

SAJHA MANCH
(A Federation of Eight Organisations)

**REPORT OF THE LOW LEVEL COMMUNITY
TO EXAMINE KEY ISSUES
RELATING TO UNAUTHORISED COLONIES
IN DELHI**

(first draft)

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CHAPTER I

INTRODUCTION

Common Cause, a registered society and public interest organisation, filed a writ petition in the public interest before the Honourable High Court of Delhi on 8.10.93 in the matter of the growth of unauthorised colonies in Delhi. The petition notified the Union of India, the Lt. Governor of Delhi, the Delhi Administration, the Municipal Corporation of Delhi, and the New Delhi Municipal Corporation as the Respondents. Common Cause argued that the Respondents were being pressurised to regularise as many as 600 unauthorised colonies, which would disrupt the provision and planned development of civic services and the proper implementation of the Master Plan of Delhi. This would also bring about degeneration of the living standard of the people, degeneration of morals, and further the purpose of politicians for creating vote banks. It had also led to the creation of land mafias and a nexus between them and property dealers.

The Petitioner, therefore, prayed to the High Court that a writ of mandamus be issued directing the Respondents to desist from according any sanction which may lead to the regularisation of any colony; that no future such sanctions should be given; and a comprehensive survey should be conducted of unauthorised colonies which had been subsequently regularised. The Petitioner also stated that Common Cause was a registered society and public interest organisation, which has submitted a number of writ petitions in the Supreme Court as well as Delhi High Court and has secured on them important decisions. Thus it has established its locus standi for taking up citizens' causes for seeking redressal.

While it is true that Common Cause is a registered society, it is also a fact that it has an extremely limited membership and has no base amongst the common citizens of the city of Delhi. Members of Common Cause hold no elected posts in civil society and do not represent any organised body of citizens. In particular, Common Cause has no contact or familiarity with the unauthorised colonies whose regularisation it has challenged in the High Court.

In the course of the hearings on the above Petition, the High Court ordered on 9.12.96 that a High Level Committee be set up to go into the whole matter of regularisation of unauthorised colonies, and that this Committee should include at least two three public spirited persons. Accordingly, an Inter Governmental Committee that had been set up earlier on 1.11.96 was reconstituted on 24.12.96 to include one MP and two MLAs as public spirited persons. The HLC held five meetings between 15.11.96 and 18.2.97 and the MP attended only one meeting while one of the MLAs attended another. Thus, the contribution of these public spirited persons to the deliberations of the HLC was, at best, marginal and the conclusions were actually arrived by various representatives of Government agencies.

The HLC set up a technical sub-committee on 16.1.97 to suggest the development charges that should be levied for provision of services to unauthorised colonies. This sub-committee submitted its report eight days later on 24.1.97 and it was on the basis of their report that the HLC finalised its recommendations. Hence, it is clear that there was almost no citizens' representation in the deliberations of the HLC and the technical discussions were conducted in great haste. Furthermore, the prayer of the Petitioner that a comprehensive survey be conducted of all unauthorised colonies was not considered by the HLC at all and they depended upon a quick survey by MCD (which took one and a half months) in only four colonies to arrive at conclusions about the nature of these colonies.

Greatly concerned by the above facts, eight organisations representing residents of unauthorised colonies, resettlement colonies, and jhuggi jhonpri clusters, and technical support institutions constituted a Federation called Sajha Manch and filed an intervention petition in the High Court on The intervention was based on facts and information collected during surveys conducted in fifteen colonies in different geographical zones of the city. Regular public meetings were held in all these colonies and schedules were administered in households to develop a socio-economic profile of the colonies. The Sajha Manch organised a convention at the Constitution Club on 6.6.99 to publicly present their findings and to obtain responses and suggestions from the common citizens.

The Manch collectively decided to set up a Low Level Community (LLC) to study the problems of unauthorised colonies in detail and to propose a comprehensive policy for these colonies. This decision was taken keeping in mind that:

- the Government agencies had been unable to provide a comprehensive policy in five years in spite of repeated orders to this effect by the Honorable High Court;
- the Petitioner did not represent any organised body of citizens but was nevertheless claiming to file a petition in the public interest;
- the deliberations of the High Level Committee did not include any significant inputs by public spirited persons or community organisations; and
- neither the Petitioner nor the Respondents have based their arguments on any factual data systematically collected in the unauthorised colonies.

The LLC held a series of public meetings between 6.6.99 and to consider proposals for a comprehensive policy for unauthorised colonies. Based on the suggestions and critical comments provided at these meetings the LLC submitted its final draft report to the Sajha Manch on 30.9.99.

CHAPTER II

STATUS OF UNAUTHORISED COLONIES

a. Where are the Unauthorised Colonies located?

There appears to be some confusion about the number of unauthorised colonies and their location in Delhi. The High Level Committee (HLC) report submitted in January 1997 mentions that there were a total of 1071 such colonies as of March 1993, but 54 could not be identified leaving a total of 1017. Of these 116 could not be surveyed, thus giving a balance of 901. Of the 1017 identified colonies 183 were in the designated urban area, 461 in urban extension area, and 373 in rural area, which included 40 in the Yamuna riverbed. Of the 901 surveyed colonies, 392 were under DDA jurisdiction and 509 under MCD. The HPC also noted that, after April 1993, 380 more colonies had come up under MCD land and 22 on DDA land, thus giving a possible total of 1473 colonies.

Two years later, in February 1999, the Union Government filed an affidavit in the Supreme Court stating that there were 366 unauthorised colonies on public land, covering an area of approximately 3239 acres. Of these, 138 were under DDA jurisdiction and 228 under MCD. Of the 138 under DDA jurisdiction, 34 were fully on DDA land, 94 partly on private land, and 10 on awarded land. These figures seem to be at variance with the figures given earlier by the HLC. The different concerned agencies have not been able to give a consistent picture of the number and distribution of the colonies. There is also a dispute between the different agencies about the extent to which the aerial map of March 1993 can be relied upon to give a clear idea of the land status of the colonies.

During the proceedings in the Delhi High Court, the Honourable Judges have several times asked the respective government agencies to give the details of the various colonies and their status but this task has not been completed in the last five years. The HLC report records that the MCD has done a survey of the colonies as per the decision of the second meeting of the HLC on 23.12.96, which was supposed to be submitted by 9.1.97 but was eventually completed only on 10.2.97. Even this survey covered only four unauthorised colonies in four regions of the city. To date, the actual field verification of the boundaries and status of land ownership has not been conducted. There is also no indication of whether the National Remote Sensing Agency at Hyderabad has accepted and been entrusted with the task of locating and identifying the various colonies.

The Low Level Community (LLC) has acquired the list of unauthorised colonies as given by Shri Rajiv Yaduvanshi, Jt. Secy, Urban Development, Govt of NCT of Delhi, and located them on the digital map of Delhi prepared by Eicher on the GIS facility available at the Indian Institute of Technology. This map has then been overlaid by the Landuse Plan prepared and issued by DDA as reprint in July 1996. This overlay clearly indicates that 72% of the unauthorised colonies are located outside the Master Plan's urban area,

and only 28% are located within the Landuse Plan. Out of these 28% colonies located within the Master Plan, about 81% are located in areas demarcated for Residential use by DDA, while a 5% are in Commercial and Manufacturing zones, and the remainder 14% are in Recreational or Public areas.

b. Why are the Unauthorised Colonies located in these areas?

Common Cause, in its Writ Petition (4771/93), has argued that the development of unauthorised colonies is encouraged by “politicians, for furtherance of their own purpose of creating vote banks”, and, “have led to the creation of land mafias nexus between them and property dealers”. However, the affidavit of the Union Government of 22.2.99 attributes the growth of the unauthorised colonies to “lack of availability of low income housing in adequate numbers at affordable prices”. Furthermore, in the context of similar charges being made for the growth of slums, MCD have stated in their policy document of that, if slums were being encouraged for the purpose of vote banks, then there should have been a proportionate distribution of slums in all electoral wards of the city, but this is not true. The LLC finds, from the distribution of unauthorised colonies also, that there is no proportionate distribution for these either and, therefore, the argument for them being created as vote banks does not hold water.

DDA have, in their publication of, claimed that they have acquired a total of 59,542.78 acres of land up to March 1995, of which 59,319.66 acres have been developed. Of this area, 26,497.87 acres have been earmarked for residential purposes, 5,991.94 acres for slums and JJ clusters, and 5,806.15 acres for Cooperative Housing Societies. On the land reserved for residential use, DDA state that they have built and allotted 2,82,461 flats up to 31.3.98 and a backlog of only 52,460 applications remains. If the backlog is as low as 18.6% then this would tend to call into question Common Cause’s contention that “numerous citizens have in the normal course been waiting long years for allotment of residential accomodation”.

DDA was formed in 1955 (?), with one of its principal mandates being to provide affordable and appropriate housing to the citizens of Delhi (check this). A glance at the Landuse Plan prepared by DDA reveals that the average density specified for residential areas where the unauthorised colonies are presently located ranges between 450 to 600 persons per hectare. So, if we take an average density of 500 persons per hectare for the total residential area of 26,497.87 acres available with DDA, and assuming an average family size of 5, we can compute a figure of 10,59,914 flats that could potentially have been built on that land – according to DDA’s own norms. Consequently, this means that 7,77,453 flats that DDA should have built by now have not been built. This number of flats would have been more than adequate to house the 30 lakh population reputed to be living in unauthorised colonies at present.

Thus, it is clear that the unauthorised colonies have come up because of DDA’s failure to accomplish the task allotted to it. It could even be said that the people of the unauthorised colonies have done the job that DDA was supposed to do, and they have done it efficiently, at less cost, and in a participatory manner. This should be welcome in a democratic polity, particularly in the context of the 74th Amendment to the Constitution devolving power to local bodies and people’s assemblies. However, instead of holding DDA accountable for its failure, the writ petition by Common Cause attempts to penalise the residents of the unauthorised colonies by praying that the authorities should “desist from according any sanction which may lead to regularisation of any colony . . . which has developed in an unauthorised manner and without sanction of authorities concerned”. In other words, the authority which failed in its responsibility to provide housing is now being asked prosecute those who successfully carried out the responsibility.

c. Can the Unauthorised Colonies be regularised?

Government has filed a policy statement in the High Court outlining the terms and conditions for the regularisation of unauthorised colonies located on private land, provided approved development activities are implemented and full development charges are paid. These terms and conditions are not applicable to unauthorised colonies either fully or partly on public land. In its affidavit, Government of India has also stated that the regularisation of unauthorised colonies on public land involves relinquishing large tracts of land belonging to Government agencies costing crores of rupees.

According to the same affidavit, there are only 366 unauthorised colonies on public land. Thus, the remaining 705 colonies must be on private land. If the public lands, which are to be relinquished, cost crores of rupees, the private lands would be costing twice as much. So, if the unauthorised colonies on private lands can be regularised, then there is a good case for regularising those on public lands too. It should also be noted that the majority of the unauthorised colonies are located on land designated as Residential in the Landuse Plan prepared by the authorities, and the residents of these colonies have paid hard-earned money for the purchase of plots and construction of houses and utilities.

Thus, regularisation will neither “disrupt the proper implementation of the Master Plan of Delhi on the basis of which proper development has been envisaged and projected”, nor encourage the undermining of “moral fabric” of the residents of the unauthorised colonies, as argued in the petition filed by Common Cause. In fact, the Master Plan has been distorted far more through the arbitrary clearance by DDA of flyovers, stadia, mass transport systems, bridges, hotels, expressways, river front development schemes, and housing colonies which were never part of the Master Plan and involved huge financial outlays. They also contributed to the degeneration of the moral fabric of the entire city by encouraging construction firms, contractors, traders, real estate agents, administrative authorities, and criminal elements “to act illegally and gain from such illegal acts” and to “inevitably generate and atmosphere of crimes” – charges which have been wrongfully brought against the residents of the unauthorised colonies by Common Cause.

The argument for displacing the residents of the unauthorised colonies and locating them elsewhere in the National Capital Region is also equally ill-founded. Both the Petitioner as well as the Respondents in the High Court case have implicitly recognised this in their arguments before the Court. People have invested large amounts in building these colonies because of the failure of DDA to provide affordable and convenient housing. If it is assumed that each family has invested a minimum of Rs. 1,00,000 in purchasing the land and constructing the house, as revealed in the surveys conducted by Sajha Manch, and there are 6 lakh families in the unauthorised colonies, as per Government’s own reckoning, then the minimum total investment amounts to Rs 6000 crores.

This capacity for investment is explicitly recognised by Government itself in the manner in which it has demanded development charges for providing services alone. At the rate of Rs 514 per sq.m., and assuming that the average residential area is 35 sq.m., as computed from the surveys conducted by Sajha Manch, the 6 lakh families would have to pay a total of Rs 1080 crores. Thus, for land, housing, and services the residents of the unauthorised colonies would have paid a minimum of Rs 7000 crores. Hence, the contention of Common Cause that “the interests of underprivileged persons do not really get served, they are encouraged to act illegally and to gain from such illegal acts”, is not based on facts and has to be interpreted anew.

Given the fact of the Government’s failure to provide “low-income housing in adequate numbers at affordable prices” as per its own admission, and the democratic success of people in constructing their own housing on what has essentially been demarcated as Residential land, it is argued here that it is not people who have to be dislocated, but Government. Even the Master Plans of Delhi have been consistently holding that the functions of Government have to be decentralised from Delhi if the city is to grow in a planned manner, but this advice has never been heeded. Hence, the regularisation of the unauthorised colonies provides a golden opportunity to allow them to be regularised wherever they are and to allot other land, wherever available, to government agencies for functioning in a decentralised manner.

CHAPTER III

PROVISION OF SERVICES

a. Technical feasibility of providing services.

The HLC had stated that, of the 392 unauthorised colonies under the jurisdiction of DDA, it would be possible to provide water supply to all except 34 colonies, and sewerage to all but 50 colonies. For the 509 unauthorised colonies under the jurisdiction of MCD, the HLC found that it was feasible to provide water and sewerage to all. The affidavit filed by the Union Government excludes those unauthorised colonies from regularisation “where provision of services is not feasible”. This matter of “feasibility” is, therefore, crucial for the provision of services. What has to be borne in mind is that, in spite of the fact that there is a network of water supply and sewerage lines in all parts of the walled city, yet 25% of the houses are not connected to municipal water supply and 50% are without sewerage connections.

Common Cause has argued in its petition that “Resources and civic facilities of water supply, electricity, sewerage, drainage, roads etc. have necessarily to get diverted from the requirements of planned residential areas to the unauthorised colonies sponsored and motivated by considerations other than the planned development of the city.” This “inevitably has unfortunate ecological implications”. It is pertinent to examine how far these observations of Common Cause are based on facts.

Surveys by Sajha Manch and data presented by bodies such as the World Wide Fund for Nature – India, reveal that colonies such as Golf Links are consuming 540 lpcd (litres per capita per day) as compared to an average of 30 lpcd for the unauthorised colonies. This means that the contribution to sewerage from the regular colonies is of the order of 430 lpcd as compared to 20 lpcd for the unauthorised colonies. Similarly, electricity consumption per capita in the regular colonies is 750 units in comparison with the 10 units in the unauthorised colonies. The area for one domestic unit in Lutyen’s Delhi is 5000 sq.m. as compared to 33 sq.m. in the unauthorised colonies. Roads in planned Delhi are 50 m wide as against the 3 m wide roads in the unplanned colonies.

In other words, per capita consumption of all resources in the “planned” part of the city is 15 to 150 times that in the “unplanned” city. Hence, the “inevitable and unfortunate ecological implications” of growth in Delhi are to be laid more at the door of the regular colonies than imputed to the residents of the unauthorised colonies.

b. Economic viability of services

The HLC has stipulated a development charge of Rs 514 per sq.m. for provision of roads, drains, electricity, water, and sewerage to the residents of the unauthorised colonies. The norms adopted have been set at 30 gallons of water per capita per day and 1.5 kw of electricity load per household. The calculations have been based on CPWD rates of 1992 escalated to 1996. HCL has also stated that these charges are significantly subsidised because MCD levy for similar services is as high as Rs 1323 per sq.m. Even then, during the course of arguments before the High Court, both Petitioner and Respondents have conceded that these charges may be too high for many residents of unauthorised colonies. Common Cause has, therefore, argued that higher charges may be levied from affluent residents in order to subsidise those who are unable to pay. Apart from the impracticability of this suggestion, there is also the question of how realistic is the development charge stipulated by HLC.

In its surveys conducted in various unauthorised colonies, LLC has computed the actual requirement of roads, drains, sewers, water supply lines, and electricity and assessed the costs at CPWD rates of 1999. Without any subsidy, the average costs for all these services computed by LLC are Rs 313 per sq.m. This is significantly different from what has been calculated by HLC. It is also worth noting that the LLC figures are for a higher supply of water at 40 gallons per capita per day and, consequently, sewerage loads are also higher. Furthermore, the cost of Rs 313 per sq.m. is likely to reduce even more in actual conditions because residents of the unauthorised colonies have already constructed several utilities for themselves including

roads, drains, and electricity distribution systems, and even internal sewers and water supply lines. The cost of these existing facilities should be deducted from the overall development charges.

It may also be mentioned here that, in the course of the surveys conducted in various colonies, LLC has found a consistent willingness on the part of the residents of the unauthorised colonies to pay for legally provided services. In fact, what many residents have complained about is the multiple policies of government agencies which contribute to corruption and the undermining of the moral fabric which Common Cause has cited in its petition, but for different reasons. The provision of electricity is a case in point. Delhi Vidyut Board has several policies for provision of electricity supplies. One is directly by DVB, another is through the Pradhan of the colony, a third is through private contractors. Official policy documents for these schemes are not made available to residents because of which nobody is sure of what amounts are to be paid at what stage for what services. This leaves the field open for private contractors and agents to levy arbitrary charges and not be accountable for service provision. Hence, corrupt practices are being deliberately encouraged by the policies of the government agencies themselves.

CHAPTER IV

PLANNING AND MANAGEMENT OF SCHEMES

The Terms and Conditions for regularisation of unauthorised colonies located on private land, set out the by the Government, specify that the residents of the unauthorised colonies will have to form Housing Cooperative Societies which will ensure provision of land for community facilities and payment of development charges to the concerned civic agencies. These Housing Cooperative Societies should consist of at least 75% of the total number of plot holders in each colony and would liaise with the civic agencies. They would also submit existing and proposed layout plans of the colony and provide undertakings to abide by the modified approved plans, to pay development charges, to surrender land for community facilities, and to get internal works within the colonies executed at their own cost.