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

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

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## The Thin Line between Legitimate and Illegal

### Regularising Unauthorised Colonies in Delhi

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#### Introduction

More than thirty percent of Delhi's population live in areas designated by the government as unauthorised colonies,<sup>1</sup> settlements that are officially categorised as illegal. One of seven 'unplanned' settlement types designated by the Government of National Capital Territory of Delhi (GNCTD), these colonies are built in contravention of zoning regulations,<sup>2</sup> developed either in violation of Delhi's Master Plans (for 1962, 2001, and 2021) or on "illegally subdivided" agricultural land.<sup>3</sup> In recent years, the government has undertaken a range of efforts to 'regularise' these settlements and carry them across the line to full legitimacy.

Living in an unauthorised colony has two significant consequences for residents: they cannot legally transfer their land, and service provisioning is low and insufficient.<sup>4</sup> Residents do, however, enjoy slightly more secure land tenure than those in other types of unplanned settlements, like slums (slum designated areas) and jhuggi jhopri clusters (non-notified slums, or JJs). These UACs exist in a liminal legal space: while they are not perceived as encroachments like JJs, they are also not considered to be part of the 'planned' city.

Given the significant number of voters that live in these colonies, debate around their status has been central in at least three consecutive Delhi Government elections, including the most recent in December 2013. Pre-election promises have often included regularisation for UACs. But what does regularisation actually mean for residents living in unauthorised colonies?

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Sangam Vihar alone, a Delhi neighbourhood with the largest agglomeration of unauthorised colonies in Delhi, is estimated to house one million people

At the most technical, regularisation is “a process by which such [unauthorised] colonies are made legal and the property titles in them are recognized by law and can be registered with the state”.<sup>5</sup> In Delhi, the first few waves of regularisation happened in the 1970s and early 1980s. In 1993, however, when the GNCTD was looking to regularise 1071 colonies,<sup>6</sup> an NGO called the Common Cause Society approached the Delhi High Court to question the manner in which regularisation had been undertaken in Delhi. In response, the Court restrained the Government from regularising any more UACs in Delhi and directed it to prepare and submit guidelines for the process of regularisation. In 2007, the Government finally put guidelines before the Court. They were followed by Regulations in 2008, after which the Government resumed its call for applications from UACs seeking regularisation. In response, 1639 colonies filed applications for regularisation, and in September 2012, the GNCTD announced that it had *regularised*<sup>7</sup> 895 UACs. This number has found mention in many media reports since.

## Background

The GNCTD’s Unauthorised Colonies Cell attributes the rise of unauthorised colonies to the Delhi Development Authority’s (DDA) failure to construct enough low cost housing in the face of large-scale migration from neighbouring states since the 1960s.<sup>8</sup>

According to the GNCTD’s own estimate, 40 lakh<sup>9</sup> (four million, or about 25 percent of Delhi’s population as per the Census 2011 data) people were living in unauthorised colonies in 2013.<sup>10</sup> However, according to the 2008-2009 Economic Survey of Delhi, 7.4 lakh people (5.3 percent of Delhi’s population at the time) were living in UACs.<sup>11</sup> The large gap between these two estimates is indicative of the ambiguity and imprecision that reigns over the entire category, but we believe that the GNCTD estimate is closest to reality. Indeed, Sangam Vihar alone, a Delhi neighbourhood with the largest agglomeration of unauthorised colonies in Delhi, is estimated to house one million people.

The literature on unauthorised colonies offers a detailed explanation of the government’s definition of UACs, and sets out two distinguishing features:<sup>12</sup> one, these areas have been illegally subdivided into plots, and, two, the buyers of plots in these settlements possess documents which prove some form of tenure, characterised by some as ‘semi-legal’.

UACs are demographically heterogeneous. Gautam Bhan describes them as home to a socioeconomic spectrum ranging

UACs are demographically heterogeneous. This diverse population is matched by a heterogeneous built environment: shanties stand beside tiled bungalows. UACs in Delhi have often stood for more than two or three decades and include *semi-pucca* (semi-permanent) two or three storey brick structures.

from working poor to educated elite families.<sup>13</sup> This diverse population is matched by a heterogeneous built environment: shanties stand beside tiled bungalows. UACs in Delhi have often stood for more than two or three decades and include *semi-pucca* (semi-permanent) two or three storey brick structures. Often these colonies have low levels of basic service delivery, especially water and sewerage. Unlike JJs, which have faced waves of demolition and eviction,<sup>14</sup> almost no UACs have been demolished in recent decades.<sup>15</sup> Indeed, interviews with UAC residents indicate that they perceive their main source of vulnerability not to be the threat of eviction, but rather rent-seeking<sup>16</sup> by various state actors, including the police and DDA.

## Regularisation

The 2021 Master Plan of Delhi explains that regularisation of a UAC must result in physical and social infrastructure, as well as minimum necessary services and community facilities.<sup>17</sup>

It might seem, at first glance, that regularisation should also immediately solidify residents' semi-legal land tenure. However, ensuring clear title for plot owners in UACs is a two-step process:

1. At the settlement (colony) level, regularisation of the UAC's status
2. Resident-level registration of deed for individual plot owners

The present policy on regularisation of unauthorised colonies in Delhi is set out in a 24 March 2008 DDA Notification titled "Regulations for Regularisation of Unauthorised Colonies" under Section 57 of the 1957 DDA Act (hereafter, the 2008 Regulations). There is also a second policy document titled "The 2007 Revised Guidelines" (hereafter, the 2007 Revised Guidelines) setting policy for regularisation of unauthorised colonies, released on 5 May 2007.

The more recent 2008 Regulations outline criteria for regularisation of unauthorised colonies, procedure for regularisation, procedure to be followed by the local body, DDA, or GNCTD for regularisation, and parameters and bases for regularisation. These Regulations explain that they "may be read together with the 2007 Revised Guidelines and may be interpreted harmoniously so as to facilitate the process of regularisation of the unauthorised colonies ... to be coordinated and supervised by GNCTD". In other words, the 2007 Revised Guidelines and 2008 Regulations, read together, form the entire legal framework of regularisation and clearly set out the GNCTD as the coordinating agency.

The complicated and conflicting cut-off date requirements set out by the government offers another glimpse of the vague regulatory foundation surrounding regularisation

Before qualifying to apply for regularisation, an unauthorised colony must establish and register a residents' welfare association (RWA).<sup>18</sup> In addition, the colony must prepare a layout plan of the colony and a complete, detailed list of residents. The layout plan has to include information such as boundaries of the colony, names of streets, and neighbouring areas. It must be accompanied by documents including land details and undertakings by the RWA stating (i) that they shall abide by the layout plans as may be approved with or without conditions, and (ii) that they shall transfer any available land to the DDA or the MCD/New Delhi Municipal Council (NDMC) free of cost so that the government might provide social infrastructure.

A UAC's eligibility for regularisation is determined in large part by a 'cut-off date': for a UAC to apply for regularisation, it must have been in existence and built up to a specified extent prior to this date. A look at the complicated and conflicting cut-off date requirements set out by the government offers another glimpse of the vague regulatory foundation surrounding regularisation.

The 2007 Revised Guidelines mention two dates. First, they set out what is presumably a cut-off date, though the term is not introduced: "habitations existing as on 31.03.2002 ... would be eligible for regularisation". Second, the 2007 Revised Guidelines refer to the "date of formal announcement of regularisation scheme"; they do not, however, give a specific date. The 2008 Regulations specify the same cut-off date but, as was also noted by the Board for Development of UACs,<sup>19</sup> did not specify the date of formal regularisation. Other documents suggest that the date when the regularisation scheme was formally announced is 7 February 2002.<sup>20</sup> Clarity on these two dates is vitally important: the eligibility of a colony or part thereof to be regularised is determined by requirements that hinge on these dates.

The 2007 Revised Guidelines state that "colonies where more than 50% plots are un-built on *the date of formal announcement of regularisation scheme*" (emphasis added) are not eligible to be considered for regularisation. The Guidelines go on, however, to explain that "plots which have been built up in the above mentioned colonies, even after *31.3.2002* and till the *date of formal announcement of regularisation scheme* will be taken into consideration for deciding the eligibility of the colony for regularisation" (emphasis added).

In other words, the Guidelines indicate two criteria to be considered for regularisation:

- (i) whether the unauthorised colony was “in existence” by 31 March 2002
- (ii) whether at least 50 percent of the colony was built up by the date of formal regularisation

### Steps for Regularisation of Unauthorised Colonies in Delhi

The 2007 Revised Guidelines do not, however, define the key phrase “in existence”. They are quite specific about the extent to which a colony must be “built up” by the date of formal regularisation, but entirely vague about the extent to which it

	Step	Agency	Timeline
1.	Complete scrutiny of the layout plan.	Local body or DDA	Within two months of receipt of the layout plan submitted by the RWA
2.	Finalize the boundaries of identified colony.	GNCTD	Within three months from the last date of submission of layout plan
3.	After fixing the boundaries on the layout plan, formally forward the layout plan to the local body or DDA for approval.	GNCTD	None
4.	Approve layout plan of the colony.	Local body	Within one month of receipt of layout plan after fixation of boundaries by GNCTD
5.	Refer the case to the GNCTD for regularisation and to the DDA for land use change.	Local body	None
6.	Formal orders or regularisation to be issued only after completing all formalities including land use change and payment of all requisite charges.	GNCTD	None
7.	Overall, the entire process of regularisation except change in land use is completed.	GNCTD	Within six months of submission of layout plan by RWA
8.	Overall, the entire process of formal regularisation after change in land use is done.	GNCTD	Within nine months of submission of layout plan by RWA

Source: Regulations for Regularisation of Unauthorised Colonies, DDA Notification, 24 March 2008.

Here is a rather odd example of the state negotiating with itself, caught between the imperative to create policy and the desire to retain control.

must be built up to qualify as “in existence” by the 2002 cut-off date. This lack of clarity was highlighted during a meeting about regularisation of unauthorised colonies on 5 March 2010<sup>21</sup> whose participants included the Lieutenant Governor of Delhi, the Urban Development Minister of the GNCTD, the Chief Secretary of the GNCTD, the Vice Chairman of the DDA, the Commissioner of the Municipal Corporation of Delhi (MCD), and the Principal Secretary of the Urban Development Department. The meeting resulted in a clarification: “at least 10% of the area of the colony should have been under recognizable cluster-type habitation, as on 31.3.2002; and 50% by 2007”. In addition, they decided that because “there were some colonies in which the area under habitation, as on 07.02.2007, was somewhat less than 50% of the area of the colony”,<sup>22</sup> in such cases “the proposed area of unauthorised colony may be reduced so as to bring up the built up area to 50% of the colony area”.<sup>23</sup>

Here is a rather odd example of the state negotiating with itself, caught between the imperative to create policy and the desire to retain control. Although the policy sets out firm dates, it is written in such a way that the government retains absolute control over eligibility: government agencies can change maps and boundaries, resulting a sliding common denominator for the decisive 50 percent.

## On the Ground

Since 2007, the GNCTD has called for applications for regularisation at least four times, and compiled a list of 1639 applicant unauthorised colonies.<sup>24</sup> However, there have been no formal announcements from the GNCTD to publicise this list.

Preparing an application for regularisation is an unwieldy process; applications from a few residents’ welfare associations (RWAs) exceeded 200 pages. The fact that more than 1600 UACs applied despite this hardship suggests the remarkable drive on the part of UACs to achieve regularised status.

Of the 1639 unauthorised colonies that applied for regularisation,<sup>25</sup> 1218 received a provisional regularisation certificate (PRC) a year later.<sup>26</sup> It is important to note that these PRCs were distributed just prior to the Delhi State elections in November 2008.

Although the 2008 Regulations made no provision for PRCs, an addendum to the Regulations was introduced on 18 June 2008, which said “soon after the requirements of Clause 4 of the Regulations are fulfilled by the residents of the colony, the GNCTD may issue a provisional regularisation certificate to that

There is an irony. The colony is unauthorised, but the voters are authorised.

- RWA President, Sangam Vihar

unauthorized colony.” This effectively empowered the GNCTD to issue a PRC to those unauthorised colonies whose RWAs had submitted requisite documents, including land details, certificates, layout plans, and undertakings to abide by approved layout plans and provide land for social infrastructure.<sup>27</sup> The PRC for a given UAC mentions the name of the colony, the name of the RWA president, and file numbers for earlier applications for regularisation submitted by that colony, and is signed by the then Minister for Urban Development of the GNCTD.<sup>28</sup>

Despite a thorough review of various documents on regularisation of unauthorised colonies in Delhi issued by the GNCTD, we have not found any formal orders regarding the issuing of these PRCs to 1218 UACs (out of 1639 applicant colonies). The basis for these colonies’ selection remains unclear.

With no clear process for their allocation, PRCs acted essentially as receipts for regularisation applications. The fact that PRCs are not mentioned in the 2007 Revised Guidelines, and in effect have not been translated into actual legal notification or service delivery, supports the view offered by many residents in Sangam Vihar,<sup>29</sup> Delhi’s largest agglomeration of UACs, several blocks of which were included in the 1218: the PRCs issued by the Congress<sup>30</sup>-led government in 2008 were electorally-motivated tokens.<sup>31</sup> The president of an RWA in Sangam Vihar observed that “there is an irony. The colony is unauthorised, but the voters are authorised”; a government that does not recognise the legitimacy of the UAC is eager to recognise the votes of its residents.

Congress won the 2008 elections, forming a government that would stand for five years. For four years, policy on regularisation of UACs evolved little, and there was no remarkable change on the ground—the issue was essentially ignored. Then, on 4 September 2012, a GNCTD order announced a list of 895 unauthorised colonies that were found “eligible for regularisation.”

Here, it is crucial to emphasise that although this order lists these colonies as “eligible” for regularisation, government and media reports have treated these 895 colonies as de facto *regularised*. Throughout, we use *regularised* in italics to refer to this de facto, but not de jure, regularisation.

A close look at this order, however, reveals that only 312 of the colonies—those located on private land—stood regularised at the time of the order by any reasonable definition of regularisation. The order also said that the remaining 583 colonies listed—those partly or fully on public land—would be regularised after the cost of the public land on which they were built had

**Actions by the GNCTD regarding regularisation of UACs**

**2007** 1639 UACs applied for regularisation

**2008** 1218 UACs received PRCs

**2012** 895 UACs found “eligible for regularisation”

- 312 UACs which are on private land stood regularised with effect from 4 September 2012
- 583 UACs partly or fully on public land will stand regularised from the date of recovery of cost of public land

been recovered by the GNCTD, on behalf of the land-owning agency.<sup>32</sup> This crucial requirement will be examined later in the report.

The September 2012 order clearly explains that the 895 unauthorised colonies had been found “eligible for regularisation” because they satisfied two conditions: no part of the colony sat on “forest and ridge areas and protected area under the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958”, and the colony did not pose “any hindrance to the provisions of infrastructural facilities under the Master Plan 2021”. It remains unclear, however, what exactly disqualified the 323<sup>33</sup> applicant UACs that did not make it onto the list.

Notably, the addendum to the 2008 Regulations allowing for PRCs also states that the formalities mandated for regularisation of a UAC would be completed within twelve months of the PRC’s issue. It is clear that this timeline was not followed. While the PRCs were issued in 2008, the list of unauthorised colonies that were found “eligible for regularisation”—or, according to public reports *regularised*—was only released four years later, in 2012. This delay was due to failure of the MCD, the DDA, and the GNCTD to complete procedures for regularisation within time limits imposed by the 2008 Regulations. (See table on page 5.)

There are two types of charges that must be paid by residents of an unauthorised colony that is to be regularised: the recovery of cost of land, and development charges. It appears the former is a penalty for incorrect use of land—using agricultural land for residential purposes, or illegally subdividing land in the process of acquisition where compensation has been paid—and the latter is to support development works in the colony—infrastructure to enable provisioning of basic services like water pipelines, storm water drains, and roads. The land cost recovery charge is paid to the land-owning agency and the development charge is paid to the GNCTD, the agency coordinating all the development works.

The policies are riddled with confusing contradictions about these charges. In the section dealing with “Recovery of cost of land and development charges”, the 2008 Regulations state that Rs. 575 per square metre is the “prevailing cost of acquisition of agricultural land”, and that the recovery penalty depends on the size of the plot of land. In addition to the rate for agricultural land, the Regulations also set rates for undeveloped and developed public or government land. Further, they assert “no conversion charges or compounding fee for non-affluent colonies on lands identified as private land by the GNCTD will be levied”. The regulations do not, however, specify development charges for any of these three land categories. The September

2012 order makes it clear that regularisation of a UAC partly or completely on government land (the 583 colonies) is contingent on payment of these ambiguously defined recovery charges.

The 2007 Revised Guidelines place the GNCTD in charge of collecting development charges and undertaking the work, but do not specify charges. Five years later, in September 2012, the Minister for Urban Development clarified that for the 583 colonies that stand on government land, residents will have to pay Rs. 200 per square metre as a development charge and an additional Rs. 575 per square metre for land recovery, plus other penalties. The 312 colonies on private land need pay only the development charge of Rs. 200 per square metre.<sup>34</sup>

In September 2012, the South Delhi Municipal Corporation passed a resolution waiving all the development charges required from these colonies.<sup>35</sup> The Corporation suggested that the GNCTD waive the recovery charges, as well. Although the orders say that the GNCTD will coordinate the agencies executing development works and the Municipal Corporation (now, three Municipal Corporations) will collect development charges, there is some confusion over which agency levies these fees and which collects them.

It is also unclear how many colonies have paid these charges to date. An August 2013 media report quoted the draft report of the Comptroller and Auditor General (CAG) on the 895 UACs “eligible for regularisation”—those widely reported as *regularised*—which claims that no development charges had been collected from these colonies.<sup>36</sup> Questions about these development charges remain unanswered: What consequences will individual plot-level payments (both recovery of cost of land and development charges) have at the settlement level for regularisation? What percentage of the total amount must be collected from individuals before a settlement qualifies to be regularised? Is a colony eligible for regularisation only when every plot owner or resident pays these charges?

## **Consequences of Regularisation**

Regularisation is expected to yield two benefits for UACs: one, development projects—funded by development charges—will be undertaken in the colony and, two, once the regularisation process re-designates land as residential, individual plot owners will receive clear title to their land.

The government *could* provide services without compelling UACs to complete the regularisation process, but often does not, citing regularisation as an obstacle to service provisioning.

## Development Projects

As we have seen, the process set out in the 2021 Master Plan mandates that regularisation precede delivery of improved physical and social infrastructure, and minimum services and community facilities.<sup>37</sup> However, other policy documents indicate that provision of services and infrastructure does not correlate with whether or not a UAC has been regularised. Indeed, the 2008 Regulations state that the “GNCTD may commence the development works and augmentation of infrastructure facilities in colonies soon after the receipt of layout plan if it is satisfied that the colonies or part thereof fulfil the general principles contained in the Revised Guidelines 2007.” In other words, the government *could* provide services without compelling UACs to complete the regularisation process, but often does not, citing regularisation as an obstacle to service provisioning.

On 1 September 2009, the Department of Urban Development of the GNCTD published an order outlining regulations for agencies executing development works in unauthorised colonies. This order stated that all development works require administrative approval from the Department of Urban Development. Subsequently, the Department began issuing administrative approvals for development work in unauthorised colonies that appeared on the list of 1639 applicant UACs in 2010 and 2011.<sup>38</sup>

The final clause of each of these approvals lists the types of unauthorised colonies where works “shall not be carried out”: colonies or parts of colonies that lie on government land, land originally part of Gaon Sabha (village commons),<sup>39</sup> notified or reserved forest area, Archaeological Survey of India (ASI) land, and those colonies or parts of colonies that “pose hindrances in the provision of infrastructure facilities”. Given that unauthorised colonies often sit on land falling into more than one of these categories, this clause leaves much to the discretion of the executing agency, effectively giving it the power to exclude nearly any colony from receiving development works. There also seems to be some contradiction inherent to these instructions. On the one hand, the order says, “priority of development works will be undertaken in colonies where no development work has been undertaken so far”, and on the other gives “priority to last mile expenditure that will help to complete the work”.<sup>40</sup> This is yet another example of the executive agency’s total dominion over allocating development works, unhindered by any due process.

On 7 February 2011, more than a year before the order that found 895 UACs “eligible for regularization”, the GNCTD wrote a letter addressed to the MCD, the Delhi Jal Board (DJB),<sup>41</sup> the Irrigation and Flood Department (I&FC)<sup>42</sup> of the GNCTD, and

Practice reveals that regularisation and improvement need not be consecutive: even though the regularisation process had not been completed, the state government had ordered infrastructure improvement

the Delhi State Industrial and Infrastructural Development Corporation Limited (DSIIDC).<sup>43</sup> The letter ordered that they begin development works in a “tentative list” of 733 unauthorised colonies that had been “found to be eligible for regularisation as per reports received from verifying agencies as on date”.<sup>44</sup> Once again, practice reveals that regularisation and improvement need not be consecutive: even though the regularisation process had not been completed, the state government had ordered infrastructure improvement.

There is little data available regarding the present status of these development works, although the website of the GNCTD does provide a summary of the works undertaken by various agencies in the 895 *regularised* UACs as of 31 March 2013.

An analysis of this data reveals the following:

- In 461 out of the 895 UACs, nearly 52 percent of the UACs, the GNCTD reports “work completed”.
- In 65 out of 895 UACs, about 7 percent, no executing agencies had been assigned to undertake development works.
- Out of 109 UACs where the executing agency was the PWD, 69 were reported to “not require works as per survey”. The PWD is the only agency that included such a remark in the data.
- Only in 4 UACs had work been reported to be “held up”; for 51 UACs, work had been “partially completed/ balance work [had] yet to be taken up”.
- “Work in progress” was reported in only 172 out of 895 UACs, a little over 19 percent.

The DSIIDC is the only executing agency that has released detailed data on roads and drains that have been built or are in progress in UACs.<sup>45</sup>

The definition of “work completed” remains uncertain. The only information on actual service delivery available from the GNCTD is that, as of 31 March 2013, “water has been released” in 606 of the 895 *regularised* UACs. It is unclear what exactly this means: that water pipelines have been laid, that water delivery has been sanctioned, or that supply has begun. This final possibility is unlikely.

Further, our interviews in A and B blocks of Sangam Vihar, which were among the 895 *regularised*, show that while the GNCTD data specified that “work was completed”, there is little change in service provisioning on the ground.

Evidence of the correlation between regularisation and development work is very weak. On 28 September 2013, the GNCTD released a list of 532 UACs for which “development work orders” had been issued.<sup>46</sup> Many of the UACs mentioned in this list were not included in the list of 895 *regularised* UACs.

The September 2009 order, which requested executing agencies to take up development works in colonies that were tentatively “eligible for regularisation”, also instructed “executing agencies” to furnish “progress reports and utilization certification to Urban Development Departments”. However, recent media reports<sup>47</sup> reveal that according to the CAG, basic services remain unavailable in unauthorised colonies, and details of development works were unavailable even to the CAG. One article cited the CAG as saying: “The government had released Rs. 631 crore<sup>48</sup> for development work between 2007 and 2012 to agencies and Rs. 542 crore were spent tentatively but one or the other basic services (mandatory for regularisation according to Supreme Court orders) like water, sanitation, drains and roads are unavailable”.<sup>49</sup> More recently, another news report cited a draft CAG report on the subject saying, “in the absence of utilization certificates and physical and financial status report ... the status of development work cannot be verified”.<sup>50</sup> The RWA president from A Block in Sangam Vihar, one of the 895 unauthorised colonies *regularised* in 2012, reported that no development works had taken place in the area since the September 2009 order.<sup>51</sup> On the other hand, roads and drains were constructed in October and November 2013 in C, I, and J blocks of Sangam Vihar, colonies that did not appear on the list of 895 UACs.<sup>52</sup>

We can safely conclude that the September 2012 regularisation order was not a prerequisite for the development works. Current publicly available data is not sufficient to confirm whether the order might still have helped to increase the speed and breadth of the work.

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## Clear Title

In order to transfer property in India, a legal instrument known as a deed of conveyance has to be executed between the person who owns the property and the person to whom it is being transferred. Deeds of conveyance can take different forms, including sale or gift deeds. All deeds of conveyance, however, must be registered under the Registration Act of 1908; to register a deed, clear title must first be established.

Given that unauthorised colonies exist in some contravention of the law, neither original residents nor residents who bought plots in these areas hold clear title to their land. As a result, land transfers have not been by way of registered deeds of conveyance. During our fieldwork, we found that the most popular method used by residents to transfer properties in unauthorised colonies (and in JJs) is a general power of attorney (GPA). Residents go to great lengths to secure GPAs.

Originally designed as an instrument through which an individual can give another the power to manage his or her affairs, the GPA has also been widely used by individuals with property of “imperfect title who cannot or do not want to execute registered deeds of conveyance”.<sup>53</sup> GPAs are also popular because they allow property buyers and sellers to avoid paying stamp duty and registration charges. In 2011, however, with an eye to these kind of property transactions, the Supreme Court clarified that the “power of attorney is not an instrument of transfer in regard to any right, title or interest in an immovable property”.<sup>54</sup> The judgment did allow for the registration of GPAs in the case of a developer agreement. While the GNCTD has issued circulars that might have had the effect of diluting this ban, the Supreme Court judgment stands as law.

The government has judged GPAs illegitimate, but has made no provision for residents in a regularised UAC to transfer land, a crucial step in any definition of regularisation. In the procedure detailed in the 2008 Regulations there is no mention of this stage; the process it outlines ends with settlement-wide regularisation and does not extend to the plot level. Although the application that a colony submits for regularisation requires a list of plots and plot owners, the 2008 Regulations do not require individual plot owners to submit documents to prove ownership or possession.

While the 2008 Regulations do not provide for this, circulars issued by the Delhi Government detail the process of registration of titles. As mentioned earlier, while 895 colonies were found “eligible for regularisation” in September 2012, only the 312 on private land were regularised and given recognition at the settlement level.

Out of the 895 colonies found “eligible for regularisation”—or regularised according to popular reports in September 2012—only the 312 on private land were truly regularised; only residents in some fraction of those 312 UACs—those on private land owned by private individuals—are able to register sale deeds and obtain clear title.

The latest GNCTD order on the subject of registration of titles, issued in March 2013,<sup>55</sup> classifies private land into four different categories:

- Category A: Private land owned by individuals
- Category B: Notified land for acquisition where no awards have been made by the collector resulting in a lapse of acquisition proceedings
- Category C: Land that has been notified for acquisition, the collector has been awarded the land, but possession has not been taken
- Category D: Land “vested with the Gaon Sabha” under the Delhi Land Reforms Act where physical possession remains with private owners<sup>56</sup>

The circular explains the various procedures through which individual plot owners can register instruments of sale and obtain clear title. However, it only allows for registration of deeds by individuals living on Category A lands; in every other category, this process is contingent on government action. In other words, in UACs on Category A land, private owners can register instruments of sale as per existing law, effectively realising the promise of regularisation. In categories B and C (lands under the process of acquisition), registration of sale deeds can commence only after the withdrawal of notification for acquisition. In Category D (Gaon Sabha lands), registration “will be allowed after required amendments in the revenue records as per law by the Revenue Department”.<sup>57</sup> These lands are commons of the village; converting them to property that can be registered in the name of private owners is bound to require a range of steps.

While the 312 UACs on private land were regularised at the settlement level, there is no information about which of these belong to these four categories. Only those in Category A are truly regularised, with residents able to register instruments of sale and obtain clear title to their land.

To summarise: out of the 895 colonies found “eligible for regularisation”—or regularised according to popular reports in September 2012—only the 312 on private land were truly regularised; only residents in some fraction of those 312 UACs—those on private land owned by private individuals—are able to register sale deeds and obtain clear title. In all other cases, further steps have to be taken by the government to enable individuals to register their property.

Realising the unencumbered right to register and consequently transfer property is both the most significant and final step for a UAC to be treated as a formal planned colony. To enable this step, the land needs to first be disentangled from other processes like acquisition. Given the level of government action required to accomplish this disentangling, moving property transactions in UACs from the quasi-legal to the fully legal is bound to be a long process.

## Conclusion

While the government has created a long, complex, and cumbersome process for regularisation, it has resulted in little.

*What did the September 2012 order on regularisation of unauthorised colonies actually translate to?*

What the previous Delhi Government vaunted as the “regularisation of colonies” amounts to a list of colonies that are eligible for regularisation. In effect, only 312 of the 895 UACs stood regularised as of the September 2012 order.

*Did this mean increased infrastructure and service provisioning?*

It is safe to say that the way the process has panned out, regularisation was not a necessary prerequisite for service provisioning.

*Did it result in residents getting clear title?*

Only residents in a fraction of the 312 colonies can register their sale deeds.

In the run-up to the December 2013 Delhi State Elections, the manifestos of the three major political parties—Aam Aadmi Party, Bharatiya Janata Party, and the Indian National Congress—promised regularisation of unauthorised colonies. Interviews with residents in blocks in Sangam Vihar, most of which are unauthorised colonies, show that many believe that regularisation has become merely an election gimmick undertaken with an eye on the vote bank of residents in unauthorised colonies. A member of the RWA of an unauthorised block at Sangam Vihar, which has applied for regularisation, expressed this perception prior to the December elections: “they [the government] have just made us a vote bank they can rely on. They are just saying all this about regularisation, but nothing will happen.”<sup>58</sup> In August 2013, alleging inaction on part of the

**W**hat is the concrete result of regularisation for an unauthorised colony?

GNCTD, the ex-Mayor of Delhi, said “Sheela [Dixit’s] government had given PRCs in 2008 and regularised colonies in 2012, but they have not been actually regularised. This government has cheated the people.”<sup>59</sup>

Most recent media reports indicate that the next Delhi Government will start the regularisation process afresh in 1639 unauthorised colonies.<sup>60</sup> Before doing so, this government has an opportunity to learn from the past experiences of the “regularisation” process.

First, the government must enact legislation to rationalise the process. To date, regularisation has been governed by a series of confusing, sometimes contradictory administrative orders. The Delhi Legislative Assembly has not made any effort to enact comprehensive legislation that explains a rationale for the process, defines eligibility criteria, and allocates responsibilities to government agencies. We know it is possible: the State of Maharashtra has enacted a progressive legislation<sup>61</sup> that both recognises that unauthorised colonies are a direct outcome of the failure of the state to provide housing and details a process for regularisation.

Second, the government needs to answer a core question: what is the concrete result of regularisation for an unauthorised colony? The answer seems fairly obvious: better service provisioning and secure land titles, bringing the UAC in line with settlements categorised as planned colonies.

Most importantly, if the government truly intends to create an inclusive city, it must examine its system of classification. The latest policy on categories of settlements and corresponding populations does not classify a regularised unauthorised colony as a planned colony; rather, the government has created a new category: “regularised unauthorised colonies”.<sup>62</sup> This situation moves residents from one marginal category to another, barring them from the full rights of a citizen in a planned section of the city. If regularisation does not allow a UAC to attain the status of a planned colony, what is its goal?

## Notes

1. Mentioned in the speech by Najeeb Jung, Lieutenant Governor of Delhi on 6 January 2014, quoted in 'Govt to take up regularisation of unauthorised colonies in city', the *Indian Express* (7 January 2014).
2. "... built on land not included in the development area in the plan or one built on land within the developmental area but not yet zoned for residential use." Gautam Bhan, 'Planned Illegalities: Housing and the 'Failure' of Planning in Delhi: 1947-2010', *Economic and Political Weekly* (15 June 2013).
3. Anna Zimmer, 'Enumerating the Semi-Visible: The Politics of Regularising Delhi's Unauthorised Colonies', *Economic and Political Weekly* (28 July 2012).
4. Gautam Bhan, 'Planned Illegalities: Housing and the 'Failure' of Planning in Delhi: 1947-2010', *Economic and Political Weekly* (15 June 2013).
5. Ibid.
6. Aman Sethi, 'The Delhi government begins another exercise to regularise unauthorised colonies, and questions are raised about its timing', *Frontline* (16 August 2008).
7. Italics are used to denote regularisation claimed by the government, as opposed to verifiable changes on the ground.
8. [http://delhi.gov.in/wps/wcm/connect/DOIT\\_UDD/urban+development/our+services/unauthorized+colonies+cells+%28uc%29/introduction](http://delhi.gov.in/wps/wcm/connect/DOIT_UDD/urban+development/our+services/unauthorized+colonies+cells+%28uc%29/introduction)
9. 1 lakh = 100,000
10. Public communications of the GNCTD prior to Delhi Elections 2013 and various media reports quoting the GNCTD.
11. Economic Survey of Delhi, 2008-2009, page 169, citing DUEIIP (Delhi Urban Environment and Infrastructure Improvement Project) 2021.
12. Amitabh Kundu, 'Politics and Economics of Land Policies: Delhi's New Master Plan', *Economic and Political Weekly* (23 August 2003); and Gautam Bhan, 'Planned Illegalities: Housing and the 'Failure' of Planning in Delhi: 1947-2010', *Economic and Political Weekly* (15 June 2013).
13. Gautam Bhan, 'Planned Illegalities: Housing and the 'Failure' of Planning in Delhi: 1947-2010', *Economic and Political Weekly* (15 June 2013).
14. See Subhadra Banda and Shahana Sheikh, 'The Case of Sonia Gandhi Camp: The Process of Eviction and Demolition in Delhi's Jhuggi Jhopri Clusters'. A report of the Cities of Delhi project, Centre for Policy Research, New Delhi (April 2014).
15. Ibid.
16. Rent-seeking usually takes the form of officials from the DDA and police demanding token money from residents merely because they are residing in an unauthorised colony.
17. DDA, "Master Plan of Delhi 2021," S.O no. 141 dated 7 February 2007.
18. The 2008 Regulations define an RWA as a society registered under The Societies Registration Act 1860, comprising members of the unauthorised colony/habitation which will be responsible for coordination, preparation of layout plans, and for liaison with the concerned agency in respect of various issues pertaining to the regularisation process.
19. The Board of Development is formed by the Chief Minister, the DJB, the MCD, and other key service-providing agencies.
20. Minutes of the meeting regarding regularisation of unauthorised colonies and finalisation of plan for the Special Area held at Raj Niwas on 3 May 2010.
21. Ibid.
22. Ibid.
23. Ibid.
24. Deadlines for submission of applications for regularisation on the four occasions as per the advertisements/public announcements were 15 December 2007, 25 March 2008, 15 December 2011, and 20 August 2013. List available at: <http://ud.delhigovt.nic.in/1639%20UC%20LIST.pdf>
25. List downloaded from: <http://ud.delhigovt.nic.in/1639%20UC%20LIST.pdf>
26. List downloaded from: [http://delhi.gov.in/wps/wcm/connect/DOIT\\_UDD/urban+development/unauthorised+colonies+under+the+jurisdiction+of+government+of+nct+of+delhi/prc+issued](http://delhi.gov.in/wps/wcm/connect/DOIT_UDD/urban+development/unauthorised+colonies+under+the+jurisdiction+of+government+of+nct+of+delhi/prc+issued)
27. These are listed under Clause 4 of the 2008 Regulations.
28. PRC for K Block, Sangam Vihar – seen on 9 May 2013.
29. Sangam Vihar is an area in southwest Delhi. It is the largest cluster of unauthorised colonies in Delhi; several blocks in Sangam Vihar are at different stages of the regularisation process.
30. The Indian National Congress is one of two major political parties.
31. The ex-president of the RWA for B Block, Sangam Vihar explained that "PRCs were distributed to about 1600 unauthorized colonies by the Delhi Government. But, the distribution of PRCs was just a way to get votes ... No funds for undertaking development works were given to us after giving us the PRC."
32. September 2012 order available at: [http://delhi.gov.in/DoIT/DOIT/DOIT\\_UDD/895uc/895uc1.pdf](http://delhi.gov.in/DoIT/DOIT/DOIT_UDD/895uc/895uc1.pdf)
33. 1218 - 895 = 323
34. Press Trust of India, 'Property sale in regularised colonies on pvt land within month', the *Indian Express* (6 September 2012).
35. Express News Service, 'Unauthorised colonies: Development charges for new colonies waived off', the *Indian Express* (11 September 2012).
36. Ambika Pandit, 'City colonies regularized only on paper: CAG report', the *Times of India* (11 August 2013).
37. DDA, "Master Plan of Delhi 2021," S.O no. 141 dated 7 February 2007.
38. Various administrative approvals are available at: [http://www.delhi.gov.in/wps/wcm/connect/doiit\\_udd/Urban+Development/Our+Services/Unauthorized+Colonies+Cells+\(UC\)/](http://www.delhi.gov.in/wps/wcm/connect/doiit_udd/Urban+Development/Our+Services/Unauthorized+Colonies+Cells+(UC)/)
39. "The common land of the village governed by DLR Act 1954 belonging to the gram sabha for common use by the villagers is known as Gaon Sabha Land. The custodian of the Gaon Sabha land is Block Development Officer of the district". (<http://dcsouth.delhigovt.nic.in/services.htm#GS>)

40. A GNCTD Order on 1 September 2009 listed the instructions that the executing agencies have to comply with regarding development works in unauthorised colonies.
41. The DJB was established in April 1998 and has the mandate of providing water and sewerage services in Delhi.
42. This department's mandate is to protect Delhi from floods, to monitor the flood situation in the river basin during floods, to provide drainage in Delhi through trunk storm water drains, and to provide irrigation facilities to cultivators in Delhi.
43. The DSIIDC was established in February 1971; since then it has projected, aided, counselled, assisted, financed, and promoted industrial and infrastructure development projects.
44. Downloaded from: <http://delhi.gov.in/wps/wcm/connect/e1d0df0046e8cadba7adff9611fe9500/revise+733.pdf?MOD=AJPERES&lmod=1266079612&CACHEID=e1d0df0046e8cad-ba7adff9611fe9500&lmod=1266079612&CACHEID=e1d0df0046e8cad-ba7adff9611fe9500>
45. Downloaded from <http://dsiicd.org/cms/node/73>
46. GNCTD Public Notice regarding 532 UACs where Development Works' Work Orders have been issued on 29 September 2013.
47. Ambika Pandit, 'City colonies regularized only on paper: CAG report', the *Times of India* (11 August 2013); and Naziya Alvi Rahman, 'Future uncertain for illegal colonies,' the *Times of India* (11 January 2014).
48. 1 crore = 10 million
49. Ambika Pandit, 'City colonies regularized only on paper: CAG report', the *Times of India* (11 August 2013).
50. Naziya Alvi Rahman, 'Future uncertain for illegal colonies,' the *Times of India* (11 January 2014).
51. Interview with RWA president, A Block, Sangam Vihar on 5 August 2013.
52. Field visits to C Block of Sangam Vihar on 24 November 2013, to I Block of Sangam Vihar on 21 November 2013, and to J Block of Sangam Vihar on 12 November 2013.
53. Suraj Lamps & Industries v. State Of Haryana (2012) 1 SCC 656 (<http://indiankanoon.org/doc/1565619/>)
54. Ibid.
55. Order No.F. 1-33/UC/UD/Policy/2007/2173-2189 dated 12 March 2013, which was superseded by another order, Order No. F. 1-33/UC/UD/Policy/2007/2809-2817 dated 11 June 2013.
56. Ibid.
57. Ibid.
58. Interview with an Office Bearer of the RWA from K Block, Sangam Vihar on 9 May 2013.
59. Arti Mehra, at BJP's Bijli Aandolan (Electricity Movement) at Ram Leela Ground, New Delhi on 11 August 2013.
60. Naziya Alvi Rahman, 'Future uncertain for illegal colonies,' the *Times of India* (11 January 2014).
61. Legislation titled, "Maharashtra Gunthewari Developments (Regularisation, Upgradation And Control) Act, 2001.
62. Economic Survey of Delhi, 2008-2009, page 169, citing DUEIIP-2021.