

# Séminaire Territoires et Informalité en Ville

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« The Illegal City : Space, law and Gender in Delhi's Slums »

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*Report*

Context:

Critical issues in the book, law in particular. Law is often neglected in urban studies. Cf. slums, urban settlements and informality. Informality often seen as outside of law: resistance, activism and absence of the State.

My research was funded in 2005 by the British Academy. At first I was interested in working on Women's organisations. Cf. crimes against women in the home. Wouldn't be heard when going to the police, etc. Only during the research I came amongst the role of law, around the time when it was announced that Delhi had won the bid for the 2010 Commonwealth Games.

Judicial rulings which started to spur the idea of law in the minds of the people.

Today: the illegal city. Illegal in a satirical sense. I wish to examine the connection between space, law and gender.

Supreme Court ruling in 2000: "*Establishment or creating of slums, it seems, appears to be good business and is well organised. The number of slums has multiplied in the last few years by geometrical proportion. Large areas of public land, in this way, are usurped for private use free of cost. ... The promise of free land, at the taxpayers cost, in place of a jhuggi, is a proposal which attracts more land grabbers. Rewarding an encroacher on public land with free alternate site is like giving a reward to a pickpocket.*" (Almitra Patel vs Union of India, 2000)

Connection between dirt of the city and slums. Before: right to livelihood and right to shelter. Here for the first times: slums were connected to sanitation problems. The government had to clear the slums. Spurred huge mass of demolitions in Delhi and India

⇒ exceptional powers of the judiciary.

Thus Derrida(1992: The 'interpretive force of law'): *droit* as performative violence which is neither just or unjust.... The correct interpretation of law is not justice. Law (*droit*) is in itself an authorising force which authorises violence. => violence of law.

Critical inquiry for me. Cultural violence, violence of the home, etc

*Pictures of demolition of squatter settlements*

State utilises law in its favour to legitimise the removal of "dirt" of city

Cf Benjamin: 2 kinds of violence of law: law-making violence (constitutions, statutes, policies, regulations, enacts cultural violence over population) vs law-preserving violence (cf demolition). Often legitimised as a ways to achieve justice. Authorised and used by the State to establish its rule over citizens, especially the marginalised.

Law preserving violence: threat is not a deterrent. This makes it all the more threatening, like fate (Benjamin, 1978, 285).

Transitional moment which brought about a range of politics. Variety of negotiations with the law.

All of this tells us the position of the State. There was no study of what people see of the law. That's what I started to think of.

Didn't have any kind of misconception of law. Law wasn't justice but a route through which legitimacy could be achieved in the city. Law wasn't always seen as violence.

Uncertainty regarding one's right to habitation is also a form of violence (Chatterji and Mehta, 2007)

How was law encountered in everyday life? What is justice?

Waiting for demolition: context of the squatter settlement.

It's a temporal space. Important to think of preparation of afterwards: cf politics becomes important.

Domesticity is a big part of this debate. Is a squatter home a legitimate form of domestic space?

State says no.

Point of view of squatters: how do they consider what is legitimate domesticity (espace domestique)?

Demolition (force of law): demolition of material home. Preparing themselves for a physical space that will not exist.

Gender politics: sustaining a different kind of home. 1) Moral sustenance of the home, family, kinship and extended family relationships. Family becomes part of resistance to the state and sustenance. 2) Cf

water and sanitation: very important aspect 3) Moral valorisation of what is a home

Main arguments:

- Legal constructions of the squatter home are inseparable from the question of how the gendered body is constructed and lived in everyday spaces of squatter settlements

- The violence of law shapes how claims to 'public' subjectivities of gender, class and caste are made during illegality, and consequently how gendered power is transformed within the 'private' spaces of home and family.

- As a violence of law takes away the possibility of a material home within the legal city, this produces particular aspirations for the sustenance and valorisation of a symbolic and moral home.

The informal and illegal city

Illegality. Studies often conflate informality and illegality. Cf Un Habitat, 2003.

Different types of settlements in Delhi.

JJ Clusters (squatter settlements); Slum Designated Areas (not always illegal); Unauthorised Colonies (cf on farm land); Regularized – unauthorized Colonies; Resettlement Colonies (not illegal); rural Villages; Urban Villages ; Planned Colonies (middle class). Any of the first could be slums. It is only the JJ Clusters that are really illegal.

Illegality per se is interesting. Moving on from informality to illegality.

Illegality mobilises engagements with a different set of encounters and negotiations with law, not only for the rights to inhabit the city, but also as defining aspirations for the 'legal' city.

- Working knowledge of law

- Differentiated citizenships

- Law as both a threat and resource.

With the State enforcing more the law and being more violent induced that conscience of legality.

Relationships between political power, national planning policies, urban development programmes, law enforcement agencies, middle class, judiciaries, and urban squatters.

1970s-80s: large programs of resettlements. People were moved to Resettlement colonies.

1990s: survey of what is going on in colonies (Ali, 1990): found slums within slums. Old resettlement colonies can also be called slums as they deteriorated.

Plus in them: clusters of informal settlements within the resettlement colonies: slums within slums. Why they have developed? State is not interested in that land. Place within resettlement prevents them from demolition but also against resettlement from the state (2 folded). But people who live in the slums in the slums see the resettlement colonies legal every day and they become an aspiration.

Spaces of exception

Master plan of Delhi, along with the Slum areas act and other acts, creates particular zones where informal settlements constitute spaces of exception. Exceptionality in ordinary life. It is made almost mundane. Imposed from top, from the State. As they have violated the master plan, they do not have rights.

Force of law without law.

Rule of law across public / private

Hindu law or sharia law

Paradox of 'emancipation of women'. Indian law supplants gender identity with religious identity in personal law, but it simultaneously attempts to protect women from the violence faced within patriarchal families.

Difference in the law between home and outside. In home: most important if you are Hindu or Muslim.

⇒ difference in the spaces of the city.

Squatter: women are seen as burden of the state.

3 different types of issues:

### 1. Contested spaces of gendered organisation

What goes on now within the slum?

How residents organize themselves, mimic the State in recent literature? Cf. negotiating context of informality and complete absence of law.

It is not that simple. Squatters are not homogenous nor united. So problem of seeing them as united.

Doesn't acknowledge the interesting politics games.

Cf contested spaces: it's a continuous contestation in the camp.

Continuous attempts to legitimize themselves:

- 1970s and 80s: Traditional Panchayat leaders – existing structures of power (cf political patronage)

- 1990s: women's collective – shadow state (feminist NGOs): gendered relationship to the slum (women collect water, they suffer without sanitation, etc ) Not just challenging patriarchy but also state authority (with sanitation)

- 2000s onwards: Residents' Welfare Association – 'Mimicry of Law' (Das 2004). Election within the camp through a proper election campaign. Videotaped the event. Police was there, etc audited. Still exists and sees itself as the democratic voice of the camp.

Between these 3 that the contestation takes place in the camp.

The Panchayat leaders are more symbolic now.

Different types of politics between the RWA and the Women's association (who do work behind the scene).

Problem: who has the voice, the authority, the legitimacy ?

Women had better knowledge of the basic workings of the law than those elected in the RWA. So when it came to deal with the law, more with the women's association.

## 2. Boundaries of water and sanitation

How the violence of law is embodied, material in everyday life.

Sovereignty over not only the body but also the most basic everyday activities. If you're illegal, not entitled to water and sanitation. It is embodied. Interpretive and maintaining violence of law ensures the presence of the state within the bodies of squatters.

Water pipes on the main roads: have to go out of the home to collect water. Public visibility of women's bodies. Have to negotiate with others in order to access water. How do we maintain purity within women's bodies. Cf Jostling with other bodies when accessing water. Compensation : cf covering the head, etc (photo of cittern lorry)

Young children too. Who are the people fetching the water when water tanks come? Usually children preferred. => question who is able to go, morally preferable, etc If you're waiting for water, you're not sending children, boys, to schools. => discussion about the future.

Forest behind the camp was an urban forest, part of a greenbelt that goes around South Delhi. Would go there to defecate. But also route to go to middle class colonies, where lots of them would work.

There was a petition in the court saying that squatter settlements residents had been defecating, lots of poaching, therefore residents should be banned from the forest. Therefore a wall should be built. Thus the defecating space disappears. Where do we go for toilets? was the question.

Building the wall was the question.

Problem of guilt and blame

State built some public toilets. Problem of willingness to pay to access them. Problem of opening hours and not enough and charge => not really used. Asking to pay for people who have to save for food. => "Look at government politics, how to kill the poor" (interview)

Problem of valorising willingness to pay discourse. Were against it. They considered they had a right to sanitation.

15 Aug (national independence day): move to break the wall by women. 6 women were jailed. Not backed by women's organisation. Problem of thinking of the state. If we go against the law, this is not the way. Problem of getting or not resettlement; ruining the relationships with the politicians, with the State.

Ladders are now used to go over the wall.

They felt it was a temporary situation. If you think it's temporal and that you have a future in a legal city afterwards, you act differently afterwards.

## 3. Legitimate Domesticities

-Complexities of how squatters actually relate to the law and urban development in registers of hope, cynicism, apprehension and moral appeals for inclusion into wider city.

-Affective justice as the only option to simultaneously reject both state rule of law and patriarchal authority within the home – dissent as affective, emotional and corporeal.

- the oppositional construction between home and a rule of law in everyday life provide ways to cope with the daily struggles of being illegal urban citizens and to conceive of alternative forms of belonging and legitimacy in the city.

Home: women's realm. Anxiety in the family and the patriarchal leaders: fear that women have to go out more. The more they leave, the more also they can be corrupted.

But: women are not safe in the home. Cf State can come and demolish it + promiscuity. Physical porosity of the home increases moral porosity of the home.

⇒ increase of corruption: rape, incest, extramarital affairs, etc Anxiety of the men of what happens when they are not there.

Threat of suicide by women as coping. Domestic violence is a crime. Criminal investigation if there's a death of a wife within the first 7 years of marriage. Men are taken into custody. It is therefore used as a threat by the women. They don't call the police (except rare cases thru the women's organisations). Police doesn't act.

Anxieties over bodily transgressions.

Problem of rapes in Delhi: serious concern. Cf. how can they be protected in the public realm. Yet in the private realm, if something happens, I (as a man) will be taken by the police. => anxieties.

Internalising pathologies of the single room. Problem of incest, rape, siblings enacting the intimacy of the parents. Notion of intimacy is an important aspect of arguing against the single room. Cf Victorian debates, development debates, etc

Connection family intimacy, family life and development of the nation.

'Moral rhetoric' of illegality and violence to claim entitlement from the State (Chatterjee).

Problems here are the same as the ones faced by the country (interview). Give us our entitlements.

Aspiring the legal city

Why do people aspire to be legal, legitimate?

Cf temporality that creates aspiration

Within this fetishisation of law => law becomes the only aspiration.

The legal city is the resettlement colony in this context. Even if it is a myth (won't be done as it was)

Concluding thoughts

Focussing on how marginalised social actors encounter law in everyday life highlights how law can be both a resource and threat – challenges the simplified binary differentiation between the state and subaltern citizen

Encounters with law shapes particular gendered politics and desire to become part of the legal' city-utopian project both by the state and citizens

Hegemonic mapping of the home which is seen to endure beyond its material annihilation. – future home as a material entitlement and a political response to marginalisation.

## Discussion

Stephanie TWL

How do the slum dwellers see the law production. Where do they see law coming from? How do they express it?

Remarks:

- can we speak of the law as one entity without differentiating? Cf Constitution: one of the most progressive in the world. D'où pb of taking Derrida into account.
- Distinction btwn legality and legitimacy. Right provides a bridge between both.

AD:

They divide the law and state amongst categories:

Politicians

Police

Municipality and municipal officers

Survey officers

They see them as having specific roles

Sometimes are useful sometimes not. Cf women's association with police. RWA with politicians, etc

Lot of contestation on what is the appropriate route.

Different perceptions of what is the law.

Constitution seen by the dwellers as the only fairness and the State seen as corrupting the Corruption.

They see as their access to rights.

⇒ Access to law is different as they differentiate law.

Law seen sometimes as route to legitimacy.

Danaé (p7):

Role of the NGOs: how is it perceived by the rest of the society, the people?

AD: separation. Many of the dwellers see the women's organisations as dealing only with women's issues... Complicated. Wider issue: most of the men think that those people are also making lots of money (cf ngos employing foot soldiers in the slum: train and pay the women to do it for them; creates a sense of exclusion amongst the others).

Armelle Choplin:

On legal city. Sotto

AD: haven't looked at these areas yet. Already research on it. Cf "myth" of resettlement. Schemes are not run as they were. Sq meterage of the plot reduced a lot. High rise buildings but nobody wants to live there. You can't expand a flat.

Now: tenure lease, not there own anymore, because of increased reselling. Much more controlled than it used to be in the 70s (freehold titles, etc). Can't transfer it or resell it anymore.

Marie Morelle:

- Slum landlords, links with political parties. Cf State and space of exception. If sovereignty is power to suspend the law, can we say that the State is the only actor who has the power to suspend the law?

- why not discuss Foucault and governmentality

AD: Foucault: because focusing so much on law use more Derida and Benjamin, whom I critique. Law is not a unified force when seen bottom up. Foucault 's governmentality important in this.

Slumlords: people who own several houses. Lord as such: didn't come across. Blurring btw political society and civil society.

### Further reading

1. Appadurai, A. 2001. Deep Democracy: Urban Governmentality and the Horizon of Politics. *Environment and Urbanization*, 13(2), 23–43.

2. Benjamin, W. 1978. Critique of Violence. In *Reflections: Essays, Aphorisms, Autobiographical Writings by W. Benjamin and P. Demetz*, New York: Schocken Books, 277–300.

3. Datta, A 2012. 'Introduction', in *The Illegal City: Space, Law and gender in a Delhi Squatter Settlement*, Farnham: Ashgate. ([http://www.ashgate.com/pdf/SamplePages/Illegal\\_City\\_Intro.pdf](http://www.ashgate.com/pdf/SamplePages/Illegal_City_Intro.pdf))

4. Holston, J. 2008. 'Chapter 6: Legalizing the Illegal' in *Insurgent Citizenship: Disjunctions of Democracy and modernity in Brazil*, Princeton: Princeton University Press, pp203-232.