BPR8.

Rebellion is the only way left to get our right. If *haq* is suppressed then any person will be ready to rebel. When the water situation became as bad as it could get, like we used to get dirty water and after sometime seven that stopped so we jammed the roads. Not just me but any one from any community will be ready to rebel. *Haq* is of great importance in any society and to get it rebellion is the only way.[755]

Actions Taken to Access Rights and Response Received
There were many people who considered the state of water and sanitation facilities as a problem and had complained to the authorities. One respondent mentioned,

We complain at the nearby MCD office. We have sent letters. During election time there are so many politicians here. We have spoken to them also. We have protested outside but what happens as a result is that sweepers come when the complaint is issued. They clean the drains once or twice and then they disappear again.[756]

'Anganwadi sits here every Friday, so we all had collectively gone there and given a complaint about the sorry state of the public toilet, but nothing came out of it. It has been six months since'.[757] When water is dirty,

People do not use it for drinking and order tanks instead. Generally, if such a case occurs, everyone comes on to the road to protest. There is a lot of collective action here. People will stand on the road and shout about it and then someone has to come from the MLA's office to resolve it.[758]

When asked why people do not complain more often the responses were-Firstly, because there is no unity amongst them and the complaint of one person individually will not be effective- 'People can deal with difficulties if they must, but they will never display any unity'.[759] Secondly, because they lack awareness-'Rights can be realized only if everyone comes together and everyone has the knowledge'.[760] Thirdly, because they think that they can manage and only when the situation worsens, they should complain- 'They show it on the TV that the water is not going to come on a particular date, so we have adequate notice. There is not any point complaining'.[761] Fourthly, because they think they are powerless in front of the government- 'How can we do that (complain)? We will have to do what the government wants. Earlier there were no meters for electricity also'.[762] Fifthly, they do not own their house and are only tenants. Their perception of their entitlement to

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[755] *Id,* BPR7.
[756] *Id,* Phase I, January 2014, BPR14.
[757] *Id,* BPR16.
[758] *Id,* BPR14.
[759] *Id,* BPR16.
[760] *Id,* Phase II, July 2014, BPR9.
[761] *Id,* Phase I, January 2014, BPR10.
[762] *Id,* Phase II, July 2014, BPR20.

their rights is tied to their property rights. Sixthly, because they feel dejected and do not see any merit in taking the effort to complain-'There is no response to our complaints. Nothing is done'.[763]

The responses about participation and reaction on complaints were varied. While some people responded that the local authorities are responsive, others opined the opposite and had undertones of dejection-'No one comes here! So who do we talk to?'[764]'We cannot complain because it is not government supply'.[765] 'We had complained to the Jal Board once or twice. They came, saw the situation and left'.[766] 'The local councilor, Satish Upadhyay, from the BJP. He doesn't do anything. We go to the MCD, Jal Board and the MLA as well, they do not do anything either. In the end we pay from our own pockets'.[767]

> Earlier we had to go to other people to get water. Sometimes they used to bring up false charges of theft against us, for buckets, and so on. Then, we came to know about Kiran Walia, who is the MLA for this region. We went to her and gave multiple complaints. We kept a copy with us and gave her another. We went to her several times after that but she kept saying that she hasn't received adequate funds yet. But we were adamant, and said that it is not our problem and pressed on the need for water. The situation ameliorated with time. Streets were cleaned regularly and drains too. Now in June (2014) a new councilor was appointed. Road and drains are not being cleaned any longer. Water problems have again arisen, for example water doesn't come here in the evening at times, the quality and quantity has deteriorated.[768]

Something positive was that people felt that their complaints about the situation were being answered, however the attribution of responsibility to themselves instead of the government was a new dimension-

> The main roads are the duty of the workers but in the inner lanes, it is our duty to see that the drains are kept clean. But if you contact the person whose number was given to everyone by the MLA he will see to it that it is done. If the person who is supposed to be cleaning it does not come you can always call him and ask for replacement.[769]

People attributed responsibility for their rights to the government as well as to other residents. They said, 'But people waste water and do not understand its value'.[770] On being asked the reason, in their opinion in the government not being able to fulfil their responsibility, they replied that Delhi does not have their own water and the water plants are not working so they get water from Haryana

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[763] *Id,* BPR12.

[764] *Id,* Phase I, January 2014, BPR16.

[765] *Id,* BPR10.

[766] *Id,* BPR1.

[767] *Ibid.*

[768] *Id,* Phase II, July 2014, BPR9.

[769] *Id,* Phase I, January 2014, BPR7.

[770] *Id,* BPR11.

(neighboring state), and therefore the government has a difficulty in providing sufficient water. Some people also responded that the people themselves dump waste on the road, do not get the drains cleaned and do not take efforts to obtain water and therefore there is some level of personal responsibility for the non-availability of water and sanitation rights.

<u>Barriers to Effective Participation</u>

Corruption and dereliction of duties by city authorities and Municipal Corporation workers is a major threat to accessibility of water and sanitation rights- 'The government servants are corrupt and hence no maintenance work is done.'[771] People reported that, 'Only when a dengue case is reported in the hospital that they (MCD officials hired to spray insecticides and mosquito repellents in the area) come here, that too barely once or twice'.[772]

Other than corruption, disparity in services was seen depending on the location of the houses- 'The MCD people who come to spray medicines for mosquitoes only do so in the main street and then they leave'.[773] The lanes that are inside and more difficult to reach do not get as much attention from the public service providers. People hire workers on their own to get these lanes cleaned. 'No, the MCD people do not come inside. Once in a blue moon, they might. Only the lanes outside are properly cleaned'.[774]

> They ask for extra money to clean inner lanes. If we give complaints in writing against the workers, we get threats from him, but we stay adamant and then he doesn't pursue them and drops it. Many times we have to bribe the electricity department to listen to us and then our complaint gets resolved.[775]

To summarize this section, Begumpur does not have scarcity of water facilities, however the quality of water needs improvement. The government's assistance in sanitation facilities is negligible and the area needs more attention when it comes to public sanitation facilities. In general the services were affordable, however if privatization happens in the area, it will become difficult as the people apprehend that they will not be able to pay the cost. They have already invested in pipelines initially and they do not want to spend money on water more than they already do, in terms of electricity costs. The local authorities and politicians are a major force in the development of the area and people have often received and they continue to receive help from them. The complaint mechanisms are quite strong as in general people receive positive responses on their complaints. There is always room for improvement as more awareness and unity on these issues is required. Begumpur also needs more civil society engagement on the right to water and sanitation, so that awareness about their rights and about their importance is created.

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[771] *Id,* BPR5.

[772] *Id,* BPR16.

[773] *Id,* BPR17.

[774] *Id,* Phase II, July 2014, BPR18.

[775] *Id,* BPR10.

3.6 GENERAL FINDINGS

This section presents findings on issues that were common across the sites.

3.6.1 LAND INSECURITY AND ITS IMPACT ON THE RIGHT TO WATER AND SANITATION

In several instances, people linked their rights to their ownership of land or the duration of their stay in the area, for example, 'We have right because we have spent fifty years here'.[776] Since they did not own the land, they felt that they do not have the right to complain as well.

In Begumpur, people linked the question of privatization to their land rights. Some said they would accept privatization because setting up of water meters by the government might mean that the government recognizes their land rights. While, some feared that privatization could result in investigation of their land lease. There were people who did not have identification cards and were not the original allottees of the land or even permanent residents of Delhi to have the EWS (Economically Weaker Section) status.[777] They feared that they were living on their land illegally and this stopped them from participating in claiming their rights. Not having proper documentation created the worry that if investigated, they might face harsher punishment- 'They grant a EWS certificate only if I am living in Delhi for 10 years. Well, if I'm not, am I not poor? If I do not have permanent residence, I am not eligible for an ID card. How can I show a driver's license?'[778] Similarly, in Rangpuri Pahadi, people said that being 'mere' tenants they do not find themselves in a position to complain for services denied to them. 'We are mere tenants. What will we get by complaining? We will stay here till our children grow up and the go back to our village'.[779]

However some people responded that they have *haq* despite not having rights over land,

> There is a right to education. To get public education for my child, I need a PWS certificate. One criteria for that is that I should have lived in Delhi for at least 10 years. Does that mean that those who have not lived in Delhi for at least 10 years are not poor? How do I get a proof of ID when I do not have a house? They require an income certificate. But we do not have documentary proof.[780]

3.6.2 FINDINGS ON THE EFFECTIVENESS OF THE 666-LITRE FREE WATER SCHEME

Legislative Assembly elections were held in Delhi in December 2013, as a result of which Mr. Arvind Kejriwal of the AAP party, became the Chief Minister of Delhi (Indo Asian News Service, 2013). After 47 days of being at the helm, Mr. Kejriwal resigned in February 2014 and President's rule was imposed in Delhi (Indo Asian News Service 2014). Fresh elections were scheduled for 2015 when Arvind Kejriwal became the Chief Minister again. Our interviews were conducted in January and July-

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[776] *Id,* BP GD4.
[777] *Id,* BP R18.
[778] *Ibid.*
[779] *Id,* RP R5.
[780] *Id,* BP R8.

August of 2014 and therefore the responses reflect the opinions post-elections as well as during the campaign for 2015. The 666 litre water scheme, an electoral promise of the AAP government was fulfilled in December 2013, when he promised every household with a metre connection, 666 litres of water free of cost (Ali, 2016). There were mixed responses to the effectiveness of this scheme. Some said that this scheme is impractical because it will lead to wastage of water in an already water stricken city like Delhi (Narayanaamoorthy, 2014). While some complained that it leaves out people without a piped water connection (Basu, 2014). Despite the criticisms, the scheme continues to operate and more parts of Delhi are now covered under it.[781] Following are the responses from the four sites we studied. Initially, people were not clear about what the scheme entails, 'In my opinion this scheme is a little skewed. If the water usage goes beyond 666 litres, you have to pay for the whole thing anyway'.[782] A respondent who did not have a metered water connection feared that the scheme is only useful for those who already have a metered connection or a 'proper water connection'.[783]

> But let me tell you the truth, mister. These promises (the 600 litre water scheme) is not for us. They were never meant for us. Those rich people with their fancy houses will reap the benefits of the government. We people cannot hope to get anything. See, they have the government connection. So they will get the free water.[784]

Expressing his discontent on the role of the government in providing them economic access to water, one respondent in a Group Discussion said, 'We haven't received 7 litres and you are talking about 700 Litres!'[785] Another person responded,

See, I do not have money for such luxuries. These only come after the basic needs are met. We do not want such meters. We do not have any problems with the water that is provided to us. There are no diseases because of this water. We are poor people. We pay for electricity also. We cannot afford water if meters are installed.[786]

Thus the 666 litre free water scheme, in general, did not receive a warm welcome amongst the respondents in our study. The biggest concern was getting a metered connection and water supply being monitored. This concern paired with the distrust of privatization made people uncertain about the future of this scheme. As if the scheme is withdrawn, people would be stuck with metered connections and a private company billing their water use. Taking cue from their experience of paying electricity bills, they expected this scheme to grow into a costly affair.

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[781] Business Standard, http://www.business-standard.com/article/politics/aap-promises-free-water-for-all-in-delhi-115012700992_1.html
[782] Slum Interviews, Begumpur, Phase I, January 2014, BPR7.
[783] *Id,* RPRGD5.
[784] *Id,* BPGD3.
[785] *Id,* RPRGD5.
[786] *Id,* BSC GD2.

4. LOCALIZING HUMAN RIGHTS

This case study on *The right to water and sanitation for the urban poor in Delhi* complements a body of earlier conceptual and methodological work on the use of human rights by marginalized local groups in Asia and Africa. The work analyses the life cycle of human rights interventions, from the emergence of the claim to an assessment of the results that were achieved.

This chapter summarizes the contribution of the current case study to this broader theme, but first engages in a *prima facie* assessment under international human rights standards of the water and sanitation situation in the slums that were part of the survey.

4.1. PRIMA FACIE HUMAN RIGHTS ASSESSMENT

It is evident from the findings of the study that living conditions at the four sites fall below international human rights standards that aim to secure a life in human dignity for all. The water and sanitation situation is quite clearly inadequate.

4.1.1. INTERNATIONAL CONVENTIONS

The UN Committee on Economic, Social and Cultural Rights has determined,[787] that water supply must be sufficient and continuous; that the quality of water should not constitute a threat to a person's health; that water should be within physical reach and be affordable for all, and that information on water issues should be readily available. All of these aspects of the right to water are problematic at the four sites.

It is a core obligation to take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation (UN, 2003 a, para 37). The United Nations General Assembly has stated that the human right to sanitation: entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity.[788]

The resolution also calls upon States to progressively eliminate open defecation by adopting policies to increase access to sanitation, including for individuals belonging to vulnerable and marginalized groups (UN, 2016, para 5f), and to provide for effective accountability mechanisms for all water and sanitation service providers to ensure that they respect human rights and do not cause human rights violations or abuses (UN, 2016, para 5i). Sanitation conditions at the four slums do not meet these conditions.

As per the Committee, the right to water and sanitation, like any other right includes the obligation to respect, protect and fulfil. Thus, states should refrain from engaging in any practice or activity that denies or limits equal access to adequate water or unlawfully diminishing or polluting water (para

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[787] UN (2003 a), para 2, 12. The Committee derived the right to water from Article 11(1) ICESCR as a fundamental guarantee for securing an adequate standard of living. India acceded to both the ICESCR and ICCPR on 10 November 1979.

[788] UN (2016), para 2. The resolution was adopted by consensus.

21), to prevent third parties from interfering in any way with the enjoyment of the right to water (para 23), to take steps to ensure that there is appropriate education concerning the hygienic use of water (para 25), to provide the right when people are unable for reasons beyond their control, to realize that right themselves by the means at their disposal (para 25), to accord sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation; adopting a national water strategy and plan of action to realize this right; ensuring that water is affordable for everyone; and facilitating improved and sustainable access to water, particularly in rural and deprived urban areas (para 26).

It can be observed based on the findings that these obligations have not been discharged. Violations include,[789] shutting of public toilets in the evening or after midnight leaving open defecation as the last resort, not allowing people in unauthorized settlements to build their own toilets nor provide toilets, forced evictions and demolitions, failure to provide water and sanitation services to urban slums, failure to monitor and regulate water quality, failure to communicate complaints mechanisms, failure to protect the water distribution systems from damage and destruction, failure to develop and enforce regulation to protect water resources from contamination, failure in preventing corrupt practices like the DJB tanker scam, failure to properly raise, allocate and utilize available resources or to budget appropriately and failure to eliminate manual scavenging. Formulation of cut-off dates for rendering urban slum dwellers ineligible for relocation or demolition of slums built after the cut-off dates, forced evictions, results in acute violation of their rights, including that of access to water and sanitation.

The UN Committee on Economic, Social and Cultural Rights has made clear that the core obligation to ensure access to the minimum essential amount of water that is sufficient and safe for personal and domestic use to prevent disease is an immediate obligation for the State parties to the ICESCR (UN, 2003 a, para 37a). Importantly, the prohibition of discrimination also includes an immediate obligation to ensure that water and water facilities are accessible to all, 'including the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds,'[790] including social origin or property. This immediate obligation applies even in times of severe resource constraints. According to the Committee, States parties have a special obligation to provide those who do not have sufficient means with the necessary water and water facilities (UN, 2014 b, para 15). In particular, States should take steps to ensure that,

> Deprived urban areas, including informal human settlements, and homeless persons, should have access to properly maintained water facilities. No household should be denied the right to water on the grounds of their housing or land status (UN, 2014 b, para 16c).

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[789] See, UN (2014 b) for a typology of violations.
[790] *Id.*, para. 12, 13, 17. See on similar concerns expressed by the Committee on the Rights of the Child, UN (2014 a), para 63(g).

According to the Committee's interpretation of the ICESCR, slum dwellers thus hold the right to water, regardless of whether they have been authorized to live on the site where they reside. The UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Leilani Farha, visited India from 11 to 22 April 2016. In her report (UN, 2017 d), the Special Rapporteur recommends that central and state governments should,

> Survey and provide legal recognition of all existing informal settlements and prioritize in situ upgrading and rehabilitation, with secure tenure for all inhabitants, based on meaningful participation. Provide existing informal settlements, especially where rehabilitation is not planned, with proper latrines, access to water and sanitation and regular garbage collection (para. 85(d)).[791]

To counter discriminatory practices in accessing water and sanitation, the Committee further recommends that States should,

> …give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right, including women, children, minority groups, indigenous peoples, refugees, asylum-seekers, internally displaced persons, migrant workers, prisoners and detainees.

In particular, States should take steps to ensure that women do not bear the disproportionate burden in collection of water. States have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children. To ensure personal security is not threatened when having to physically access to water and has also been determined to be a core obligation. In the survey, it was found that women continue to bear the responsibility for water collection. They are particularly vulnerable in accessing water from tankers and in accessing sanitation facilities.[792] The health and safety of both women and children is threatened by the lack of sanitation facilities in these slums.

India has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD) and has acceded to the Convention on Rights of the Child (CRC).[793] All three conventions impose obligations with regard to access to water and sanitation rights. CEDAW requires States to in particular ensure women enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply (Art. 14(2)h). CRPD requires States to take appropriate steps to safeguard the right against discrimination on the basis of disability and to take measures to ensure equal access by persons of disability to clean water and sanitation services (Art. 28). The UN Committee on the Rights of Child highlights that States have the responsibility to ensure access to clean drinking water, particularly for

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[791] For the Government of India response, see UN (2017 e).
[792] For another study in slums of Delhi that shows similar results, See, Travers 2011.
[793] On 9 Jul. 1993, 1 Oct. 2007 and 11 Dec. 1992 respectively.

young children's health (UN, 2006 a). Our findings clearly show that these obligations are not being discharged with respect to the slums and the resettlement colony studied.

Some general principles of customary international law govern the process of realizing the right to water and sanitation. These are non-discrimination and equality, information, participation and accountability (UN, 2014 b). States must have laws, regulations and policies guided by these principles and enforce them. The Constitution of India includes the right to equality under Art. 14 and there are laws against specific discriminatory practices like untouchability and manual scavenging. However, policies, government schemes and court decisions,[794] are discriminatory towards residents of unauthorized colonies and non-notified slums in terms of the content of right to water and sanitation services. Secondly, the right to information is explicitly guaranteed since 2002 and the survey showed that it is being used, however, slum dwellers were generally unaware of the means of accessing authorities for fulfilment of their rights. This shows that there is scope for improvement in making data about water services delivery and hygiene, about laws and policies, to be made available in an understandable way, through a medium that reaches everyone. Thirdly, there should be effective participation of the beneficiaries before Schemes like the 666 litre free water, are formulated. The survey displays a variety of responses which, if taken into account could have made the scheme more beneficial. Lastly, several responses in the study indicate the lack of awareness about formal complaint mechanisms for water services delivery while several others highlight delays in receiving response or lack of response to complaints.

4.1.2. Basic principles on Development Based Evictions and Forced Displacement
The right to adequate housing includes the right to protection against arbitrary or unlawful interference with privacy, family, home, and to legal security of tenure. The Basic Principles on Development Based evictions include a comprehensive list of obligations derived from international instruments that India has agreed to adhere to. There exists an immediate positive obligation to adopt legislative and policy measures prohibiting the execution of evictions that are not in conformity with their international human rights obligations (para 22 and 23). While there is prohibition of forced eviction for notified slums, it does not exist for non-notified/illegal slums. States should review the operation and regulation of the housing and tenancy markets and, when necessary, intervene to ensure that market forces do not increase the vulnerability of low-income and other marginalized groups to forced eviction (para 30). The Housing schemes of the government including PMAY is a positive step for providing low cost housing, however the government has not been able to root out the illegal housing market due to which slum dwellers begin living at a particular land. This was observed in Rangpuri Pahadi where people are still migrating from their villages to live on illegally occupied land marketed as a lawful sale.

There exists an obligation to ensure effective dissemination of adequate, timely and appropriate information about human rights to groups particularly vulnerable to evictions, through culturally appropriate channels and methods (para 35). Under the framework, there should be prior notice,

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[794] Pani Haq Samiti & Others vs Brihan Mumbai Municipal Corporation & Others, PIL No. 10 of 2012 decided on 15/12/2014 (OOCJ Bombay). *See Also,* Subbaraman and Murthy 2016.

public hearings on proposed plans and alternatives and effective dissemination of information such as land records and comprehensive resettlement plans and a reasonable time period for public review of such plans. Affected persons must be enabled to contribute to it by legal, technical and other advice provided by the State. There should be adequate opportunity for affected persons to challenge eviction plans before and after evictions. If an agreement cannot be reached among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate on it (para 38). The eviction notice should contain a detailed justification for the decision (para 41). Such notice should be as much in advance as it allows affected persons to take an inventory in order to assess the values of their properties, investments and other material goods that may be damaged (Para 42).

The residents of Rangpuri Pahadi, interviewed in this study did not have information about their eligibility for protection against forced evictions under international law. The incidents of forced eviction in August 2016 that were observed by researchers in this study show that none of these guidelines were followed.

As per the international framework, evictions should not be carried out in a manner that violates the dignity and human rights to life and security of those affected. States must take steps to ensure that women are not subject to gender-based violence and discrimination in the course of evictions, and that the human rights of children are protected (para 47). Any legal use of force must respect the principles of necessity and proportionality (para 48). Moreover, evictions must not take place in inclement weather or at night (para 50). States and their agents must take steps to ensure that no one is subject to acts of violence, especially against women and children, or arbitrarily deprived of property or possessions as a result of demolition, arson and other forms of deliberate destruction, negligence or any form of collective punishment. Property and possessions left behind involuntarily should be protected against destruction and arbitrary and illegal appropriation, occupation or use. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights (para 43). The sight of Rangpuri Pahadi after evictions, in November 2014 as well as August 2016, based on news reports, interviews undertaken in this study as well as our own observations does not show the State carrying out any of these obligations. After evictions people were left shelter less and received some aid from non-state actors, like NGOs.

The right of affected persons, groups and communities to full and prior informed consent regarding relocation must be guaranteed. After evictions, any resettlement must satisfy the criteria of, inter alia, habitability, security of tenure, suitability of location and access to essential services such as health and education (Para 16). Alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those evicted and all resettlement measures, such as construction of homes, provision of water, electricity, sanitation, schools, access roads and allocation of land and sites, must be completed before those who are to be evicted are moved from their original areas of dwelling (para 43 and 44). At a minimum, regardless of the circumstances and without discrimination, competent authorities must ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: essential food, potable water and sanitation; basic shelter and housing; essential medical services; livelihood sources; access to common property resources previously depended upon; and education for

children and childcare facilities. Identified relocation sites must fulfil the criteria for adequate housing according to international human rights law. These include, *inter alia*: security of tenure; services, materials, facilities and infrastructure such as potable water, energy for cooking, heating and lighting, sanitation and washing facilities, refuse disposal, site drainage and emergency services; affordable housing; accessibility for disadvantaged groups; access to employment options, health-care services, schools, childcare centres and other social facilities, whether in urban or rural areas. The State shall provide all necessary amenities, services and economic opportunities at the proposed site. In this context, both Rangpuri Pahadi and Savda Ghevra are examples of instances where these international obligations are not discharged by the State.

4.2. HUMAN RIGHTS AWARENESS

Human rights awareness is a prerequisite for the use of human rights. Human rights awareness may originate in a human rights concept that is proper to the group making the claim. Alternatively, a group may have been exposed to the global language of human rights, and decide to use it. A fusion of local and global understandings of human rights may also occur.

During the survey at the four sites, respondents regularly affirmed that they had human rights, 'My rights are all that I want. Something that I have. Like my right to life, to be safe and happy'.[795] Everyone had rights, 'Yes, the rights that all of us have, because we are humans. Everybody has some rights as I said'.[796]

Human rights included the right to water, 'Everyone has a right to water. No exceptions, whatsoever'.[797] 'So, my right to water is my right to have water for all the needs of mine, for washing, drinking and all other tasks. The water belongs to the people';[798] 'Yes, of course. Everyone does. Water is essential'.[799]

The right to water implied that individuals had the duty to act responsibly: 'Everyone has a right to water as there can be no life without water but we should take only limited quantities of water so that there is water left for the others'.[800]

The government was identified as the duty bearer. Water was a basic human right and thus, 'That is why we can ask for it from the government'.[801] A woman stated: 'The government will do it [provide the right]. Why would we do it? Casting a vote in the elections is my duty. I have done that. Now the

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[795] Slum Interviews, Phase II, July 2014, BSC R20.
[796] *Ibid.*
[797] *Id,* BSC R9.
[798] *Id,* BSC R20.
[799] Slum Interviews, Phase I, Jan 2014, BSC R4.
[800] *Id,* Phase II, July 2014, BSC R14.
[801] *Id,* BPR17.

government has to work'.[802] This response and others like it indicate that people saw it as their duty to vote, upon which it was considered the duty of the elected candidate and the government in power to provide the people their basic rights, 'We give votes to the parties and it is because of us that they win elections. If we vote then we do have a right'.[803]

During interviews, respondents frequently used the term *haq*.[804] 'If something is my *haq*, I am entitled to it. I should get it. If I have a *haq* over water, I should get water. We should get all facilities we have a *haq* to.'[805]; '*Haq* is a birth right. Like we have a right to speak, a right to life, etc. A person should be able to live with dignity'.[806]

The concept of '*haq*' predates the contemporary notion of human rights. According to Sumi Madhok, the word *haq* is a derivative of the classical Hebrew term *hkk*, possibly referring to a 'permanent law' (Madhok 2009).[807] In Its initial use in Arabic, in pre Islamic poetry, it meant 'something right, true, just, and real'. *Haq* or *hukk* appeared in the Hindustani/Urdu language through the influence of Persian in the Indian subcontinent. Its meaning within the earliest Hindustani dictionary is similar to its Qur'anic meaning, which is justice and truth. Like the Qur'anic meaning the term does not explicitly apply to persons.[808] This changes in the 18th and 19th century, when dictionaries start including the meanings of 'right' and 'due'. Madhok ascribes the shift in meaning to the influence of enlightenment ideas from Europe (Madhok, 2009).

Hebrew, Arabic, and Persian interacted with the local Indian languages due to historical events and geographical proximity, thereby giving rise to the language of Urdu and various loan words that have enriched the linguistic heritage of the country. Since the abovementioned languages were brought in as a part of the ruling class, they soon attained legal and administrative significance, so much so that the British, when they colonized India, continued to adjudicate legal matters through the mode of Hindu and Muslim laws. Even today, the use of Urdu and Farsi words has a strong presence in the north-west part of the country, including Delhi. The use of Urdu words is very common is various court procedures and revenue laws. The word *haq* is one such word which continues to be used in

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[802] *Id,* Phase I, Jan 2014, RPR6.

[803] *Id,* BPGD2.

[804] The interviews were conducted in Hindi. *Haq* is one of the words used in India to translate 'human rights' in Hindustani (*adhikaar* is another). The term was sometimes introduced into the conversation by the interviewer, when they raising questions about 'human rights'; On other occasions, the interviewees spontaneously introduced the term into the conversation. In any case, it is unlikely that the respondents were connecting *haq* to the English term 'human rights'; rather, they were using *haq* as a self-standing concept, with a long, all be it convoluted historical pedigree.

[805] Slum Interviews, Phase II, July 2014, SGR1.

[806] *Id,* BPR7. *See also*, RPR12.

[807] *See also* Madhok 2017.

[808] According to Nik Salida Suhaila Nik Saleh the word *haq* is used in the Quran approx. 287 times and has around 18 different meanings mostly going by 'certainty', 'conformity to reality', 'truth', and 'justice.' Saleh (2012).

common parlance, movies, and rallies and has come to signify the word that denotes the rights of the masses.

Clearly, the world '*haq*' has different meanings in different contexts. In our interviews, respondents tended to use the word as an entitlement of every individual to the satisfaction of essential needs, and readily identified the government as the duty bearer. This concept of *haq* resembles human rights.   Compared to human rights, there was perhaps less of an emphasis on holding the government accountable for non-compliance and on justiciability (possibly due to disillusionment, see *infra*), and more emphasis on the individual's own responsibility to the community in securing *haq*. It was also clear that *haq* was deemed to function only vis-à-vis the government, and not vis-à-vis private actors (such as private water and sanitation providers).[809]

It is unlikely that the concepts of *haq* and 'human rights' fully coincide. More importantly, however, given its lineage and cosmopolitan origins, *haq* does provide fertile ground for the contemporary concept of human rights. 'Human rights' are meaningful to slum dwellers, because of their similarity to *haq*, a concept that resonates locally. As Madhok puts it: 'human rights' can be accommodated through the existing vocabulary of *haq* (Madhok, 2009, p. 6). Conversely, the language of human rights stands to be enriched by taking into account the experience and expertise of social groups invoking *haq* to achieve a life in dignity.

The concept of '*haq*' has evolved over time, and it may evolve further under the influence of the global language of human rights. It is plausible that when slum dwellers speak of a *haq* to water, they are already using a construct that is a hybrid between the historically entrenched local concept of a birth right that exists outside of positive law and contemporary human rights language, as enshrined in the Constitution of India.

During the survey, researchers found no evidence of awareness among the slum dwellers of international human rights law. The Constitution of India was the only source of human rights law referred to. [810] International treaties that India has ratified only become part of the law of the land, once they are incorporated into national law.   Nevertheless, it is settled case law to interpret domestic law in the light of India's international obligations (Agarwal, 2010).

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[809] 'Of course it will affect our *haq*. This is because the government will have lesser accountability. We could have told them that since we have voted for them, it is necessary that they must provide us with facilities. We can instruct the government to do or not to do something. But we do not vote for the private companies and so we cannot instruct them'. Slum Interviews, Phase II, July 2014, BPR7.

[810] One respondent stated: '*Haq* means the constitution gives you rights'. Slum Interviews, Phase II, July 2014, BSC R20.

4.3. HUMAN RIGHTS CLAIMS

We will not complain. We will try to adjust. We will complain only if limits are crossed and things go out of our hands.[811]

A number of factors facilitate or impede human rights claiming by the residents in the four slums where the survey took place. By human rights claiming we mean any type of process by which groups or individuals invoke rights as legal norms, discourse or symbols to influence policy or behavior in order to achieve more human dignity.

Our survey results uphold the indivisibility of human rights. Freedom of expression and freedom of association are key instruments of human rights claiming. Political rights are particularly important in order to achieve improvement in the water and sanitation situation. During election periods, the bargaining position of slum dwellers is considerably strengthened. Slum dwellers with a voter ID are well aware that a window of opportunity opens when politicians from across the political spectrum set out on the campaign trail. It is the one time that they are assured of the politicians' attention.

On the other hand, it is also clear that the non-fulfilment of other economic, social and cultural rights affects the willingness of the residents to claim the right to water and sanitation. As the interviews showed lack of income is an impediment: claiming, protesting, and litigating... takes time; earning an income to sustain the family and ensuring an education to the children is a higher priority.[812]

In unauthorized settlements, there is a clear link between the right to water and sanitation and the right to housing. As long as authorization to reside on the land has not been granted (through notification of the slum, or the granting of long-term tenure rights), there is a degree of futility about claiming structural solutions to the water and sanitation problems. Given the unauthorized nature of the settlement, it may even be counterproductive to claim rights, as a respondent forcefully argued,

> If I am not getting water, what do I do? Do I go out and ask? The counter question is why should you get water? Are you authorized to live here? No. They would then bring down my *jhuggi*. So, when my existence is jeopardized, do I ensure that first or do I go after *haq*? Do I protect my family or run after my rights? It is a complex system. What would you have done?[813]

Slum dwellers do not divide issues into separate rights. There is no particular mobilization among slum dwellers around the right to water and sanitation. Even in a resettlement colony, lack of access to water and sanitation represents only one aspect of a wider phenomenon of inadequate service

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[811] Slum Interviews, Phase I, Jan 2014, SG R15.

[812] 'I know I have rights, but we do not have good jobs, we work in tit-bits in unorganized sectors, we do not have a claim to make our rights legitimate. If our kids had good jobs, we would have a right and we would make a claim to contest.' Slum Interviews, Phase II, July 2014, BSC R16.

[813] *Id,* BP R8.

provision that occurs as a consequence of a (conscious) State decision to relocate settlers to the city periphery, often at great distance from their previous places of work, education, and healthcare.[814]

For marginalized groups such as slum dwellers, human rights claiming requires collective action and organization. When groups are socially excluded, action by a single individual is unlikely to suffice in order to achieve the common objective of all those similarly affected.[815] Within slums, collective action and organization is not self-evident. Although slum dwellers are geographically located, and experience similar living conditions, their situations are nevertheless diverse. Temporal and spatial divisions within a slum matter. They determine the relationships among the people. Long-term residents may dislike or exploit newcomers. In terms of water and sanitation, some within a slum may have access, while others do not. Some can afford to pay for quality, while for others free services are crucial. There are significant differences in access between house owners and tenants. Women and men have different concerns. Within a slum, interests in bringing about change differ, and so unity of action may not be forthcoming. The status of a resident within the slum also affects that person's ability to claim human rights from the State. New comers face additional exclusionary barriers: they may be undocumented, and may have little knowledge of people or procedures through which to obtain the documents that entitle them to a formal relationship with the municipal service providers.

People do organize to provide water for themselves when the material circumstances so permit, e.g. by drilling a bore well or connecting to a municipal supply system. Those acts are illegal, and contain an element of defiance. An NGO interlocutor claimed that slum dwellers were asserting a human rights claim by acting illegally: 'Slum dwellers feel they are entitled to water, and if the State does not give them water, they are entitled to drill as well'.[816]

In any case, it is clear that even if our survey was limited to examining a single right in only four slums in one city, the situation in each of the four slums differed. The particularities of each site explain why human rights are used more rather than less, and determine what constitutes an appropriate human rights response. It matters a great deal to human rights claiming whether slum dwellers have been resettled or not; whether they have set up an independent water supply system or not; whether they have some access to municipal water and sanitation services or not; whether they are in the centre or the periphery of the city; and what the commercial value is of the land on which they reside. McFarlane and Desai correctly argue that the geographies of water and sanitation provision in slums are diverse and contingent, and impact significantly on universal rights. Such rights, they argue, can only emerge 'through a focus on the everyday experiences, claims, negotiations and struggles that continually take place …in informal settlements' (McFarlane and Desai, 2015, p. 442). Research and policy should pay more attention to spatial and temporal heterogeneity,

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[814] Compare HLRN (2016), p. 8-9.
[815] *See,* Fennell (2010), p. 178.
[816] Intervention at a meeting with NGOs on our research project at National Law University Delhi in August, 2016.

Working in and with sites of entitlement at the neighborhood level and across multiple actors is in our view the most effective route to lasting sanitation and water improvement, even though it is slow and particularism (McFarlane and Desai, 2015, p. 453).

4.4. DUTY BEARER RESPONSE

A further factor impeding human rights claiming is the slum dwellers' belief that it will not help. This belief is based on their lived experience in dealing with the 'State'.

Once a claim is made, the response by the duty bearer (in this case, in the slum dwellers' perception: the State) determines the practical outcome of a human rights claim. Responses may come in various shapes and sizes including legal measures and court decisions, but alliance-building between claimants and individuals within State institutions sympathetic to the claim invariably proves important (Gready, 2004).

In the slums, 'the State' appears in the guise of local authorities: municipal bodies, elected representatives, the police… One problem is that is not clear to the slum dwellers what part of the State bears the duty to realize the right to water and sanitation: at the National Capital level only the Delhi Development Authority, the Municipal Corporation of Delhi, the Delhi Jal Board, the Delhi Urban Shelter Improvement Board are all government agencies responsible in part for the water and sanitation situation in the slums. Due to this labyrinth of local government (executive) institutions, it becomes very difficult to hold 'the State' accountable for human rights violations.[817] Another difficulty reported during the interviews is the prevalence of corruption. As the UN Office of the High Commissioner for Human Rights points out, corruption weakens the very accountability structures which are responsible for protecting human rights. Disadvantaged groups tend to suffer disproportionately from corruption because they are often more reliant on public services and participate less in policy making (UN, 2013 a).

Even more debilitating is the slum dwellers' experience of a history of State responses that deny, ignore or fail to adequately respond to their human rights claims. As McFarlane and Desai note,

> …while some people, and in relation to some services, might feel a strong sense of moral economy around state delivery, experience may indicate that such provision is so unlikely that to think of it as an entitlement borders on the absurd.[818]

The history of human rights claiming influences its future use. The lack of belief in provision by the State also strengthens the sense that people within a slum are responsible to each other for realizing access to water and sanitation. But there are limits to what interpersonal duties can achieve in a slum context,

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[817] *Compare* Aijaz 2015.
[818] McFarlane and Desai 2015, p. 443. By 'entitlement' the authors mean: what people claim as a product of their rights.

Everyone has a right to water as there can be no life without water but we should take only limited quantities of water so that there is water left for the others. And as for sanitation, it is not really possible here. We have to go to the jungles and there is one toilet made over here.[819]

The main strategy to obtain better service provision from the State does not consist of claiming human rights, but of negotiating deals with local politicians, and particularly, with local MLA's. Politicians are easily accessible, particularly at times when they are in need of electoral support. Slum dwellers appear quite ready to switch their political affiliation: what counts is performance. Ideally, a simple exchange takes place: the slum dwellers are provided with services that they cannot access through State institutions and the relevant politician receives their political support. As the survey has shown, this simple exchange may not always work in practice. A politician who provided a bore-well or a connection to the municipal system may not be re-elected; electoral promises may remain unfulfilled. On the other hand, the survey also showed that at times, the strategy results in practical outcomes that satisfy immediate needs.[820]

The whole process takes place outside of the law, and is precariously dependent on a client-patron network,

> Earlier we had to go to other people to get water… then we came to know about Kiran Walia, who is the MLA for this region. We went to her and gave multiple complaints. We kept a copy with us and gave her another. We went to her several times after that but she kept saying that she hasn't received adequate funds yet. But we were adamant, and said that it is not our problem and pressed on the need for water. The situation ameliorated with time. Streets were cleaned regularly and drains too. Now in June (2014) a new MLA was appointed. Road and drains are not being cleaned any longer. Water problems have again arisen, for e.g. water doesn't come here in the evening at times, the quality and quantity has deteriorated.[821]

Access to client-patron networks may well not be available to women. Although there is a clear gender angle to water and sanitation issues (e.g. women tend to collect the water; open defecation is particularly unsafe for women), such issues may not receive priority in the client-patron negotiation if women do not participate. The NGO Action India has thus been working in New Delhi slums to set up WATSAN,[822] women's collectives promoting health and hygiene practices in their community, but also engaging in political actions, such as writing applications to concerned departments and

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[819] Slum Interviews, Phase II, July 2014, BSC R14.
[820] *See also*, Banerjee, Pande and Walton 2012.
[821] Slum Interviews, Phase II, July 2014, BPR9.
[822] WATSAN stands for: Women's Initiative in Community Management.

following up; using signature campaigns, directly meeting officials in groups to address their problems.[823]

The finding that slum dwellers rely on bargaining through clientelistic networking rather than on human rights claiming in order to achieve improvements in water and sanitation provision confirms Partha Chatterjee's analysis of India as a postcolonial State.[824] Chatterjee argues that in independent India the space of politics was split between a narrow domain of civil society where citizens relate to the State through the mutual recognition of legally enforceable rights and a wider domain of political society where governments deal with populations to deliver specific benefits or services through a process of political negotiation. In his view, this attitude mimicked the approach taken by the colonial power during colonial rule. Today, the government recognizes that slum dwellers fulfil certain necessary functions in the urban economy, and therefore they have to be appropriately governed,

> The authorities make a political calculation of costs and benefits and agree, for the time being, to give them those benefits. However, this can only be done in a way that does not jeopardize the legal order of property and the rights of proper citizens (Chatterjee, 2011, p.14).

Slum dwellers are not perceived of as rights holders: they are not given access to water and sanitation by way of right, but by way of benefit. Benefits are extended extra-legally and on a case-by-case basis. Slum dwellers are not granted land rights, because they are not law-abiding members of civil society. The slum dwellers themselves, although rhetorically claiming land rights, are in practice not directly challenging the law, but demanding, 'that the authorities make a political judgment to use the sovereign power of the state to declare their case an exception to the norm laid down by the law' (Chatterjee, 2011, p.16).

The bargaining process results in a compromise: as long as some water and sanitation services are made available (even if they fall below international human rights law standards) and the government condones the use of the land by the slum dwellers, little human rights action is undertaken. Only when the compromise breaks down, i.e. when forced evictions take place, or when water delivery collapses, human rights protection is invoked, including through litigation. Human rights are invoked when slum dwellers have nothing left to lose by confronting the State.

Thus, in the aftermath of the forced eviction of November, 2014 at Rangpuri Pahadi, Human Rights Law Network,[825] filed a writ petition in the Delhi High Court against the evictions, arguing that the

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[823] *See,* http://www.action-india.org/programs-and-campaigns/right-to-water-and-sanitation. Action India was founded in 1976, and 'works towards enhancing the participation of women as citizens to claim their rights and entitlements, to public health and civic services to better the environment and quality of life of the urban poor'.

[824] Chatterjee (2011). See in particular: p. 13-19.

[825] Human Rights Law Network (HRLN), a national NGO, is a division of the Socio-Legal Information Centre (SLIC) and is dedicated to the use of the legal system to advance human rights in India and the sub-continent. HRLN collaborates with human rights groups, and grass-roots development and social movements to enforce the rights of poor marginalized people. *See,* http://www.hrln.org/hrln

right to shelter as included in the Constitution and international law had been violated.[826] The petition invoked violations of the Constitution as noted in Supreme Court and Delhi High Court judgments, violations of domestic legislation, but also violations of the International Covenant on Economic, Social and Cultural Rights, the Convention for the Elimination of Discrimination against Women and the Convention on the Rights of the Child. The Delhi High Court ordered that no further demolition action should take place, until it had decided on the circumstances of the eviction.[827] At the time of writing, the petition was still pending.[828]

The Indian Constitution divides human rights into 'Fundamental Rights' (Part III), which mostly cover civil and political rights, and 'Directive Principles of State Policy' (Part IV), dealing with economic and social rights. Article 37 of the Constitution provides that Directive principles are not justiciable, but the Supreme Court of India has interpreted the fundamental right to life and personal liberty (Art 21)[829] as a 'right to live with human dignity'.[830] Public interest litigation (PIL) (Art 32) made a major contribution to this evolution (Upadhyay, 2007); PIL facilitates claims by marginalized groups, such as slum dwellers. There is thus a real possibility to make use of human rights litigation in India in order to insist on an improvement of living conditions, although judicial decisions do not always favor the interests of slum dwellers.

4.4. ROLE OF THIRD PARTIES

Non-governmental organizations can potentially assist local groups in organizing and engaging in collective action. In India, a strong tradition of NGO human rights mobilization among marginalized communities exists.

NGOs can work freely in the slum areas, and as the survey shows, NGO rights mobilization did take place at some of the sites. It is impossible to tell from the survey what percentage of people NGOs

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[826] *See* http://www.hrln.org/hrln/images/stories/pdf/Writ-Petition-Ranpur-Demolition.pdf, Filed at the New Delhi High Court as case number 8518/2014. The case is still pending. *See,* http://delhihighcourt.nic.in/dhc_case_status_oj_list.asp?pno=731798. Another NGO located in Vasant Kunj, the Forum for Organized Resource Conservation and Enhancement (FORCE) has a strong presence at the Rangpur Pahadi. *See,* http://force.org.in/. The NGO partners with government and local leaders, communities and corporate to offer end-to-end support to citizen groups interested in adopting water conservation practices. Its vision is to make communities 'water secure' meaning that every micro unit should have enough sustainable water supplies to take care of its basic needs for all. The organization does not, however, use human rights language in its mission or policies.

[827] See for the Order of 4 December 2014: http://www.hrln.org/hrln/images/stories/pdf/Order-Rangpur.pdf.

[828] For another recent example of human rights claiming by slum dwellers in New Delhi in response to forced evictions, see a newspaper report 'Evicted Delhi slum dwellers protest near DDA office, allege violation of high court rules and UN guidelines', Acharya, K. (2017).

[829] Art. 21 of the Constitution reads: 'No one shall be deprived of his life or personal liberty except according to procedures established by law'.

[830] Francis Coralie Mullin vs Union Territory of Delhi, 1981 AIR 746.

engaging in rights mobilization actually reach. A number of respondents in our survey were not aware that NGOs were undertaking human rights work at their locality.[831]

Rights mobilization is not the primary role NGOs fulfil in the slums. They also act as private actors providing services in lieu of municipal authorities. They provide services such as vocational training and non-formal education, job creation through the provision of micro—finance, innovative sewage management and rehabilitation, and emergency relief in case of demolitions. A news opinion recently reflected on how Savda Ghevra is turning into a lab for pilot projects (Sharma, 2017 b). It also features a quote by a resident, Shahid who is part of an informal group- *Savda Sangathan*, which mobilizes youth for community development,

> The government is least bothered about Savda and NGOs can only do so much. Their efforts have paid to the extent that they have kept children and youth engaged in meaningful and constructive activities. Some of them are finding jobs as salesmen in malls, and a lot of girls are working in beauty parlors (Sharma, 2017 b).

The relationship between the slum dwellers and the NGOs thus depends on the various roles the NGOs take up. NGOs focusing on service provision may well feel that supporting human rights claims endangers their primary role, and could lead to loss of income.

A further layer of complexity is added by the Companies Act of 2013 that requires companies to engage in CSR activities. As was pointed out earlier, companies either create their own philanthropic foundations to implement their CSR policies, or make use of NGOs as implementing agencies. The CSR scenario in India is comprised of collaborations between companies, civil society organizations and the government, and therefore defies easy categorization. Public perception, brand image or more generally business interests certainly play a role in CSR activities, but that does not imply that business involvement in social projects will necessarily be to the detriment of the target population. Activities of NGOs implementing CSR policies should conceptually be ranged under a business heading rather than under a civil society heading.

The VII Schedule of the Companies Act listing activities that can be undertaken by companies as CSR includes, 'slum area development'. The clearest example in our survey was *Piramal Sarjaval,* a CSR initiative by the Piramal Group that commenced activities in Savda Ghevra in 2008.[832] The website describes Piramal Sarvajal as a social enterprise developing technologies and business practices in the safe drinking water sector that are designed to make a purely market-based model sustainable in both rural and urban deployment conditions. Sarvajal has installed Water ATMs at Savda Ghevra that provide clean water at rates set by the Delhi Jal Board. The initiative is not framed in human rights language.

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[831] See also De Feyter (2017), reporting on a focus group discussion with Rana Plaza survivors who had no contact with any of the numerous NGO's active at one of the most globalized contemporary human rights sites.
[832] Sarvajal, http://www.sarvajal.com/who-we-are.php.

Few companies report CSR spending on slum area development. Companies can only target notified slums for slum redevelopment funds, and that explains why in our survey direct CSR activities were only seen in Savda Ghevra. Several NGOs with presence in our study areas were nevertheless also funded through CSR initiatives. Slum area development may not be a popular CSR activity, because urban slums do not have a fixed population and that can make it difficult to show the output of the project or the number of people benefited.

At the four sites, we found no evidence of activities supporting slum dwellers that were funded by donors of official development assistance. India has emerged as a donor in its own right. Foreign donors are, on the other hand, still supporting a number of local NGOs. It should be noted, however that in recent years the government has become much more restrictive in controlling the access of local NGOs, including human rights NGOs to foreign funding.[833]

There is no dearth of media coverage, international, national and regional, on slum issues in Delhi. The multitude of human rights abuses are captured by the media-whether it be forced evictions, health concerns or the deplorable living conditions. The slum populace forms a valuable survey area as a voting population during election season, for assessing reactions on new schemes by the government or even for the controversial trend of slum tourism. Out of our study sites, Savda Ghevra and Rangpuri Pahadi attracted more media attention than the others. Savda Ghevra generates interest for being one of the resettlement colonies set up to rehabilitate people displaced as a result of the Commonwealth Games in 2010. It generates curiosity because of the scale of the project and the public interest in its success or failure. On the other hand, Rangpuri Pahadi attracts attention due to the evictions and demolitions that have taken place. While the media is interested in the slums in Delhi, not every issue is picked up.

4.5. UNITED NATIONS INVOLVEMENT

A significant potential advantage of claiming human rights is that the use of the term draws international attention, and, in some instances, effective support. As noted, India has ratified a number of UN human rights treaties relevant to the right to water and sanitation, and is thus subject to monitoring by the treaty bodies through State reporting procedures. Indian non-governmental organizations are well aware of the opportunities these procedures offer: there is no shortage of NGO shadow reports under various treaties, produced by local NGOs, frequently also in cooperation with international NGOs. [834] Local non-governmental organizations also use the international treaties

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[833] In June 2016, several UN Human Rights Council three special procedure mandate holders called upon India to repeal the Foreign Contribution Regulation Act (amended in 2010). According to the mandate holders, the broad and vague terms contained in the Act did not conform to its prescribed aim, and were not proportionate responses to the purported goal of the restriction. See http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20112&LangID and also for further background, See, UN (2017 b), para 36.

[834] The 2008 Action Aid India shadow report to the UN Committee on Economic, Social and Cultural Rights, produced in collaboration with 152 NGOs remains an impressive example: Action Aid India (2008). The right to shelter is discussed at par. 51-56. For a more recent example, see HAQ (2012).

for human rights capacity-building. An interesting example is the work of Partners for Law in Development on the Convention on the Elimination of All Forms of Discrimination against Women.[835] India has not, however, recognized the authority of the treaty bodies to receive individual complaints, and thus, slum dwellers or organizations representing them cannot access these bodies in individual cases to directly challenge government actions.

The universal periodic review process offers opportunities similar to the reporting procedures under the treaties. There were seventy-two so-called 'stakeholders' submissions' to India's 2017 national report to the Human Rights Council (UN, 2017 c), by both local, foreign and international NGOs. A national coalition of twelve human rights organizations and independent experts recommended that India promulgate a national right to housing law that would commit the State to end homelessness, evictions, segregation and ghettoization.[836]

India extended a standing invitation to all UN thematic special procedures on 14 September 2011.[837] A standing invitation implies that the State will always accept requests to visit from all special procedure mandate holders. The Special Rapporteur on the human right to safe drinking water and sanitation will visit India from 30 October to 10 November 2017. The activities of special rapporteurs are not dependent on the ratification of human rights treaties by the relevant country.

Field visits by UN special rapporteurs are governed by a code of conduct adopted by the UN Human Rights Council.[838] Visits are to be prepared 'in close collaboration with the Permanent Mission of the concerned State'; the official program is to be finalized directly with the host country officials. The mandate holders should,

> (*e*) Seek to establish a dialogue with the relevant government authorities and with all other stakeholders, the promotion of dialogue and cooperation to ensure the full effectiveness of special procedures being a shared obligation of the mandate-holders, the concerned State and the said stakeholders;

According to the Manual of Operations of the Special Procedures of the Human Rights Council,[839] meetings with civil society are prepared by the mandate-holder with the support of the United Nations Country Team (UNCT) and OHCHR field presence as well as NGOs and national institutions. The authorities 'commit' to allow the mandate-holder to meet with NGOs and witnesses and to refrain from creating obstacles in that regard (UN, 2008 c, para. 66). Some special rapporteurs,

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[835] See http://pldindia.org/resources/pld-publications/cedaw-and-human-rights/cedaw/
[836] UN (2017 c), para 65. For a similar recommendation by the UN Special Rapporteur on adequate housing for India to adopt 'an overarching, visionary and coherent piece of legislation based on human rights', See UN (2017 d), para 82. The Housing and Land Rights Network Report to Habitat III makes abundant use of recommendations by UN treaty bodies, the UPR process and UN special rapporteurs to India, See HLRN (2016).
[837] See, http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/StandingInvitations.aspx
[838] The code of conduct is attached to HRC resolution, See, UN (2007). Art 11 of the code of conduct deals with field visits.
[839] The Manual (August, 2008) is available from the OHCHR webpage on the Special Procedures. See, UN (2008 c).

including the former special rapporteur on the right to water and sanitation have been willing to engage in unofficial visits (not leading to official UN mission reports) at the invitation of non-governmental organizations.[840]

The Manual perceives of country visits as an essential means to obtain direct and first-hand information on human rights violations,[841] a tool to assess the actual human rights situation in the country concerned,[842] and an opportunity to enhance awareness at the country, regional and international levels of the specific problems under consideration.[843]

Although the mandate holders are supported by OHCHR staff, country visits are dependent on the availability of resources. Compliance with recommendations made by the mandate holders depends on self-enforcement by the State, and on the capacity of civil society actors to urge follow-up when none is forthcoming. Although mandate holders' recommendations provide additional legitimacy to human rights claims made by domestic actors, they do not fundamentally affect domestic power relations.

4.6. ACTION RESEARCH

Researchers may also be actors. In our own research, we planned to observe and analyse, but not to intervene. In August 2016, members of the research team, when paying a follow-up visit to Rangpuri Pahadi, were confronted with an on-going partial demolition of the site. People appealed for help. We felt an ethical requirement to reconsider some of our methodological assumptions.

Brydon-Miller *et. al.* describe the essence of action research as 'how we go about generating knowledge that is both valid and vital to the well-being of individuals, communities, and for the promotion of larger-scale democratic social change'. Action researchers commit themselves to 'a form of research which challenges unjust and undemocratic economic, social and political systems and practices' (Brydon-Miller, *et. al.,* 2003, p.11).

An action research approach has a number of consequences for the research design (Houh and Kalsem, 2015),

- The partner communities should themselves identify the research problem that needs 'solving';
- The knowledge of the community should be retrieved and fully respected throughout the research;
- The research team must have a commitment to action: the 'deconstructing that illuminates problematic histories, power structures, and inequalities must be followed by the reconstructing of a more just society';[844]

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[840] See, Columbia Law School Human Rights Institute (2015), p. 34.

[841] *Id.*, para 52.

[842] *Id.*, para 53.

[843] *Id.*, para 54.

[844] *Id.*, p. 270.

- The research team should facilitate community-based problem solving; it is for the community to generate a practically viable solution to the problem.

Orlando Fals-Borda, a path-breaking Colombian scholar on action research in Latin America offered the following advice to researchers:

- Do not monopolize your knowledge nor impose arrogantly your techniques but respect and combine your skills with the knowledge of the researched or grassroots communities, taking them as full partners and co-researchers. That is, fill in the distance between subject and object;
- Do not trust elitist versions of history and science which respond to dominant interests, but be receptive to counter-narratives and try to recapture them;
- Do not depend solely on your culture to interpret facts, but recover local values, traits, beliefs, and arts for action by and with the research organizations; and
- Do not impose your own ponderous scientific style for communicating results, but diffuse and share what you have learned together with the people, in a manner that is wholly understandable and even literary and pleasant, for science should not be necessarily a mystery nor a monopoly of experts and intellectuals.

Source: http://comm-org.wisc.edu/si/falsborda.htm

In their own research project on predatory lending practices in Cincinnati (US), Houh and Kalsem facilitated action by low-income communities mainly by bringing documentation to the table, and through methodological trainings. They acknowledge that the relationship between the community members and the academics as privileged outsiders to the community was a recurrent concern: it required constant self-awareness and sensitivity to ensure that the researchers' commitment to empowerment did not result in assertion of control over the group.[845]

The research design of the various localizing human rights projects, of which the right to water and sanitation project in New Delhi's slums is one example, shares some but not all of the characteristics of an action research approach as described above.[846] Certainly, our research does have an overall societal objective: ultimately, the project aims at making a contribution to improving the effectiveness of human rights as an instrument to protect human dignity, particularly of marginalized groups in the global South. In order to do so, the projects are committed to retrieving and spreading the knowledge of social groups on the use of human rights. Following Baxi, we conceive of people and communities as the primary authors of (global) human rights (Baxi, 2002, p. 101). In black letter legal human rights research, the practice of human rights by marginalized groups is often deemed of

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[845] Id., p. 271.
[846] *See,* De Feyter (2011), p. 11–39.

little scientific value. Through the current project, we hope to strengthen the 'cognitive ability of human rights discourse to see the resistance of social movements':

> Engaging with the theory and practice of social movements is necessary to convert human-rights discourse from its narrow, state-centred, elitist basis to a grassroots-oriented practice of the subalterns (Rajagopol, 2003, p. 171).

Other aspects of an action research approach were, however, not included in our project. The slum dweller groups did not themselves frame the research question; instead, the focus on the right to water and sanitation was suggested by team members at National Law University, Delhi.[847] The research was not carried out in partnership with the slum dwellers, nor did the research team commit to facilitating actions by the slum dwellers that would lead to a sustainable improvement in the water and sanitation situation in the slums.

At the end of August 2016, members of our research team paid a follow-up visit to the Rangpuri Pahadi slum. They noted that the slum had significantly expanded since their earlier visit in February 2016. The first few people they encountered, did not mention new demolitions as they lived in an area of the slum that had not been affected. They were then spoken to by a lady in tears, who took them to an area in the Israel camp [848] where the evictions had taken place. The team members were also accompanied by a volunteer from the NGO Bal Vikas Dhara that offers informal education to children that live in the slum.[849]

A number of houses had been demolished the day before the team's visit; an earlier demolition had reportedly taken place in the same area in July 2016. At that occasion people had protested at the local MLA's office but to no avail. This time, the police, together with a number of officials (presumably from the Forest Department) demolished a number of structures and built a boundary on which a fence was to be made (by the Delhi Development Authority), indicating that no construction would be allowed beyond that point.[850] No prior notice had been given. The researchers were handed short videos of the demolition (made by mobile phone).

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[847] As an aside, it may of interest to note that the Government of India requested NLU Delhi to assist in the preparation of its UPR Report, e.g. in organizing a series of national level consultations. See UN (2017 c), para 5.

[848] According to a HLRN (Housing and Land Rights Network) employee, the Israel camp was run by a land mafia that sells the land to newcomers who are unaware of the precariousness of the situation.

[849] The volunteer informed the team members that his NGO could not get involved in protests against the demolitions as this would jeopardize his organization's educational work.

[850] It may be a safe assumption that the extension of the slum jeopardizes the condoning of the slum by the authorities. Older parts of the slum around the main avenue have not been threatened by demolition, although the slum has not been selected for rehabilitation by the Delhi Urban Shelter Improvement Board. It is not clear whether there is solidarity among people living in the different parts of the slum.

Image from Rangpuri Pahadi after the demolitions, February 2016

Before leaving, one team member exchanged phone numbers with a person who seemed to act as the leader of the evicted group. The following day, that person called in to say that the police was back and had lit fire to the remaining *jhuggies*. Three people had been taken to hospital after having been beaten up by the police, and three women were arrested (apparently for throwing stones and resisting the demolition).

The team then alerted a New Delhi activist, and the Director of the Housing & Land Rights Network (HLRN) who were unaware of the events. They also contacted DUSIB and the local MLA. HLRN suggested that the team should conduct a survey to gather information about the affected families. On the basis of that information, the NGO could then facilitate a public interest litigation that could be filed by the same lawyer who filed a PIL in front of the Delhi High Court after the November 2014 demolitions. In the afternoon the team returned to the affected area. It was impossible to carry out the survey as people were still in shock. The people were worried about the women who were jailed and expected the team to assist them. A video of the fires was shared.[851] The team members contacted Action Aid, which forwarded the story to a journalist, but the story was not picked up. They also tweeted directly to news channels and journalists.

During the following days, many people fled the area. Events centred on a bail hearing for the 3 women who were still in jail. The affected families hired a lawyer of their own. HLRN asked a team member whether she could prepare a draft letter to the UN Special Rapporteur on the right to housing who had visited India in April 2016. It was hoped that the SR would send a communication to the Government of India on the recent events at Rangpuri Pahadi. As the mission report of the SR's

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[851] See, https://www.youtube.com/watch?v=rrPg_kADl30

visit to India had not yet been published, a reference to the incident could perhaps still be included. The team member prepared a draft of the letter that was subsequently sent by HLRN to the Special Rapporteur.

Clearly, as a research team we improvised in dealing with what could be described as humanitarian emergency. We should have envisaged that such a crisis situation could occur, and it would have been better to have agreed a protocol in advance that the team members that were on site could have followed. On the other hand, because the incidents occurred at the very end of the field work period, we were in a sense 'prepared'. We already had established contacts in the past with the slum dwellers at Rangpuri Pahadi and with all relevant stakeholders, including the local authorities, NGOs and the media. As already mentioned, at the beginning of the project, we had set up an advisory group with experts and activists on water, sanitation and land for the urban poor in Delhi.

As soon as we learned about the demolitions, we decided that the team members on site would keep a logbook of all their interventions. The team members and the team coordinators were in daily contact. There were a number of concerns about our role in the events. One concern was that we would not be raising expectations among the slum dwellers that we were not able to fulfil. We knew that the team members on site would not be able to be present at the slum for an extended period. It was crucial that the affected families would not become dependent on support by the team. We therefore decided that as soon possible all activities by the team members should be carried out under the cover of an NGO, i.e. that the team members should facilitate actions taken by HRLN, but should not act in their own name. This was important because the NGO would at least in theory be able to ensure systematic follow-up, although whether it would do so remained the NGO's own decision.

It seemed to us that as researchers we were entitled, perhaps ethically bound in a crisis situation to support people that belonged to the group that we had interviewed. At no point did we tell the affected families what to do. We fully respected their own decision-making. We also thought that in the circumstances, a collaboration with HLRN in support of the human rights of evicted people was defendable, even if we had not envisaged, let all one planned such a collaboration in the research design.[852]

As a consequence, the research team itself arguably became an actor. This may be deemed problematic, as our research in part studies the impact on human rights use of the interaction between the rights holders and non-governmental organizations and UN human rights bodies. We study to what extent such collaboration is necessary to trigger the use of human rights and how it

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[852] For example, Compare WHO (2007). The Guidelines use the concept of 'beneficence', a duty to safeguard the welfare of people/communities involved, which includes minimizing risks and assuring that benefits outweigh risks. The WHO Guidelines recommend that, 'basic care and support to victims/survivors must be available locally before commencing any activity that may involve individuals disclosing information about their experiences'.

impacts on success or failure of claims. Both HLRN and the UN Special Rapporteur on the Right to Housing were already involved in dealing from a human rights perspective with living conditions in the slums of New Delhi – but our research team alerted them of the specific incident at Rangpuri Pahadi, and influenced their course of action. We did so because we felt we had an obligation to assist those that had suffered harm. Consequently, the only path that was left open was to be fully transparent in our writing on the course of action that we had taken. Clearly, however, in designing our future research on local uses of human rights, we will have to carefully define an ex ante approach on dealing with appeals for help from the users in crisis situations.

In a recent contribution on research ethics for human rights researchers, George Ulrich distinguishes between various categories of ethical issues that arise in human rights. He differentiates *inter alia* between 'no-harm issues', 'beneficence' and 'scientific and professional standards' (Ulrich, 2017). The injunction to researchers not to harm individuals or groups affected by one's research is absolute. Beneficence is the technical term for reaching out and doing good to others. Ulrich argues that:

> Conceptually, the act of doing good for others can be thematized as something *optional*: something we elect to do as a gesture of benevolence or charity, or it may have an *obligatory* character and be interpreted as a matter of responding to pre-existing moral or legal entitlements. In the latter sense it is intrinsically linked with notions of *social justice* (Ulrich, 2017, p. 208).

Both categories of ethical issues are distinct from professional standards, which include a general requirement for methodological stringency.

When we apply this approach to the research team's response to the Rangpuri Pahadi demolitions, it is clear that the demolitions were not related to our research activities as such. People did not suffer harm as a consequence of our research activities. The demolitions were not motivated by our research, but (most probably) by the intention to contain the expansion of the slum. Our researchers on site intuitively felt bound by an obligation to assist those affected by the demolitions in a crisis situation, given that the overall aim of our research is to contribute to more social justice. By intervening, we may have compromised methodological stringency. For a limited period of time, and with respect to the specific incident, we moved from being observers to actors. We acknowledge that the trade-off happened, decided to report on it here in some detail, and leave it to the reader to decide on the extent to which our course of action decision jeopardizes research outcomes.

On 22 September 2016, the UN Special Rapporteur on the right to housing sent a communication to the Government of India on the Rangpuri Pahadi incident and the prolonged detention of the 3 women (UN, 2017 a). No reply was received from the government. The incident is footnoted in her report on her mission to India, as an example of a recent eviction that is not in line with the moratorium on forced evictions that the Delhi (national capital territory) government has issued (UN, 2017 d, para 46). In the same report, the Special Rapporteur recommends that the Government of India,

Institute a national moratorium on forced evictions and demolitions of homes. Enact legislation to guide forced evictions that stipulates that forced evictions can only occur in the most exceptional of circumstances, once all other alternatives have been pursued, in strict compliance with international human rights law. Third party actors should also be regulated and monitored in that regard (UN, 2017 d, para 85c).

In its response, the Government of India deemed the recommendation 'impractical and idealistic' (UN, 2017 e, p. 4).

4.7. CONCLUSION

The residents of the slums that were part of our survey display a high degree of human rights awareness. Slum dwellers affirm that they have a *haq* to water and sanitation, which they perceive of as an individual entitlement vis-à-vis the government. As the concept of *haq* is familiar to many, it provides a vessel for the reception of the contemporary notion of human rights. Contemporary human rights language is introduced in the slums by actors that are ready to support the slum dwellers, such as non-governmental actors, public interest lawyers and politicians. These supportive actors can operate freely in the slums to the extent that their resources permit.

As a result, the concept of human rights used by the slum dwellers represents an integration of the concepts of *haq* and contemporary human rights (particularly as provided in the Constitution of India, which in turn is open to interpretation in the light of global human rights language). Human rights integration occurs not as a consequence of an approximation of norms at different regulatory levels, but through a fusion of a locally entrenched concept and human rights law. When slum dwellers use the term 'right to water and sanitation', they do not refer to the content of that right in domestic or international law, but to their own understanding of the right. That understanding is informed, but not limited to the law. Its content is somewhat indeterminate, and malleable, inspired as it is by the threats people experience in their daily lives. People may thus argue that they have a human right to reside in the slum (e.g. because they have lived there for generations), even when domestic and international law may not recognize such a right. They may feel that human rights offer no protection against private actors, even if international human rights has moved in that direction, particularly by developing governmental obligations to provide protection. They may emphasize duties owed to the community that are largely absent from international human rights law. In many other instances, however, their perception of human rights coincides perfectly well with constitutional or international human rights. And as *haq* is an open and cosmopolitan concept, its content may further evolve under the influence of contemporary human rights law.

The significant degree of human rights awareness among slum dwellers does not mean that they frequently engage in human rights action. A variety of factors act as impediments to human rights action. Collective human rights action is not self-evident as the interests of different groups within the slum differ. The water and sanitation situation in the slums differs, as does their legal status and their location in the city. Factors internal and external to the group affect the strategic choice of using human rights or not. Importantly, the history of inadequate State response (in practice: the response of local authorities) affects the belief in the usefulness of human rights claiming.

Rather than relying on human rights protection, slum dwellers attempt to improve their living conditions through patronage. In unauthorized slums, patronage is based on a status quo: although the slum receives no legal recognition and the government refuses to take up human rights responsibilities vis-à-vis the slum dwellers, some services necessary for survival are provided by the government, by way of privilege. In return the slum dwellers fulfil useful functions within the city, and promise political support.

Only when this compromise breaks down – as it does when demolitions or forced evictions occur or when service delivery collapses – slum dwellers will activate human rights protection. In those cases support may well be forthcoming from human rights NGOs, public interest law firms, opposition parties, the media etc. Freedom of speech and the right to protest are available, and a domestic enabling environment for human right litigation also exists – although a successful outcome is not guaranteed.

In human rights litigation on slums, issues of choice of norms or forum-shopping do not arise. The domestic legal order is the only relevant one. The Government of India has not consented to individual communication procedures at the international level. The Government has extended a standing invitation to UN human rights special procedure mandate holders, but their impact on the ground remains limited. An Asian regional human rights treaty is a distant prospect.

Finally, the research confirms that human rights claiming by marginalized groups is heavily impacted upon by the particular circumstances that the (potential) human rights users face. Human rights use needs to be studied locally. Local human rights research is challenging in various ways: First, because it is expensive and time-consuming; in our case, it also required the forging of a common intercultural understanding within the research team on the research objectives and interventions and on an interdisciplinary methodology. Secondly, because it is both inevitable and complex to see through the broader implications of the findings of particularist research for assessing the effectiveness of human rights as a global instrument to protect human dignity. Lastly, because immersion in a local community obliges researchers to think carefully about their own involvement with the community, particularly when human rights violations against community members occur during the research period.

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ANNEXURE 1 STRUCTURE OF NVIVO NODES

PHASE I

1. Physical Accessibility of water
   - Source of water supply (drinking/washing)
   - Physical Accessibility Issues (in accessing water- long distance/fights, duration of water supply)
   - Sufficiency (Instances- winter/summer)
2. Economic Accessibility of water
   - User Charges for water (in case payment for electricity is discussed that should also be mentioned/ miscellaneous charges)
   - 666 litre scheme (awareness and effectiveness)
   - Affordability (Willingness to pay, Right to water vs Right to free water, whether they would be willing to pay if charged)
3. Quality of water
   - Quality of water
   - Steps taken to make water potable
4. Sanitation
   - Availability of toilets (personal/community)
   - Management of toilet (Payment also – this includes management of both personal and community toilets)
   - Separate Toilets for women
   - Condition of toilets/drains (cleaning, includes both personal and community toilets)
   - Community initiative (Complaints/Protests and impacts)
   - User Charges for sanitation
     - Payment for Community toilets
     - Payment for Private toilets
     - Payment for Cleaning of drainage
5. Human Right to Water/Sanitation
   - Conception
     - Being aware of rights/human rights
     - Being aware of/knowing the right to water/sanitation
   - Steps taken for awareness of right to water (Government/NGO)
6. Policy
   - Accountability (whether they think govt. has some responsibility and whether govt has been doing something in discharging this responsibility)
     - Identifying a duty bearer/responsible person
     - Taking personal responsibility
   - Steps taken or not (If not-why? Complaints/Protests)
     - Claiming/Complaining
     - Reasons for not taking action
     - Undertaking action (apart from complaining)

- Receiving response
- Feeling powerless, resigned
  - Suggestions (to improve the situation)
7. Prioritization
8. Evaluation
  - NGO involvement
  - General Awareness (other problems faced/miscellaneous information)
    - Impact of elections
    - Awareness about nearby areas
    - Other concerns
    - Regarding employment
9. Diseases
  - Water borne diseases
  - Sanitation borne diseases
10. Government Initiatives
  - Water
  - Sanitation
11. Perceiving/Not perceiving a problem
  (This would include whether the inhabitants think that the existing water and sanitation situation is a problem in their area or not)
12. Discrimination (Both direct and indirect, express and implied, intentional and unintentional)
  - Geographical
  - Caste
  - Gender
  - Economic Status
13. Gender Roles
14. Corruption
15. Problems faced by children (Issues specific to children)
16. Interesting quotes
17. Methodological Codes
  - Reluctance to speak freely
  - Reluctance to taping
  - NGO presence during interview

PHASE II

1. Major Problems
  - Water
  - Sanitation
  - Others
  - Perceiving or not perceiving a problem
2. Unauthorized status
  - Impediment to better services
  - Status of property rights

3. Management
   - Water facilities
   - Sanitation facilities
4. Water Distribution System
   - The process of establishing the system
   - Persons responsible for establishing the system
   - Reason for establishing the system
   - Persons responsible for establishing the system
5. Suggestions to improve water facilities
   - Availability
   - Affordability
   - Quality
   - Accessibility
6. Suggestions to improve sanitation facilities
   - Availability
   - Affordability
   - Quality
   - Accessibility
7. Preference with respect to water: Quantity vs Quality
8. Decision making process in the slum

GOVERNMENT INVOLVEMENT

9. Expectation from the government
   - Water services
   - Sanitation services
   - Anything else
10. Experience in approaching government officials
   - Whom do you complain
   - Promptness of response
   - Action taken by government officials (or not)

PRIVATISATION - GENERAL

11. Privatization
   - Understanding of the term "privatization"
   - Source of awareness
   - Assessment of privatization
     • Positives
     • Negatives
   - Awareness of DJB plan to privatize
12. Experience with a private service provider
13. Government Accountability (reduction or not)
14. Preference between private and government service provider

PRIVATIZATION – WATER AND SANITATION

15.Affordability : (Significance of affordability factor in privatization of water and sanitation)
- Estimation of user charges for privatized services
- Fear regarding affordability

16.Apprehended impact (of privatization of water and sanitation)
- Reduction in government accountability
- Better services/Worse services/Status quo

17.Exclusion from the privatization process (if extended to other parts of Delhi)
- Keen to be a part of the process (or not)
- Willingness to take steps to include your area in the process

HUMAN RIGHTS

18.Human Rights
- Conception of Right
- Conception of Right to Water
- Mechanisms to exercise this right (Any action taken- Protest)
- Impact of private participation on the human right to water and sanitation

19.Participation of the people
- Social movement
- NGO initiative
- Effect

MISCELLANEOUS

20.Discrimination (Both direct and indirect, express and implied, intentional and unintentional)
- Geographical
- Caste
- Gender
- Economic status

21.Corruption/dereliction of duty

22.Gender Roles

23.Issues specific to children

24.Interesting quotes

25.Methodological Codes
- Reluctance to speak freely
- Reluctance to taping
- NGO presence during interview

ANNEXURE 2 QUESTIONNAIRES

PHASE I

Interview Guide

Structure	Questions	Remarks
· Introduction of research - Permission to interview - Build Rapport - Your opinion is Important -Duration - Taping and confidentiality - Informed consent	Hello, *Start with informal chatting* My name is … from … (institution); this is … (research assistant). We want to ask you some questions about your slum. This is a project of National Law University, Delhi. I'm very happy that you can help me, thank you. The interview will take between ½ and 1 hour. We will tape the interview, and take some notes. But the tapings will be stored very carefully, only the members of the research team will have access to them. After completing the research, the tapes will be destroyed. In the report, it will not be possible to identify you as the person who said something (since you will be given a number). Also, there are no 'wrong' answers, and you do not have to answer a question if you do not want to. Moreover, you can tell me anytime you want to stop the interview, without this having (negative) consequences for you. Do you have any questions about what I just told you? Do you agree to talk with me and that our conversation will be taped?	Sit in an informal way (next to each other, not opposite), at the same eye level Start with informal chatting Cf. also project information sheet Possible: let the person hear her/his voice on the tape if she/he wishes
PART I _ ACCESS TO WATER		
Information on interviewee	1.Full Name 2.Age/Sex 3.Occupation 4.Monthly income of the person Below 1000 1000-2000 2000-3000 above 3000 5. Permanent Address 6. Education	Information on migrant status and reason for migration (The State will suffice, in case they hesitate to reveal the full address or they do not remember)

Information on the person's family	1.No of Family members 2.Monthly income of the family 3.Caste 4.Duration of stay in the slum: 5. Total number of people in the slum (population density) 6. Type of house- Kaccha, puccka, rented, owned, temporary, permanent 7. No of earning members in the family	

General Access to Water Information and Problems faced
A.   Accessibility
	1. How is the source of your water supply? Tanker, pipeline, Bore-well etc.
	1A- What are the sources for
	      a. Drinking water
	      b. Washing water
	2. Do you have to travel long distance to get water?
	3. Is the supply sufficient for the daily requirements? (yes, no, more or less)
	4. What do you do when there is a water shortage?
	Make a complaint; continue with the existing situation; make some other arrangement.
		If the response is that they continue with the situation or make some arrangements of their own, the interviewer should ask the reasons for doing so.

B. Affordability	5. Do you get water for free or do you have to pay? Give options Yes / No If Yes- How much? 50-100 100-200 200-300 If Not- Do you have you to do anything to avail of the benefit? 6. Are you aware of the Government's order to give 666 litre of free water to every metered household in Delhi? If not, would you be willing to approach the authorities to avail the benefit?	If it's free, ask if it is sufficient and if not ask from where and for how much you buy this extra water and for what purpose (Extra water is needed for drinking or washing.)
C. Quality	7. Do you get treated water or untreated one? 8. What, if any, steps do you have to take to make the water potable? 9. Have there been any water related diseases in your family?	
D. Sanitation	9. Do you have a private toilet? Yes /no If no is there a community toilet? If yes who manages it? Government/ non-	

	governmental organization or privately run and maintained? 10. Is the number of toilets sufficient for the entire area? If not what are the alternatives? 11. Is there any separate toilet facility for women? If yes, how far is it from the household? Who manages it? Government/ Non-governmental organizations/ Privately managed? 11 A. What is the difficulties women folk face in using toilets? 12. Has any initiative take by the community/government or non-governmental organization to improve the situation? 13. Have you ever protested *en masse* to improve the situation of sanitation in your area? How? Did it have any impact? 14. Have you registered any complaint with the relevant authorities regarding the sanitation situation in your area/locality?	
D. Drainage	15. Condition of drainage system? Who maintains the drains? When were the pipelines (if there are pipelines) last changed? Do you have to pay for their maintenance? 16. Have you installed any Septic tanks or other drainage system in your house? Do you face any problems because of such an installation? If yes, what? 17. Do you have any suggestions that could improve the situation? Any model that is followed elsewhere? What can be done?	
PART II _ HUMAN RIGHTS	1. What do you understand by the term 'right'? 2. What are the resources you think you have the right to? – Land, Education, Food? 3. Do you think right to water is a necessary right? If so, who will provide such a right? Delhi government or some other agency	Derive the respondent's understanding of rights by raising questions in such a way that they give us a sense of their understanding of the concept of rights?

	4. Do you think you have a right to clean drinking water? 5. Has any government official (Delhi Jal Board or others), social activist, politician, etc., talked about the right to water in your area? 6. Whom do you approach when you face any problems collectively as a slum? A government office, Any MLA, social worker, NGO.	
PART III- POLICY	1. Is it the responsibility of the government to provide potable water and clean sanitation to the people? Yes /No If yes then-but the government is not doing its duty? And why so? 2. If you had to make a policy decision to improve access to water in this slum, what would that be? 3. Is there any place/slum/village you know about, which has a better system for access to water? Why do you think? Would you recommend a system like that for your slum? 4. Is there any hope in approaching the authorities? If no, why? (Is it because of a failed attempt? Not aware of whom to approach? Or you believe that it will work itself out and there is no need to do something or you do not have the time?)	Let the respondent give their own perception to the field investigator they perception should also include the suggestion as to what the government should do to improve the water and sanitation facilities.
Prioritization	Of all the things that we discussed, what is for you the most important problem?	
PART IV: EVALUATION	1. What are the efforts that have been made to bring clean water to your area? 2. Have those efforts been successful? 3. Has there been an increase in the water tariffs in the past one year? By how much? 4. Is there anything you'd like to add? Any other information?	

PHASE II

<u>INTERVIEW GUIDE</u>

1. What are the main problems you face in this slum?
2. If you have property rights, would you invest more in sanitation facilities, water supply provisions etc.?
3. Is the current situation with respect to availability of water and sanitation facilities being managed by:
    i.   Government
    ii. A private company
    iii. A public private partnership
    iv. Community self-help organization
    v.   Individual self help
    vi. Non-Governmental Organization
    vii. All Actors
4. How did the present system of water distribution system come about? (Trace history, whether there was any demonstration or initiative) Why was this particular system established, and by whom (what were their qualifications)?[853]
5. Are you satisfied with the services being provided? If not, please give reasons.
6. What do you think can be done to improve the services with respect to water and sanitation
    i.   Availability
    ii. Affordability
    iii. Quality
    iv. Accessibility

Would you prefer the 24 x 7 scheme or is that not important as long as you are getting good quality water? (Try to gauge what is given more preference: quality or quantity)

7. What should the government do with respect to water and sanitation services?
8. How prompt is the response by the local government officials to your complaints? Do they do anything about lack of access to drinking water and sanitation or you make your own arrangements?[854]
9. Whom do you complain to if you do not get water supply or access to sanitation?
10. What is your understanding of privatization of water and sanitation facilities? (Here, the researchers can explain to the interviewees as to what is privatization. They can refer to how presently, the services are being provided by the government and privatization involves provision of the same services by private people.) Has any NGO/company/government come and talked to you about benefits or disadvantages of privatization of services?

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[853] In Savda Ghevra, ask about the Water ATMs; whether there was a demand from activists/NGOs/community leaders; who was responsible for this change.
[854] In Begumpur, there had been an improvement in sanitation services with a change in the MLA. There are now greater number of employees who clean the drains. Ask about how long they have to pursue the matter.

[Is privatization (involvement of private companies) good or bad? Are you in favor of it? Who told you about it?]

11. Have you heard about that the Delhi Jal Board is privatizing the water supply system?

    If yes, then from what source?

        From people/neighbors

        From Television

        From the local comparator/ Politician

        Through public announcement made by the government

        Any other source

12. Have you had any prior/current of a private actor providing services as important as water and sanitation/becoming involved in service delivery?

    (Here, the researchers can ask about things such as electricity)[855]

    If yes, how has your experience been?

    How different has it been in comparison to the times when the service is only controlled by the government?

    Which one do you prefer? Why?

13. Would you be willing to pay *(more)* money if a private company promises to provide you water and sanitation[856] facilities in terms of

    i.   Better availability (Example - water available for 24X7 hours)

    ii.   Better access (Example – taps in their homes)

    iii.   Better quality (Example – purified water, better health)

14. Whom would you prefer to pay as a service provider?

    i.   Government

    ii.   Private Companies

    iii.   Public Private Partnerships

    iv.   Community Organizations

      If no, what are the reasons? (Is it because they do not have faith in the private companies, they do not value water and sanitation enough to pay more for it, etc.)

15. How much are you willing to pay for these services?

        Rs. 0 – 100

        Rs. 100 – 200

        Rs. 200 – 300

        Rs. 300 – 400

        Rs. 400 – 500

        Rs. 500 and above.

16. Are you afraid that you will be unable to pay this amount?

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[855] For Savda Ghevra interviews, the researchers can ask about the Sarvjal Suvidha, which is a CSR initiative and involves private sector participation/Begumpur.

[856] Please stress on the fact that in the current situation, a lot of people do not use community toilets because of the charge being imposed as against free open defecation.

17.Do you think accountability of government will be reduced if water and sanitation facilities are provided by the private sector?

If yes, how will that impact you? (Example – they might not have access to private companies where they can complain etc.)

18.Do you think involving private companies will make the situation of water supply and sanitation better in your area?

19.If the water and sanitation facilities are privatized in the whole of Delhi, would you want your area to be included in such privatization or not?

If yes, what are the reasons?

If no, what are the reasons?

20. Will you take any steps if your area is excluded from privatization/included in privatization? (Sit in a protest, complain to the authorities,[857] approach the private companies etc.)

21. What do you understand by *haq*?

22. What do you understand by your *haq* to water?

23. What are you willing to do to exercise this *haq*?

24. Have you ever experienced/been a part of a social movement or an initiative undertaken by a non-governmental organization?

25. Do you think private sector participation in water and sanitation will have an impact on your human right to water and sanitation?

(Here, the researcher can explain what the human right to water and sanitation entails and how private sector participation will treat the public good as a commodity and whether this is acceptable to the people or not)

26. Have people in this slum ever taken any action in pursuance of their demands (whether they were supported by NGOs or their respective community leaders)? What kind of action did they resort to?

27. Are you aware of the provision of water supply in other slums?

28. Have you spoken to other people about these facilities?

29. In comparison to your area, is the situation in other areas better or worse?

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[857] Ask which authorities they have access to and whether they have approached such authorities before with respect to water and sanitation.

FOR NGOS/CIVIL SOCIETY GROUPS/ACTIVISTS, MOVEMENTS

(Begin by giving a brief introduction of yourself, the project and the work done. Mention the sites we are working on and inquire if the NGO has operations in the four sites that we are working on, take a brief about the work done there by the NGO if the answer is yes)

A. General Information
   1. Name:
   2. Name of the NGO/CSO/Activist/Movement:
   3. Mandate of the organization:
   4. Work Profile of the respondent:
   5. Has the NGO been working on water and sanitation issues in Delhi? Since when?
   6. Operational areas in Delhi:

B. Problems faced with Respect to Water and Sanitation by urban poor of Delhi:
   7. What are kinds of problems people face with respect to Water
      a. Availability:
      b. Physical Accessibility (e.g. fights, distance from home, etc.):
      c. Affordability:
      d. Quality:
   8. What are the problems people face with respect to Drainage and Sanitation
      a. Access to Toilets
      b. Sewage and Drainage
      c. Condition of toilets
      d. Payment for use of toilets and drainage
         i. For Toilets
         ii. For cleaning purposes

C. Rights
   9. What is the position of your organization on Water and Sanitation as Human Rights?
   10. What is your understanding of Right to Water and Sanitation?
      (Universal free entitlement, a welfare entitlement, a right to pay and use water and sanitation services, accountability of state, right to access good quality adequate services…………………any other)

D. Government Responsibility
   11. Is the government responsible for providing this right to the people? If Yes, what are the problems in doing so?
      a. Can the government in its role as the Duty Bearer for Right to Water and Sanitation, delegate some of its functions to private business?
      b. Can the government in its role as the Duty Bearer for Right to Water and Sanitation, delegate some of its functions to NGOs?
   12. Should the government fund community initiatives in managing water and sanitation at local level – in terms of paying the community for services that it would have to manage and pay for – like upkeep of public toilets, drainage cleaning, any other local arrangement for water supply, etc.

13. Are you aware of any past or ongoing schemes run by the government on water and sanitation, for e.g. the 666 litre water scheme? If Yes, please give a brief description of the scheme and the problems if any in implementation? How has it helped the people?

E. Steps taken

14. What steps have your NGO taken to improve the situation with respect to improving the access to water and sanitation of urban poor

Advocacy work for accessing better services, rights and entitlements

Service Improvement work - Availability (e.g. installed water tanks etc.), Accessibility (e.g. installed pipes), Affordability (e.g. provided water at reduced rates or for free through some assistance), Quality (e.g. distributed chlorine tablets), Awareness generation
Any other

15. Have you held group discussions with the people of the community on Right to Water and Sanitation? What has been your experience in such discussions with the people?
16. Do the urban poor of Delhi where you work, perceive water and sanitation issues as Rights Issue? If yes how if not why.
17. Do you engage in any Human Rights education work with the urban poor?
18. Have you engaged with any governmental authority over the provision of water or sanitation? (Complaints/Petitions) What has been your experience? If not, Why?
19. If you have been holding awareness camps on the rights issues, what has been your experience in such camps? If No, Why not?
20. Have you held any protest on behalf of or along with the people for this right?
21. What steps can be taken according to you to improve the situation in (the place where your NGO is working)?

F. Evaluation

22. Are you aware of any community initiatives on Right to Water and Sanitation? Is it effective?
23. Do you know about other NGOs working on Right to Water and Sanitation in any other region/State? Any best practices that could be borrowed from their work?
24. Are you a member of any Global Coalition on Right to Water and Sanitation? Which one? What are their demands?
25. Do you wish to share any other experience on this issue?

G. Prioritization

26. What other problems apart from water and sanitation are encountered by the people?

The right to water and sanitation was distilled from the constitutionally guaranteed right to life, held to be fundamental by Art. 21 of the Constitution of India, more than a decade ago. However, the living conditions of people in the urban slums of Delhi do not reflect the realization of this right. This book presents a qualitative socio-legal study on the right to water and sanitation, undertaken in three slums and a resettlement colony. The role of other actors and factors affecting the journey of this right from its naming to its success or failure is also analyzed.

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The **Localizing Human Rights Working Paper Series** consists of studies on the local relevance of human rights, particularly but not exclusively in non-Western contexts. They form part of a long-term interdisciplinary project, combining insights from law, political and social sciences.