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**Delhi's Ongoing Debate on Informal Settlements and
Work Places – Issues of Environmental Jurisprudence**

by

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Delhi's Ongoing Debate on Informal Settlements and Work Places – Some Issues of Environmental Jurisprudence

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Abstract: In India the massive exodus of population from the rural to the urban areas as also from the smaller towns to the larger metropolis has been driven by a combination of the push and pull factors, but the central element has been the opportunity cost of employment in urban informal sector, which has grown rapidly in a two way process – on the one hand, the relative impoverishment of urban economy has offered a large space for the informal sector, on the other cheap labour market has encouraged the growth of processing and service industry in the household and tiny sector. The result has been two fold – on the one hand imperfections in land and housing markets have left the poor with virtually no alternative except to seek informal solutions to their housing needs in mushrooming slums without access to basic minimum facilities of drinking water and sanitation, on the other industrial and service centers, sometimes employing hazardous means, have come up in residential neighborhoods in violation of the rules and regulations. Thus a complex pattern of urban form has emerged, in which the 'informal' and the 'illegal' have developed an intricate and organic relationship with the 'formal' and the 'legal' system. Many parameters of the development plan and zoning regulations have largely become irrelevant by these parallel developments. The contradiction between the legal and the illegal has often been compromised by the logic of growth itself which has become irreversible and compounded by the pressures of electoral politics, but nowhere has it been so open and critical than in the ongoing debate on the shifting of polluting industries from the national capital of Delhi, in which the question of implementation of Supreme Court decision regarding shifting of polluting industries has exposed the fragility of the formal legal and planning system as also of the political system. This paper traces the growth of informal settlements and work centers of Delhi as organic components of the urban system and examines the issues of environmental jurisprudence that marginalises the poor who keep the city going.

Growth of Delhi

Delhi, the capital city of the Republic of India, is one of the fastest growing urban megapolis in the world. In the recently concluded Census of India, the population of the city has been recorded as 13.78 million, registering a net increase of 4.36 million over the Census of 1991.¹ Although the decennial growth rate of the city has declined from 51.5% during 1981-1991 to 46.3% during 1991-2001, it has outpaced the growth of two other megapolis of India², namely Kolkata³ and Mumbai⁴ during

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the same period. It is projected that if the present trend continues the population of Delhi shall reach 18.24 million in 2011, 22 million in 2021 and 30 million in 2051.⁵

62% of the growth of population of Delhi during the past decade (2.7 million) was due to natural increase and 38% (1.6 million) due to net in-migration.⁶ Although the relative contribution of in-migration to this growth has declined, the absolute number of migrants has increased over the years.⁷ As per the latest study, nearly two hundred thousand people are migrating to the city every year in search of livelihood.

Population of Delhi has grown 221.57% during the course of last twenty years. No other city in the world has witnessed similar kind of growth, which is unprecedented both in its scale and magnitude. Much of this growth has been influenced by poverty-induced migration, from different parts of the country, particularly from the neighbouring States, in search of livelihood. Unending streams of poor villagers have swamped into the city and have found shelters in the numerous squatter settlements and offered their cheap labour and services to the capital's burgeoning trade and industry. According to an estimate prepared by the Society for Development Studies, the rate of growth of squatter population in Delhi (natural growth of existing squatter population plus the fresh migration) during the period 1981-94 was four and half times larger than the non-squatter population. The squatter population during the period grew by 13.2 percent per annum as compared to the 2.9 percent growth of the non-squatter population.⁸ The integration of these huge mass of people into the city's economic and settlement system has taken place in a complex and dynamic way, largely by the momentum and logic of its own growth, without much intervention of the city's huge but not so effective planning and management bureaucracy. This has created enormous stresses and strains, yet the city has learnt to adjust and adapt and grow, and has still given a hope and a dream to each one of its struggling millions.

Pattern of Migration

It is important to understand the structure and pattern of the migration, which has had a significant bearing on the economy and

settlement system of the city. It is estimated that 83.9% of the population who migrated to the city belonged to the rural areas, 15.8% to the small and medium towns (with population of less than a million) and 0.3% to the metropolis (million plus cities),⁹ but almost every individual who migrated to the city, irrespective of the level of education, income and social status, did so with a dream of a better future. Delhi was perceived as a land of opportunities to the poor and the non-poor alike.

A combination of push and pull factors have influenced the pattern of migration. Structured information regarding the socio-economic background of the entire 1.6 million people who migrated to the city during the last decade are not available as yet, but various sample studies conducted during the inter-censal period¹⁰ indicate that more than half of the in-migrants were agricultural workers who did not own any land, 17 to 19% were marginal farmers having less than subsistence farming and 16 to 18% were skilled and semi-skilled workers who expected better wages for their labour. Therefore an overwhelming majority of the migrants were “rural spill overs” who were ‘pushed’ out of the village economy for livelihood, although a sizeable section was not so desperates. They were ‘pulled’ by the better opportunities of employment and living that the city offered to them.

1991 Census data on “reasons for migration” indicate that 81.56% of the migrants came to the city in search of employment, 7.65% for business, 1.84% for education, 0.12% due to natural calamities and 8.83% for other reasons.¹¹ The neighbouring states of Uttar Pradesh, Haryana and Rajasthan accounted for more than 80 percent of migration to Delhi, while 12% came from Bihar and the remaining 8% from all other States put together.¹² Therefore it is the comparatively poorer States of India who also score poorly on the basic human development indices that are the major contributors to the massive urban growth of the capital city.

A look into the demographic profile of the migrants may throw interesting highlights into the growth of informal settlement and occupations in the city.¹³ The households who have migrated during the last 1 to 3 years have predominantly adult male members; it is only after they get settled into the new milieu that migration of female members and children would follow. The average size of an inter-censal migrant household¹⁴ (4.6 persons) is lower than the average size of a city

household (5.2 persons). The percentage distribution of population in the age group of 15 to 34 is also higher among the inter-censal migrants (62.08%) than in the total population (38.74%). A typical migrant family would influence male members from near and distant relations to join him as the “aura of success in Delhi continues to kindle rays of hope among the people back home.”¹⁵

The squatter settlement often takes place along regional, linguistic, religious and caste affiliations of the migrants, although there are many settlements, which are more cosmopolitan in their composition. Inter-household solidarity within a squatter settlement provides some measure of social security among the residents although dissensions and conflicts over trivial issues are very common. In situations of distress and challenges they exhibit tremendous degree of unity and resilience to work and live together

71.2% of adult migrant population is illiterate, 20.3% of them have reached the primary stage of education, 3.1% middle and high school level and 5.4% of the adult members are involved in some continuing education programme.¹⁶ The female illiteracy level is much higher at 83.4% than male illiteracy at 51%. There is a clear inclination to get educational inputs, but the conflict between the opportunity costs of time in education and income generation (as also household chores for women) make adult education programme a non-starter. But the literacy data on children is very encouraging – only a small percentage of school going age children (0.7%) have not attended the school and 5.2% have dropped out of it.

Thus thousands poor illiterate villagers struggle for their survival in the city milieu, to eke out an existence for them and their family members with a bare minimum income and yet they dream for a better future for their family, kith and kin and children. The city gives them hope for their survival and they in turn give their labour to the city to keep it going.

Informal Settlements

More than half of Delhi lives in some kind of informal settlements. The worst form is the slums and squatter settlements, also

known as *Jhuggi Jhompri clusters*, which accommodate about 2.5 million people. The other forms are the *Resettlement Colonies* which came up to rehabilitate about 1 million slum dwellers, the *Legally Notified Slum Areas*, which is mainly the walled city, where about 2 million people live in a highly congested and dilapidated environment, the *Unauthorized Colonies* which have come up illegally and without approval and the *Urban Villages* where slum like conditions prevail in the absence of provisions for basic services for healthy living. Besides about seventy thousand people live on the pavements of the city.

Jhuggi-Jhompri clusters

These are the slum clusters or squatter settlements, which have come up illegally on public or private lands all over the city to accommodate the poor migrants from the rural areas. The numbers of such squatter settlements have consistently been on the rise despite the efforts made to demolish and/or resettle them. As per the last survey made by the Slum and JJ department of Municipal Corporation of Delhi in 1994 there were 4,80,000 household in 1080 slum clusters in the capital.¹⁷ The MCD has not conducted any survey after 1994 to discourage fresh registration of new slums, but unofficial surveys indicate that their numbers have proliferated nearly double that number during the last six years.

Unlike in Kolkata or Mumbai, Delhi does not have large slum settlements in specified areas. Historically slum pockets in Kolkata and Mumbai have developed near large factories and mills during the colonial period and over the years these have got further extended and densified, but in Delhi these are scattered all over the city in small settlements, usually along the railway tracks and roads, river banks, parks, public places and other vacant lands, which make the task of in-situ rehabilitation quite difficult and cost ineffective. 75% of the slum clusters in Delhi have 500 or less households and only 10.5% have more than 1000 households. The structure of the squatter settlements as per their size classification is provided in Table 6.

As per a survey conducted in 1996, 83.54% slum shelters are made of mud wall with thatched roof, 14.40% with brick and mud wall with asbestos roof and 1.47% with brick wall and tin roof.¹⁸

Resettlement Colonies

46 resettlement colonies have been developed mainly on the outskirts of the city to resettle about 2,16,000 squatter families, each provided with a plot of land measuring 18 sq meter at a highly subsidized price of Rs. 5,000 (US \$ 106). These colonies suffer from various infrastructural inadequacies like water supply, sewerage, drainage, garbage disposal, electricity, schools, hospitals, roads etc. A survey conducted by the Council for Social Development indicate that half of the families do not have individual water connections or toilet facilities and have to depend on community latrines and bath rooms which are either so inadequate or maintained so poorly that many of the residents defecate in the open. The system of solid waste disposal is extremely unsatisfactory and hardly 30% of the waste is collected for disposal.¹⁹

The experience of rehabilitation of squatter families from the city heartlands to these outskirt settlements have not been uniform. The proximity of some of the colonies to the new work centers made them success stories, but most of these colonies are so far away from the places of work that about thirty to forty percent of the squatters returned to the slums for employment. 'Livelihood rather than habitation' was a priority for the poor squatters who found it more convenient to sell there plot at a premium and come back near their places of work in new slum settlements. In some of the resettlement colonies fresh squatter settlements have come up on the open and public land, giving rise to a phenomenon that has been described as 'slums within slums'.²⁰

Unauthorised Colonies and Harijan Bastis

The unauthorized colonies are the residential pockets, which have come up generally on private land in an unplanned manner in violation of the Master Plan and Zonal Plan regulations. The harijan bastis are those unauthorized colonies, which are inhabited by the low caste families. The buildings in these colonies are concrete structures which have been constructed without approved plans and therefore the planning norms of land use restrictions and building norms of height and front and rear

setbacks have not been followed. Besides road networks, drainage and sewage system, parks, playgrounds, community centers and other common facilities have not been developed in such colonies. The approach of Government towards such colonies have been ad hoc. Over the years a large number of such colonies have been regularized, usually on political compulsions, on consideration of betterment levy for redevelopment of such colonies, but either the rate of such charges or the recovery of the same have been far too inadequate to actually implement such redevelopment plans which have lagged far behind the pace of growth, making most of such colonies only marginally better than many slum resettlements.

Legally Notified Slum Areas

The notified slums are those, which have been declared/notified as slum areas under section 3 of the Slum Areas (Improvement and Clearances) Act, 1956. Under this Act those areas of the city where buildings are unfit for human habitation by reason of dilapidation, overcrowding, faulty arrangement and design or where due to faulty arrangements of streets, lack of ventilation, light sanitation facilities, or any combination of these factors the living environment are detrimental to safety, health or morals. The major proportion of such notified slums are found in the medieval walled city of Shahjahanabad and its extensions, which was originally meant to accommodate 60,000 population, but where an estimated 2 million population is now living. Neither the provisions of Slum Areas Act nor of the Master plan for the walled city have been implemented since the city was overtaken by problems of a different magnitude, which were created by the unending waves of fresh migrations and therefore the old city was left to fend for itself, leading to further deterioration of its living conditions.

Pavement Dwellers

It is estimated that about 70,000 people live on the pavements in busy market places in the city where they work as wage earners. They are mostly adult male workers who have left their families back in their villages. They can not afford to commute from a distance since their

livelihood depends on the places where they have to work from the morning till late in the evening. They are mostly load carriers, porters, shoe-shine boys, rag pickers and other types of odd workers. They are mostly concentrated near the railway stations, inter-state bus terminus, wholesale markets and transport depots.

Urban Villages

There are about 106 villages on the outskirts of Delhi, which have become urbanized in a haphazard and unplanned manner. These are not notified urban areas and are outside the jurisdiction of Municipal Corporation. Therefore these areas are devoid of the facilities of assured potable water, surface drainage system and sanitation arrangement. The rural character of these villages in terms of land use pattern and occupational structure have undergone drastic changes. The real estate speculators have acquired large tract of land in these villages, displacing their original habitants, who have either migrated to the city or switched over to the tertiary occupations, while new settlers have started constructions in an unplanned manner, making the future planning of these prospective urban areas even more difficult.

Employment and occupation

Overwhelming majority of the city's migrant population has found employment in the growing informal sector of the capital's economy. The growth and diversification of the informal sector, its flexibility and decentralized scale of operation, its competitiveness and capacity to absorb a large manpower, and its support to the formal sector, both in the trading and manufacturing activities is responsible for the high growth of GDP of Delhi.

The Fourth Economic Census of India and Delhi ²¹ has estimated that although Delhi account for 1.11 percent of the total population of the country, it contributes 2.62 percent of the total enterprises and 5.23 percent of the total adult workers in the country. Between 1980 and 1990 the rate of growth of enterprises in Delhi was 5.79% per annum and it went up to

6.46% per annum between 1990-98. Except 'storage and warehousing', there has been proliferation of every type of enterprises in the city.

The Economic Census has estimated that average annual growth of employment in Delhi has in fact doubled from 4.33% during 1980-90 to 8.67% during 1990-98. Manufacturing industries, transport, communications, social and personal services and wholesale and retail trade are the areas where there has been maximum growth and all these sectors provided enormous opportunities for employment to the poor migrants. In fact availability of cheap labour of the migrants was one of the reasons for the proliferation of enterprises and fast economic growth of Delhi. City's 1,29,363 manufacturing enterprises employed about 1.44 million workers, 268091 wholesale and retail trade units provided employment to 0.69 million persons and 47,360 transport units (private buses, taxis, and auto rickshaws) and 30,247 hotels and restaurants supported 0.13 million and 0.11 million workers respectively. These three sectors alone accounted for 68% of the employment in non-public and non-agricultural sector in the city.

Apart from these formal economic enterprises, which supported a large migrant workforce, self-employment in the *informal sector* proliferated significantly, which were not captured fully in the Economic Census. All the three sample studies on the squatter settlements in this report have indicated that more than half of the poor adult male and female workers were self-employed in various informal ventures. 20 to 25% of them were engaged in *pretty trade and vending* which included *reriwala* (movie kiosk selling fruit and vegetable and other eatables), *feriwala* (vendor selling clothes and other miscellaneous items on footpath), rag pickers and *kabariwala* (junk dealers), fish and meat vendors, tea stall owner and worker, hawkers, lottery broker, etc.

About 15 to 20% were engaged in various types of *domestic and non-domestic services*, such as maid servants, chowkidar (watchman), street cobbler and barber, darzi (cloth repairing), dhobi (washer man) and presswala (irons clothes), rickshaw and cycle repairing, porter, poojari (priest), private tutor etc. 10 to 15% were engaged in *informal manufacturing and construction activities* such as painter, plumber, construction labourer, electrician, carpenter, radio and TV repairer, blacksmith, locksmith etc. About 7% were engaged in daily wage labour

without any specific activity. A number of persons were also engaged in *informal transport sector* such as rickshaw pulling, goods trolleying etc.

All these activities support the city system and the city economy. The industry, trade and transport of the city depend to a very large extent on the cheap labour of the migrant workers. The construction boom of the city in housing and infrastructure almost entirely depends on them. City's huge informal sector, which provides cheap services and comfort to the rich and also support the poor is entirely run by them. It is the poor and illiterate labour force from the villages which has kept the city growing and which keeps the city going.

It is worthwhile here to quote from the study of Society for Development Studies:

*“ The experience of Delhi has brought out the dynamic role of the slum and squatter settlements and their informal economic activities in the process of urbanization, in the high value added contribution of the urban economy to the gross national product and to a large extent, in keeping the wheels of commercial and industrial activities in the formal sector in operation, as also contributing to the high quality of life in the formal habitats. This segment of the urban economy, probably best manifests the vibrant atmosphere of the growth process, even though it fails to derive a fair share of the benefits of urbanization and growth. The main reason for this situation is the non-recognition of this sector's manifold contribution in official policies and programmes. There is a view that if this role is recognized and specific interventions are inducted into official programme that could stimulate and facilitate the activities of the sector, the multiplier effects on production and employment in urban economics will be significant”.*²²

The Two Cities

In the city system of Delhi the informal sector, by virtue of their sheer size, functions and cost effectiveness, have become organically connected with the formal sector. They have become part and parcel of the city life, which can neither survive nor sustain itself without them. Unfortunately, the city planners and managers of Delhi failed to recognize this dynamic role of the informal sector and their contribution to the city economy. Instead of looking at the root causes which drive the poor to migrate to the city and to the positive role they play in the city economy, despite the enormous hardships and miseries in their day to day existence, the poor have been treated as those who violate the Plan, who encroach the land, who pollute the environment. Therefore they have to be evicted, thrown out to the periphery, away from their work places. Instead of integrating them into the city system, the efforts had always been made to further marginalize them.

The two Master Plans of Delhi (MPD) which came into operation in September 1962 and August 1990 respectively for the comprehensive planned development of the capital city have completely failed to anticipate the growth of the informal economy and its implication for the human settlement management. They did anticipate the growth of the city, but what they did not is the economic factors which influenced the growth and therefore the nature and composition of the growth and its implications for the cityscape in terms of housing, productivity and infrastructure and harmonizing the relationships of growth. These were some of the very important issues which did not find much place in the deliberations of Master Plan. One of the stated objectives of both the MPDs was “elimination of slums and squatting and provision of adequate housing and related community facilities” but at the end of both the Plans²³ what the city witnessed was further proliferation of slum settlement and further deterioration of the environmental conditions. The MPD 1990 acknowledged that “there are other issues of a central importance like rapid urban population and employment growth, land use permissibility, land use intensity, informal sector and incompatible uses which overwhelmed the Master Plan in the process of its implementation”²⁴, but it did not offer any solution for the same. The only prescription MPD 1990 had for the informal sector was the following:

“Large sections of unemployed and underemployed in rural areas and small towns look forward to the metropolitan cities like Delhi for employment and enter the city to move up the economic ladder. This brings forth a multitude of small enterprises, petty trading and casual labour. This sector with highly reduced needs of equipment and buildings is important as a source of employment and also for the economic functioning of the city.....The informal sector units locate themselves strategically near work centers, commercial areas, outside the boundaries of schools and colleges and hospitals, transport nodes and large housing clusters.....It is proposed to incorporate the informal sector in the planned development of various zones.”²⁵

The proposal of the MPD 1990 was to fix certain norms for the informal sector, such as 3 to 4 units per 10 formal shops in a Central Business District, 5 to 6 units per 1,000 employees in Government and Commercial Offices and so on. It was thus proposed to adjust a few hundred kiosks in a city where the informal sector was the bread and butter of the millions!

The MPD further expressed that “it would be desirable if a few standard and efficient designs for mobile as well as stationery units are evolved and are placed all over the city which would add to the city scape and would bring in a lot of richness and experience of the city in a developing economy”, but at the same time it cautioned that measures should be taken to ensure that “(a) the poor clientele to which informal sector serves are not exploited upon and (b) informal sector units are developed to cater to the target group.”²⁶

Such was the level of understanding of the city planners about the informal sector! There was neither any survey nor any analysis of this sector - of its size, magnitude, role, functions and its linkages with the formal sector. The planners did not know how the informal sector draws its support from the market forces and how do they support the formal sector and therefore they did not have any idea of how to integrate the two, although they professed to have a “balanced development of the city and minimum friction”.²⁷

The planners had, on the contrary, a bias against the informal, which is so well reflected in their prescription that it should only cater to the poor and that it should not exploit their target group! Poor exploiting the poor! This certainly is not an objective perspective of a city planner but appears more like the prejudiced view of an aristocracy who looks at the informal with as much pity as with contempt. Therefore the treatment it prescribed was only cosmetic. It did not even touch the fringe of the problem and left it to be unsolved. Similarly, it did not have any idea about how to deal with the problem of shelter in the city. It projected the housing shortage and assigned the future shelter needs to different categories, but there were no serious deliberations about the informal settlements in the city and the strategy required to solve this serious problem. There was neither any comprehensive perspective on integrating this sector with the city life, nor any definitive strategy of shifting them to the counter magnet towns, which were proposed to be developed under the National Capital Region Planning system. The Master Plan of Delhi simply ignored the informal sector altogether.

Thereby it perpetuated the divisions and imbalances within the city - the formal and the informal city, the city of the affluent and the middle class and the city of the poor and the labouring class, the city of posh colonies, bungalows and farm houses and the city of the slums, resettlement colonies and unauthorized settlements.

Who pollutes – Issues of Environmental Jurisprudence

Nowhere else has the division between the two cities been so open and critical than in the ongoing debate on the shifting of polluting industries from the national capital.

When the MPD 1962 was notified Delhi had about 10,000 industrial units, mostly located in the congested residential areas of the city. The MPD declared several industrial areas for accommodating 8,000 industries from the non-conforming areas, but by 1971 it was becoming clear that the city was going to grow far beyond the conceptions of the planners. Already 13,000 new industries had come up in non-conforming areas, and by the time the twenty-year perspective of MPD was over Delhi had over 82,000 industries with an average employment of 5.63 workers

per unit. A new Master Plan should have been ready by 1982, but instead, the entire city was geared to host the completely unplanned Asiad games. Huge stadium, roads, hotels, flyovers, offices, apartments and colonies were constructed to cater to the needs of the Games and the anticipated commercial spillover. This brought in its trail fresh wave of migration of construction workers who swelled the number of squatter settlements. All these were in complete violation of the Master plan. The new Master Plan was not notified until August 1990, eight years after the term of the first Master Plan was over.

MPD 1990 was faced with the dilemma of either following the rulebook and ordering the shifting of all the non-conforming industries to the industrial estates or accepting the ground realities. The choice before it was limited since the requisite land for such shifting could never be made available. Therefore, it tried to strike a balance- it permitted industries employing a maximum of 5 workers and consuming 1 kw of power to continue in the non-conforming areas, provided that it was located in the ground floor and that the plot size was not less than 30 sqmts. It further permitted repair and service industries employing up to 19 workers and consuming 5 kw of power to operate in District Centres and the Central Business Districts but with the proviso that their cases shall be reviewed, after 5 years in case of industries employing 10 to 19 workers and after 10 years in case of industries employing 6 to 9 workers. All other industrial units shall be shifted to the industrial estates and all hazardous and noxious industries shall not be allowed at all to operate in Delhi.²⁸

MPD 1990 projected that by 2001 the number of industrial units shall go up to 93,000, but again all projections went haywire. Already by 1998 nearly 130,000 industrial units had come up in the capital, employing about 1.44 million workers.²⁹

The contradiction between prescriptions of the MPD and the realities on the ground instigated Mr. M.C.Mehta, a noted lawyer-environmentalist to file a Public Interest Litigation before the Supreme Court of India in 1985 seeking closure of all non-conforming industries in the residential and commercial areas of the city. The litigation remained in cold storage for about ten years till Justice Kuldeep Singh, known for his judicial activism, ordered on 8th July 1996 closure of 168 hazardous industries on the ground that these were in contravention of Master Plan of

Delhi. In the following months of September, October and November the Court ordered the closure of 823 more industrial units/plants, which rendered more than 50,000 workers jobless. Although the Court had directed that the workmen shall have continuity of employment at the new location of the industries and the period between the closure and the restart of the industry shall be treated as active employment, a survey³⁰ indicated that except in the case of one industry owned by the State, full compensation was not paid to the workers. Most of the industries circumvented the payment by exploiting various legal loopholes and the poor workers did not have the means to fight them at the court. Most of the workers were driven by desperation to seek alternate employment, a few of them committed suicide and one of them self-immolated himself during a May Day rally to highlight the miseries of the workers.

The litigation did not end there. On November 17, 2000 the Supreme Court ordered that all polluting industries of whatever category operating in residential areas shall be shut down and that a list of non-conforming industries shall be compiled and submitted before the court. This triggered a violent reaction among one and half million industrial workers in the city who went on rampage in different parts of the city, attacking public properties, burning vehicles and fighting pitched battles with the police, who opened fire every few minutes and lobbed tear gas shells to stop riotous situations from getting out of control. Schools and colleges were shut down and traffic jams stretched for miles for many days, bringing the city life to a complete halt.³¹

The court direction to close the 'polluting units' gave some leverage to the Government to interpret what the *polluting* is since this was not defined either in the MPD or in the court order. A Committee of officials drawn from various agencies of the Government inspected the industrial units under heavy police protection and took decisions on spot for sealing the polluting units. As this paper is being written 19496 industrial units were inspected and 2856 units were sealed, out of which 1373 premises were found closed already. Many of the units sealed were reopened on review and some of them changed their trade and resumed operations.

While the final verdict of the Court in the case is still open, this has triggered a fierce debate among the city planners and administrators,

lawyers and environmentalists, politicians and social activists, workers and the rank and file citizenry. There are many who find in this legal battle an opportunity to cleanse the city and to put in place the much discussed plan to shift the surplus population of Delhi to the counter magnet towns of National Capital Region. There are others who find in it the fragility of the planning system which have time and again failed to grasp the realities on the ground and the shortsightedness of the judicial system which have taken recourse to a narrow legal interpretation and has ignored the larger issues of livelihood and human rights.

“City planners plan cities, they do not make them”.³² Cities have their own organic logic of growth. Unless the planners fully comprehend the dynamics of this growth, they are likely to end up planning a system which will not work. This sums up the urban planning experience of Delhi.

If the city creates opportunities of growth, it is bound to attract people, especially when it has a large hinterland of poverty. If a growing city embarks on a wholesale acquisition of land, as Delhi did, without converting them to gainful uses, it is bound to encourage squatter settlement on public land, and when the city has an abundance of cheap labour and a good infrastructure it is bound to encourage trade and industry. This cycle shall have its own spin off effect which will create more opportunities of employment and therefore more migration and over a period of time this will change the character of the city, when sheer number of the poor will create demands for low priced goods and services which can be produced in a decentralized and unorganized manner and therefore a strong informal sector will emerge. Slowly the informal sector will upgrade its skill and competitiveness and create a market for itself initially within the city, then in the region and the country and even in the international market. This is what has happened in the past few decades in Delhi. The growth of the informal sector has taken place spontaneously without the intervention of any planning or development machinery and on the whole their contribution to the economy has been very positive and desirable. Today it is estimated that as much as 62.97% of urban Delhi's total employment is in the informal sector, yet the planning process does not recognize it as a necessary component of urban economy. It restricts the growth of this sector by land use regulations. It neither provides land to the sector nor allows them to operate at places where they have created a niche for themselves. It is unfortunate that the apex does not see the logic

of growth of the informal sector and goes by the rules of the town planners. It may be highly desirable to shift the polluting industries out of the residential areas, but a blanket order to shift all small scale and household industries from the non-conforming areas shall unleash an avoidable catastrophe for millions of poor workers whose very existence and livelihood will be lost for ever.

The non-conforming industry is not, by definition, polluting. It has been located on premises which are not meant for industrial purposes primarily because of the lack of availability of conforming land areas. This is how informal sector has developed throughout the developing world. The existing location of these industries has definitely had their advantages. It enables the pooling of the household labour and supervision almost round the clock, which saves time and resources on travel and transport. This also enables accessing labour from the neighbourhood, which is convenient both for the employer and the employee, who do not have to commute and whose requirement for shelter need not to be specially looked into. It creates informal work environment which promotes better industrial relations and increases productivity. All these factors reduce costs of products and increase their competitiveness, which are extremely important in the age of globalization. Shifting of such small industries to conforming areas far away from the 'homes' shall definitely rob the industries of much of these competitive advantages and may even make them sick, which will render thousands of persons jobless. It was expected that the Master Plan should appreciate the dynamics of the informal sector and create conditions for its growth. Unfortunately, the MPD has failed to go into the depth of the problem and faltered in its recommendations. This is all the more reason why the Apex Court should not buy the so-called Planning rules to order the closure of all the industries, since the rules themselves were not based on sound premises.

The Supreme Court has the mandate to uphold the Constitution and protect the fundamental rights of the people. It has struck down many legislations in the past as *ultra vires* to the Constitution just because it infringed on the rights of the individual. The Master Plan is not a statute of the legislature; it is an executive notification of the Government and has been amended on as many as eighty-five occasions during the course of last ten years. Therefore if the dictats of Master Plan infringes on the rights of the individual to live and earn livelihood, there is definitely a strong

justification to amend it again and bring it in conformity with the realities of the ground.

MPD has been routinely violated, mainly by the Government and its agencies. When these violations have benefited the affluent or yielded commercial returns, they have been 'erased', but when the poor and the middle class have had to violate the Plan because no provisions have been made for their livelihood, they should not be victimized and evicted. The Master Plan should not be for the Masters alone.³³

Poverty has often been described as the greatest polluter, and eradication of poverty as the greatest service to the environment. But it is not necessarily the poor who pollutes; though they may bear the maximum burnt of it and may also symbolize it, with their unclean turn up and appearances. 70% of the atmospheric pollution in Delhi is contributed by emissions from its 3 million registered vehicles (13% is contributed by the thermal power plants and 12% by the industrial units)³⁴, which is more than the combined number of vehicles in the three mega cities of Mumbai, Kolkata and Chennai (although together the three cities may make two and half times of the Delhi's population), but not a single of these vehicles is owned by the city's poor, although bulk of them may be driven or serviced by them. Again the pollution created by the city's 5000 metric tonnes of daily waste, only half of which are collected by the municipal bodies, are not the creation of the poor alone. The middle class and the rich who consume more must necessarily be polluting more. It is the poor city scavengers who pick up this trash and clean the city. It is the poor rag pickers who recycle the city's junk, free of charge. The shanty shackles of the city may represent its visual scar marks, but under each of its thatched roof would be living a poor family who would be selling its cheap labour round the year to do all sorts of odd job to keep the city going, for others to live in comfort.

Closure of non-conforming industries will make a marginal difference to the situation of pollution in the city, but it will make a substantial difference to the lives of the hundreds and thousands of poor workers. It will drive many of them from employment and further marginalise their position in the city. In this unequal battle it is the poor who will suffer more than any other class of citizenry.

Therefore in this debate of environmental jurisprudence what is at stake is not the environment but of the livelihood of the multitude. The apex court can not afford to take a narrow legalistic view of Master Plan regulations to deny the rights of livelihood of the poor people. In this context it may be worthwhile to recollect what Justice V.R. Krishna Iyer, the father of modern environmental jurisprudence in India, had said,

“...The right to life includes the right to livelihood, and if not so treated the convenient method of depriving a person of his life would be to withdraw his means of livelihood”³⁵

And Justice Ayer had further added,

“ In being an activist, the Judge has to see with his eyes where justice lies. In being legalist, he has to see through the eyes of law. ”³⁶

Justice here clearly lies not in what is written in the law book, but in the realities on the ground , which is there for everyone to see.

Table 1
Growth of Population of Delhi

Year	Population	Decennial Growth rate
1901	405,809	-
1911	413,851	2.0
1921	488,452	18.0
1931	636,246	30.3
1941	917,939	44.3
1951	1,744,072	90.0
1961	2,658,612	52.4
1971	4,065,698	52.9
1981	6,220,406	53.0
1991	9,420,644	51.5
2001	13,782,976	46.3

Source: Census of India, Registrar General of India

Table 2
Growth of Delhi vis-à-vis Kolkata and Mumbai

Year	Delhi	Kolkata	Mumbai
1951	1,744,072 (-)	4,669,559 (-)	2,966,902 (-)
1961	2,658,612 (52.4)	5,983,669 (28.1)	4,152,056 (39.9)
1971	4,065,698 (52.9)	7,420,300 (24.0)	5,970,575 (43.7)
1981	6,220,406 (53.0)	9,194,018 (23.9)	8,243,805 (38.07)
1991	9,420,644 (51.45)	11,021,918 (19.8)	12,439,901 (50.09)
2001	13,782,976 (46.31)	*	*

* Census Figure of 2001 for Kolkata and Mumbai have not been published as yet
Note: The bracketed portion indicate the decennial growth rate

Source: Census of India, Registrar General of India

Table 3**Volume of Net Migration to Delhi (in, 000)**

Year	Net Migration to Delhi
1961- 1971	633
1971- 1981	952
1981- 1991	1306
1991- 2001	1600

Source: Census of India, Registrar General of India

Table 4**Growth of Squatter Population in Delhi (in millions)**

Sl No	Type	1981	1990	1994	Annual growth rate 1981-94 (%)
1.	Squatter Population	0.48	1.30	2.40	13.2
	Squatter Household	0.10	0.26	0.48	13.2
2.	Non-squatter Population	5.74	7.74	8.29	2.9
	Non-Squatter Household	1.09	1.55	1.66	3.3
3.	Total population	6.22	9.03	10.69	4.2
	Total Household	1.19	1.81	2.14	4.6
4.	Squatter as percent of Total Population	7.7	14.4	22.5	-
	Household	8.0	14.4	22.5	-

Source: Estimates prepared by the Society for Development Studies was quoted in their study.

Table 5**Growth of squatter settlement in Delhi**

Year	No. of Squatter families
1951	12,749
1956	22,415
1961	42,815
1966	42,668
1971	62,594
1973	98,438
1976	20,000
1981	98,709
1983	1,29,000
1985	1,50,000
1987	1,71,000
1988	2,10,000
1991	2,59,344
1994	4,80,000

Source: Slum Department and JJ Department, Delhi Slum Improvement Board, Municipal Corporation of Delhi (Based on record of Food and Supplies Department).

Table 6**Size of Slum Clusters**

Slums in groups	Number of Slum Clusters and % of total
Upto 100	396 (36.6)
101-500	409 (37.9)
501-1000	101 (9.3)
1001-1500	49 (4.6)
1501 and above	63 (5.9)

Source: Slum Department and JJ Department, Delhi Slum Improvement Board, Municipal Corporation of Delhi (Based on record of Food and Supplies Department).

Table 7**Slum Population in Four Metropolitan Cities**

City	1981	1991
Calcutta	3.28	4.38
Mumbai	2.83	4.12
Delhi	1.80	3.20
Chennai	1.36	2.10

Source: A Compendium On Indian Slums, 1985, Town and Country Planning Organisation, 1985

Table 8**Number of Enterprises and Adult Male Workers in Delhi and India 1998**

	Delhi	All India	Percentage Share of Delhi
Number of Total enterprises	6237 (00)	237824 (00)	2.62
Adult Workers			
Male	2726 (000)	52086 (000)	5.23
Female	358 (000)	1136 (000)	3.10
Total	3084 (000)	63622 (000)	4.85
Adult Workers per Enterprise	4.945	2.675	
Population	9370 (000)	843931 (000)	1.11

Source: Fourth Economic Census, Provisional Census, Central Statistical Organisation, New Delhi, 1999.

Table 9
Distribution of Non-Agricultural Enterprise by Major Activity Group
during 1980-90 and 1990-98 in Delhi

S No	Major Activity Group	Number of Units			Average Annual Variation (%)	
		1980	1990	1998	1980-90	1990-98
1.	Manufacturing	82167 (28.99)	92096 (2.59)	129363 (19.06)	1.21	5.06
2.	Electricity, gas and water	757 (0.27)	884 (0.20)	1036 (0.15)	1.68	2.15
3.	Construction	4261 (1.50)	5603 (1.25)	8277 (1.22)	3.14	5.97
4.	Wholesale and Retail Trade	116653 (41.16)	197422 (44.13)	268091 (39.50)	6.92	4.47
5.	Restaurants & Hotels	17487 (6.17)	21559 (4.82)	30247 (4.46)	2.33	5.04
6.	Transport	11172 (3.49)	11745 (2.62)	47360 (6.98)	0.51	37.90
7.	Storage and Warehousing	8512 (3.01)	13599 (3.04)	6526 (1.04)	5.98	-6.50
8.	Communications	493 (0.81)	585 (0.13)	11091 (1.63)	1.87	224.49
9.	Financial, Insurance, Real Estate & Business Services	11736 (4.14)	22955 (5.13)	29153 (4.30)	9.56	3.38
10.	Community, Social & Personal Services	30144 (10.64)	80915 (18.09)	147575 (21.74)	6.84	10.30
	Total	283385 (100.0)	447363 (100.0)	678719 (100.0)	5.79	6.46

Source: Report on Economic Census 1990 and 1998, National Capital Territory of Delhi, Directorate of Economics and Statistics, Government of Delhi, 2000.

Table 10
Distribution of Employment in Non-Agricultural Enterprises by Major
Activity Group during 1980-90 and 1990-98 in Delhi

S No	Major Activity Group	Employment (000)			Average Annual Variation (%)	
		1980	1990	1998	1980-90	1990-98
1.	Manufacturing	463 (32.08)	636 (30.97)	1440 (41.40)	3.34	15.80
2.	Electricity, gas and water	20 (1.39)	21 (1.02)	116 (3.34)	0.50	55.95
3.	Construction	8 (0.55)	11 (0.53)	22 (0.63)	3.75	12.50
4.	Wholesale and Retail Trade	256 (17.74)	445 (21.66)	694 (19.96)	7.38	7.00
5.	Restaurants & Hotels	59 (4.09)	80 (3.89)	115 (3.32)	3.56	5.47
6.	Transport	49 (3.40)	62 (3.02)	137 (3.94)	2.65	15.12
7.	Storage and Warehousing	20 (1.39)	33 (1.61)	27 (0.77)	6.50	-2.27
8.	Communications	21 (1.46)	51 (2.48)	98 (2.81)	14.29	11.52
9.	Financial, Insurance, Real Estate & Business Services	112 (7.76)	194 (9.44)	207 (5.95)	7.32	0.84
10.	Community, Social & Personal Services	435 (30.15)	521 (25.38)	622 (17.88)	1.98	2.42
	Total	1443 (100.0)	2054 (100.0)	3478 (100.0)	4.33	8.67

Source: Report on Economic Census 1990 and 1998, National Capital Territory of Delhi, Directorate of Economics and Statistics, Government of Delhi, 2000.

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Notes and references :

- ¹ Growth of the population of the city, as recorded in the decennial Census, is given in Table 1.
- ² The comparative growth of the three megapolis of India is given in Table 2.
- ³ Formerly Calcutta.
- ⁴ Formerly Bombay.
- ⁵ Delhi Development Authority, Report of the Sub-Group on Population Projections and Demographic Profile for Preparation of Master Plan for Delhi – 2021, 2000, New Delhi.
- ⁶ Net in-migration is the total migration into the city minus the total migration out of the city. The total migration in the city during the decade was 1.88 million and out migration was 0.28 million only.
- ⁷ Table 3
- ⁸ The rate of growth of squatter population in Delhi during 1981-94 is provided in Table 4
- ⁹ Delhi Development Authority, op. cit.
- ¹⁰ The author has drawn from the three sample studies in the recent past. These are: (1) the study of Society for Development Studies, based on survey of 1016 households in 13 representative squatter settlements distributed in the five zones of the city, (2) the sample study of 150 slum households from different parts of Delhi conducted by Indrani Gupta and Arup Mitra for their paper 'Migrants in Urban labour market: Micro-Level Evidence from Delhi Slums' and (3) the survey of 5281 squatter families in 19 slum clusters of Shalimar Bagh constituency of west Delhi, conducted by the Slum and JJ Department of Municipal Corporation of Delhi.
- ¹¹ Migration Table, Census of India, Series 1, Vol 3, Registrar General of India, New Delhi, p- 76
- ¹² Ibid, p-79
- ¹³ These figures based on the Sample studies. The city level averages have been obtained from the Census reports.
- ¹⁴ A household who has migrated between the last two Census of 1991 and 2001 i.e., during the last ten years.
- ¹⁵ Lall V. D. and Suri D. A., *Strategies and Action Plan for Resettlement of Squatters of Delhi in New Townships of the National Capital Region*, Society for Development Studies, New Delhi., 1994, P- 22
- ¹⁶ The study of Society for Development Studies, New Delhi, op. cit.
- ¹⁷ The growth of squatter settlements from in Delhi 1951 to 1995 are provided in Table 5
- ¹⁸ The survey was conducted by Delhi Development Authority.
- ¹⁹ Council for Social Development, *Urbanisation and Slums in India*, Social Change, Vol.18, No. 4, 1988.
- ²⁰ Ali, Sabir. *Slums Within Slums*, Delhi, 1990.

²¹ Fourth Economic Census (1999), Provisional Results, Central Statistical Organisation and Report on Economic Census 1990 and 1998, National Capital Territory of Delhi, Directorate of Economics and Statistics. The main results of both these studies have been summed up in the Tables to.

²² Lall V.D and Suri D.A, Strategies and action Plan for Resettlement of Squatters of Delhi in the New Townships of National Capital Region, Centre for Development Studies, New Delhi, p10-11.

²³ The MPD 1962 was prepared for a period of twenty years and therefore its operation should have been valid till 1982, but the new MPD could not be notified till 1990. It had a perspective for 2001 only and therefore another MPD is presently under preparation.

²⁴ Delhi Development Authority, Master Plan for Delhi – Perspective 2001, Delhi, 1990.

²⁵ Ibid., p-17

²⁶ Ibid., p-18

²⁷ Ibid.-II.

²⁸ Ibid, p-9-13

²⁹ See Table 10

³⁰ Aftermath of Supreme Court Order – Workers Hounded Out of the City, Report of Delhi Janwadi Adhikar Manch, July 1997.

³¹ India Today, December4, 2000.

³² Dunu Roy, Plan for the Masters, Hindustan Times, November 14, 2000.

³³ Op. cit

³⁴ White Paper on Pollution in Delhi With An Action Plan, Government of India, Ministry of Environment & Forests, 1997, p-6

³⁵ Desai Ashok, Environmental Jurisprudence, Deli, 1998, p-158

³⁶ *ibid*, P-180