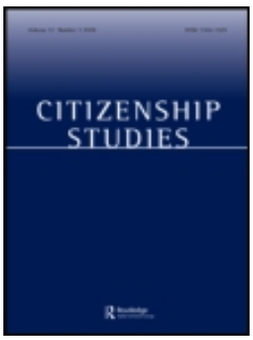

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State, citizenship, and the urban poor

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This paper examines the dynamic, moving relationship between three concepts – those of life, law, and exception. Following a brief exposition of these concepts, this paper provides an ethnography of struggles over housing waged by the urban poor in a squatter colony in Noida that adjoins the city of Delhi, India. I argue that each concept in this triad exerts force on the other and is the dynamic relation that creates the conditions of possibility for the emergence of claims over citizenship for the urban poor. In suggesting that citizenship is a claim rather than a status, which one either has or does not have, the article shows the precariousness as well as the promise for the poor of 'belonging' to a polity. Joining the discussion on the politics of life, the paper argues that the notion of life allows the mutual absorption of the natural and the social, and thus illuminates aspects of citizenship forged through the struggles waged by the poor for their needs. These are aspects of citizenship which remain obscure if we reduce democratic citizenship to the domain of rational deliberative processes alone.

Keywords: life; law; housing; poor; citizenship

How might one constitute the domain of politics in the lives of the poor? An obvious genealogy for tracing this question comes from Arendt (1977), Benjamin (1996) and Agamben (1998) and settles on what Fassin (2010) calls 'the politics of life'. For these authors, the life of the human is split into two domains – that of physical and biological life that man has in common with animals and that of political life that separates man from animals and gives him a unique place in the scheme of things. But does society offer the same possibilities for engaging in politics to all sections – what about women, the poor, or the dispossessed? Although there are important differences between authors, there is a general line of thought that postulates that the power of the exception invested in the sovereign can strip the lives of those living in abject conditions such as in Nazi camps or in refugee camps to 'bare life' that can be taken away by the mere will of the sovereign. In a related argument, it is asserted that the struggle for survival robs the poor to engage in any deliberative form of politics and instead reduces the realm of politics to a sentimental humanitarianism. Arendt, for instance, argues that the historical example of the French Revolution shows the limits of the participation of the poor in the processes of politics. She attributes the 'failure' of the French Revolution to the poor who came in their multitudes in the streets – not only making their plight public but also bringing the force of biological necessity into the realm of politics, and ultimately 'dooming' the Revolution itself. A second version of this story is that the leaders acted out of pity for the driven poor

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(mixed with rage over hypocritical institutions) but, nevertheless, doomed the revolution by reducing 'politics to nature' (Pitkin 1998, p. 231). For Arendt, issues pertaining to poverty belong not to the realm of politics but rather to the household or the administrative wings of government – when these issues enter the realm of politics, it ceases to be the free deliberation between equal citizens devoted to ensuring freedom.

Although Chatterjee (2004) does not take issue with Arendt directly, his intervention on the politics of the governed is an attempt to think of politics and citizenship through a different theoretical lens. Chatterjee makes a distinction between 'civil society' and 'political society' to gesture toward the fact that the politics of what he calls 'the governed' are honed from the ground and make use of whatever resources are available to the poor in order to secure goods necessary to preserve biological life. Yet what the poor engage in are politics and not simply appeals to pity or use of traditional patron–client relations. However, Chatterjee tends to work with binaries of those who govern and the governed, legal and illegal, governmentally produced population and moral community, civil society and political society – whereas my attempt is to show how these concepts bleed into each other and produce the capacity to make claims on the State as a way of claiming citizenship. I too, then, come back to the politics of life but rather than splitting life into the biological and the political, I argue that it is their mutual absorption that comes to inform the notion of rights in the sense of *haq*[1] (Cavell 1988, Das 1998, 2007, Fassin 2010).

Notions of law, life, and exception

There are three concepts that this article puts into a dynamic, moving relationship – those of life, law, and exception – I begin with a brief exposition of each concept and then argue through an ethnography of struggles over securing a dwelling among a group of urban poor in Noida (adjoining the city of Delhi, India), that it is the force that each of these concepts exerts on the other that come to define the conditions of possibility for the emergence of claims over citizenship for the urban poor. In suggesting that citizenship is a claim rather than a status, which one either has or does not have, I hope to show the precariousness as well as the promise for the poor of 'belonging' to a polity.

In a conceptual essay that appears in their influential edited book, *Law and everyday life,* Sarat and Kearns (1995) usefully summarize the various ways in which legal scholars have looked at the relation between law and society. They divide these scholars into two dominant traditions: first, those who work with an instrumental understanding of the law and second, those who think of law as constitutive of social relations. The authors argue that though both kinds of scholars are invested in understanding the relation between law and society, one puts the weight on law's capacity to regulate social relations (instrumentalist view), whereas the other is interested in tracking the traces left by law on social relations (constitutive view). As Sarat and Kearns point out, the instrumentalist view of law is interested in law's effectiveness – the extent to which law is observed or not. This has inevitably led to an emphasis on certain kinds of legal objects, viz. rules, while ignoring other objects such as the symbolic performances by which the majesty or distance of law from everyday life is represented. The instrumentalist view is committed to a strict division between legal rules on the one hand, and customs and habits on the other. Law is distinguished in this view from other rules and norms operative in society by virtue of the fact that the former derive their authority from the State while the source of the latter are smaller groups in a society. Law in this scenario is seen as a residual category whose role is episodic, artificial, and often disruptive.

On the constitutive side, law is not experienced as episodic or artificial – it is not simply a set of rules that impinge on us from the outside. Rather the most stunning example of law's constitutive power is to shape social relations in a way that its own traces are erased in the very process of creating persons as legal subjects. Social actors, in this view, internalize the images, meanings, and even artifacts of law such that they appear as normal and natural. I am interested in the manner in which the notion of rights is now evoked among the urban poor and that many think that the State has promised them certain rights and that they have the standing (*haq*) to claim these rights. But from where does the promise of the State to enhance life, as in quality of life or the good life, come from?

Foucault (2003) famously argued that the emergence of the biopolitical State in a long transformation from the eighteenth to nineteenth century marked a new understanding of the idea of life as it came to be seen as an entity to be managed by the State. Rabinow (2006) usefully summarizes the movement from biopower to biopolitics in Foucault as he shows how the two poles of biopower – that of the anatomo-politics of the human body and that of the regulatory controls over population – came to be conjoined in the nineteenth century. A politics of 'bio' emerged so that life as a political object was turned back against the controls exercised over it in the name of claims over right to life, to one's body and to health. Biopolitics as distinct from biopower, in this view, refers not only to the regulatory power of the State as reflected in law but must also include truth discourses and strategies of intervention on collective existence on the name of life and health; and finally modes of subjectivation by which individuals are made to work upon themselves in subtle ways that make such pursuits as the desirability of preserving health as part of the common sense of the time (see also Rabinow 1992, Cohen 2004, Rose 2007).

In this picture of life, law is explicit and visible as a mode of regulation in such acts as that of passing health legislation, but it can also be discerned through its faint traces in the practices of other institutions such as the clinic and the school. It is striking to me that the concept of life that is at play in these theories is unambiguously that of biological life. I am suggesting instead an idea of life as in 'forms of life' in which the social and the natural absorb each other – forms referring to the dimension of say, social conventions and institutions, and life to that which always inheres in forms even as it goes beyond them (Das 1998, 2007). Though we might recognize and name something as law when the context makes it stand out (e.g. in a court of law or in a legal document), we need to put that particular moment of recognition within the flux in which notions of life and notions of law unnoticeably and continually pass from one to another. This is the flux we might name as the everyday.

Till this point, my argument is that attention to everyday life (rather than life defined only as biological life) can help us to see that the boundaries between instrumental and constitutive views of the law – law as that which impinges from the outside and law that not only constitutes the social world by its power to name but also draws from everyday concepts embedded in life – are neither stable nor impermeable. Many scholars have drawn attention to the fact that legal norms exist within the wider fields of normativity that structures everyday relations (Unger 1986). Thus, for instance, ideas of legal obligation draw from our more diffused understandings of what it is to promise (Cavell 1979); the standards of reasonableness that courts apply depend upon everyday understandings of what is reasonable, what is normal, and what is excessive. I want to go further and argue that it is not only particular normative concepts, but also what is seen to constitute our understandings of life itself – life of the individual as lived in relation to others, life in a community – that informs the claims that people come to make on law. This is a conception of life, somewhat, different from biological life though it does not exclude biological life – rather it represents the manner in which the natural and the social mutually absorb each

other. As an example of such absorption, take Bynum's (1991) argument that what might appear to be 'bizarre' legal cases regarding the future preservation of bodies in courts of law, might be better understood if we relate them to medieval Judeo–Christian concerns on the consequences of mutilating bodies or mixing body parts in the light of the certainty of resurrection. I would add that this notion of resurrection belongs to a history of the 'natural' in that it speaks to the way that life, death, and resurrection are constituted as 'natural' events within a form of life that might have now disappeared. Practices of law are then not necessarily found in spaces, objects, and rules that can be identified unambiguously as belonging to the domain of law such as courtrooms and legal documents. Just as we might observe the force of the law in legal contracts, we might also track it in the everyday practices of promising – so we might see how the affective force that particular legal concepts acquire might be traced to the notion of life, not only as a social construct or an entity to be managed by the State, but also in the insistence by inhabitants living in illegal shanty settlements, that they have a moral standing to call upon the State.

I turn now to the third concept, that is the state of exception because it is here that the relation between life and law again stands out and becomes visible.

Exception

One of the most important theoreticians on the state of exception, Agamben (1998, 2005), argues that it is not only that sovereignty and exception are contiguous as established by Schmitt (2005), but also that this contiguity is essential for understanding the relation between law and life. As Agamben sees it, law deploys the notion of exception not simply as a matter of political expediency but as juridical figure as the means by which the living being as a legal subject is brought within the purview of law – both bound by the law and abandoned by it. In his earlier work on *homo sacer*, Agamben (1998) had taken the Roman figure of the man who could be killed but not sacrificed proposing that such a figure made it possible to judicially recreate life as 'bare life' – mere biological life from which all signs of the social relations had been stripped. The later book on state of exception allowed him to think of contemporary politics itself as a kind of necropolitics in which modern forms of sovereignty are about the taking of life without being held responsible for it. In this formulation, it is clear that law's relation to life is defined primarily by the capacity of the sovereign to take life arbitrarily – once the legal subject comes to be defined as *homo sacer* – his death can neither be assimilated to sacrificial death that would carry the potential to nourish the community nor can the sovereign be held responsible for such deaths because, as the one who is the source of law, the sovereign has the right to declare what constitutes an exception. I will not rehearse here the criticisms of the mode of reasoning or the expansion of the idea of *homo sacer* to cover the wide variety of situations that Agamben brings under its purview (from the father's right to kill his son to the mechanized killings of the Nazi camps). What interests me is that when life comes under the purview of law in this formulation of state of exception, it must do so after being stripped of its social dimensions, as 'bare life'. I concede that Agamben might be describing one face of sovereignty and that it provides a powerful way of thinking about some particularly grievous scenes of violence, though I regret the use of this trope for the widely dispersed examples he gives. Here, though, I want to draw attention to another way of thinking about states of emergency and the relation between law and life for its potential to make visible an alternative tradition of conceptualizing the notion of a rule and its suspension.

I have in mind the notion of *apaddharma* – or the rules to be followed in times of distress as propagated by the Hindu lawgiver Manu (Buhler 1886). I propose the idea of

apaddharma as an alternative theoretical formulation to that of Agamben, not as a culturalist argument to plead for the exceptionalism of India, though the issue of how certain figures of the past might continue to throw their shadow on the present even when the forms of life within which they were embedded have receded pose theoretical challenges of the sort that many anthropologists struggle with.[2]

As we know, Manu himself lived during times of *apad* or distress as foreign chiefs were establishing power over different regions in India when he formulated the laws by which everyday life was to be conducted.[3] The crucial question in the case of *apaddharma* is what kind of rule is to be followed during times of distress such as famine or war, in which normal rules have been suspended (Davis 2006). *Apad* also seems to refer to an infringement so grave that the social order is itself put into question, as are cases of the murder of a Brahmin or a man sleeping with his preceptor's wife. Thus, the issues on which Manu records how one is to deal with suspension of normal rules are varied but they seem to pertain to an imagination of what acts become permissible when biological life is threatened on the one hand, and, on the other hand, how the social order is to be restored when an act seriously violates the idea of *dharma*, not as caste-specific *rules* but as violating the sense of life itself. An example of the former is norms about foods which are permissible during famines, and that of the latter is the penance prescribed for major sins such as violating the bed of the *guru* (the spiritual preceptor).[4] Rules determining appropriate action during times of distress pertained primarily to the Brahmin and the king – the two central figures that Manu is interested in and there is no question that most of the accommodations he permits re-inscribe the power of these two figures. However, there are other concerns such as that of naming the new castes resulting from intermixture of established castes or determining what occupations might be pursued by various caste groups. The particular verse that I find quite compelling for our discussion on the general reflection on rules is verse 29, ch. XI. According to Buhler's (1886) translation, it reads as follows:

> By the Visve-devas, by the Sadhyas, and by the great sages of the Brahmana (caste), who were afraid of perishing in times of distress, a substitute was made of the (principal) rule.[5]

We can get a sense of what a substitute rule means from the sequence of penances prescribed for someone who has committed the terrible sin of sleeping with his preceptor's wife or has committed incest such as having intercourse with a sister. The sequence moves from the most severe penance leading to death of the offender to the less severe ones prescribing temporary exile to the forest. Although the general notion of *dharma* has received much attention in scholarly literature, the fact that the declaration of a rule is usually accompanied by a discussion of an alternative, or the importance of exceptions under which the rule could be set aside or substituted by another deserves more sustained discussion. The notion of a rule explicitly brought forth the notion of exception and formulation of a substitute as if following the rule and setting it aside were joined together in imagination. Far from the sovereign being, the one who could suspend the law through his power to declare an exception, the king himself was bound to use one of the substitute rules regarding his own conduct as well as his obligations to his subjects when times of distress made it impossible to follow the normal rules by which such obligations were to be fulfilled. In the process of my fieldwork, I would often find that if a rule was formulated – regardless of whether it was a priest or a local bureaucrat or a school principle pronouncing it – one common response of the person to whom the rule was to be applied was to ask how one might be freed from the orbit of that rule '*iska koi upay to batlaiye*'. Although we could literally translate this as 'please show me a way out', we would miss the point that an appeal is made to expert knowledge through which a substitute rule can be formulated. Thus, the issue that

seems philosophically important is to ask what it is to obey a rule and not simply, what is the content of the rule? Manu's passage that the gods themselves sanction such 'substitute rules' shows that states of emergency in which life of both the individual and the community is to be preserved allow a new set of rules to be formulated rather than a simple suspension of laws that would lead to a state in which one is reduced to 'bare life'. It is the way that notions of life and law move in and out of each other that forms the texture of moral claims.

Moral claims

Let me appeal to the most quotidian of examples to illustrate my point about citizenship as a moral claim that allows us to observe the traces of law in spaces that are not recognized as legal or juridical spaces. The inhabitants in the cluster of shanties in which I will describe are from the sprawling locality of NOIDA at the outskirts of Delhi. They are migrants from the States of Uttar Pradesh (UP) and Bihar who came in different waves in these areas as new economic opportunities became available. The name NOIDA is an abbreviated form of Naveen (New) Okhla Industrial Development Authority – it refers to a sprawling new township that traces its official birth to 17 April 1976 when it was set up as part of the National Capital Region during the National Emergency (1975–1976). The administration was later taken over by the UP Government as migration increased. According to the 2001 census, the present population of NOIDA is 290,000 and it is primarily composed of migrants from other cities as well as rural migrants. The official descriptions of the township boast of a high literacy rate (80%), as well as major educational institutions and a hospital in every residential sector. Yet nestling in-between these affluent zones are the clusters of *jhuggi-jhopdi* colonies some of whose residents have been living here for more than 40 years.[6]

As with many other squatter settlements, the rural poor who came here first as a trickle in late 1960s and then in waves since late 1970s started by putting up shanties on unoccupied government land. The local expressions for such acts are *jagah ghair lena* (to enclose a space) and the land itself is referred to as *kabze ki zameen* (land that was occupied). Although people did not have legal title to the land they occupied, mutual recognition within the community led to the notion that the land rightfully belongs to those who settled in the area, so that later migrants have to either buy or rent the space for putting up shanties.[7] In administrative terms, such colonies are described as 'unauthorized colonies' but are always engaged in getting a recognized status from the local government. The state of affairs from the point of view of the residents might be described as that of a temporary permanence because many residents have lived in these areas for close to 40 years now but are still engaged in struggles to get some assurance of permanence.[8] In her astute analysis of urban governance in Mumbai, Eckert (2006) calls attention to eclectic and pragmatic ways in which urban governance takes place and calls such form of governance, after Benda-Beckmann (1992), 'unnamed law.' She argues that these unnamed laws do not refer to the specific basis of legitimacy but are produced in the interactions 'within regimes of governance'. I feel that stepping outside the overdetermined dualism of law and custom is a brilliant move on the part of Eckert, though I hope to extend her argument by showing that underlying these interactions there are claims that derive from diffused notions about preserving life that bind residents and the State together. For the State, the recourse to juridical notions as embedded in such constitutional notions as right to life becomes necessary to justify its actions especially when it sets aside the letter of the law in favor of other notions derived from the imperative to preserve the life of the individuals and the community.

Although always vulnerable to vagaries of law and police action, the residents of the *jhuggi* settlement have acquired some legal protections. The decade of the 1980s saw

various court decisions that held that the Constitutional right to life was not limited to the right not to be deprived of life without due process – it included the obligation of the State to provide the means for pursuing livelihoods. In different class actions, the High Courts in Mumbai, Delhi, and Gujarat (among others) held that people who could show residence for a sufficiently long time in one place as pavement dwellers or as *jhuggi* dwellers could not be removed without provision of alternative housing. The law does not always speak with one voice – recently, the courts have hedged some of the earlier decisions with various qualifications. The Nawab Khan case adjudicated by the Supreme Court in 1997 clearly stated that the State had the constitutional duty to provide shelter in order to make the right to life meaningful.[9] In addition to court judgments, various administrative decisions regarding city planning also impinged on various localities in different ways in metropolitan areas. As Chatterji (2005) has noted, new administrative proclamations are simply added to earlier ones so that there is a maze of regulations, some of which might very well contradict each other. In NOIDA itself there have been whole clusters of shanties that have been demolished in the last 10 years or have been razed to the ground by unexplained fires. Escalating conflicts with property developers or 'law and order' problems resulting in interventions by the local police who decided to clean up a cluster of *jhuggi*s resulted in many residents of such clusters having to flee to other places in the late 1990s. There are other cases, however, in which the *jhuggi* dwellers have been able to keep a tenuous hold over their dwellings. It is only by paying close attention to the manner in which the 'big' and 'small' processes are increasingly enmeshed that we can find a way into understanding some of the issues under discussion. Although once it was considered axiomatic that demands of theory required one to extract oneself from irregular details encountered at the so-called micro levels and to view vast landscapes panoramically, new forms of theorizing have vastly complicated our understanding of scale.[10]

In the cluster of about 350 *jhuggi*s in the area that is under consideration, here it was the negotiating skill of the local Pradhan (caste leader) that helped in keeping local conflicts at bay and ensuring that residents could evade eviction or demolition of their *jhuggi*s. The situation changed considerably after the death of this Pradhan in 2006, both due to changes in State level politics and because of a proliferation of new leaders in the locality. I will try to show that the strategies that the Pradhan used in collaboration with others, the alliances he built and the particular vocabulary he used in describing these maneuvers help us to understand not only how precarious the everyday life of *jhuggi* dwellers is, but also how everyday life itself provides the ground on which citizenship claims can be addressed to the law. At the same time, the forces unleashed after the death of the Pradhan are evidence of the fragility of the strategies that are available to the poor and that might easily flip to reveal how contingent claims to success in this kind of local environment are. At one level, this story is indeed evidence of what De Certeau (1984) and Scott (1985) see as the predominant feature of everyday life – viz. that it retraces the very marks left by the power of institutions in the mode of tactical resistance. There is, however, more to the story as law and administrative procedures themselves come to make slow shifts in the face of some commitment to respond to the needs to preserve life – both biological life and the life of the community. Yet, the commitment is always precarious. Let us return to the story of the Pradhan, Nathu Ram.[11]

The local tangle of conflicts

Nathu Ram rose to a position of power in the locality some time in the mid-1970s due to his ability, he said, to deal with outsiders, especially the agents of the State such as policemen.

In this aspect, he was somewhat like the big men first made famous by Godelier and Strathern (1991) because he did not represent traditional authority having displaced the earlier caste Pradhan who was not able to deal with outside authorities. Though not the traditional caste Pradhan, Nathu Ram did use his dense kinship connections in the area to build support. He counted eight families of close relatives who lived within the same cluster of *jhuggi*s, whereas other more distant relatives had been encouraged by him to come and settle in an adjacent park on *kabza* land as his power grew.

Fast forward to 1980s when the residents of the area were embroiled in conflict with the neighboring Gujjar community, who were the original residents of the area before it was claimed for industrial development.[12] For the Gujjars whose fortunes over the years have changed radically as they too have taken advantage of the growth of industry in this area, the presence of a lower caste cluster of *jhuggi*s in the neighborhood was seen as threatening to their economic dominance and would, they feared, 'corrupt' their young people.[13] Nathu Ram explained to me that most men in the *jhuggi*s were performing the tasks of sweepers or working as load carriers for the local factories that were coming up since the late 1970s. These were not jobs that the Gujjars would have performed, but as long-time settlers in this area they did not want new settlements to come up. The Gujjars had clout with the police so the police was all set to demolish their *jhuggi*s. In Nathu Ram's words, 'the bulldozers were literally on our threshold.'

'Someone' advised Nathu Ram that he should try to get a court order to stall the demolitions. The lack of specificity in Nathu Ram's account of who that someone was, or how he came to know him, is a typical feature of narratives among the urban poor I have encountered and indexes the fact of diffused forms of knowledge over which no one ever has full control but which, like a gambler's luck, can pay dividends. Having gathered this bit of advice, Nathu Ram decided to go to the High Court in the city of Allahabad, though he did not know anyone there. In his own account, he would go to the High Court with a bag of roasted chick peas and sit on the stairs munching the chickpeas (*chana*) hoping that someone would take notice of him. I should note that such a strategy for getting the attention of State officials, of doctors, of teachers, though not routine, is not uncommon.[14] As luck would have it, an activist lawyer saw him sitting there every day and asked him what he wanted. Nathu Ram explained his predicament and the lawyer agreed to file a petition for a stay order on the ground that the residents belonging to the scheduled caste category were economically poor, and hence should not be deprived of their homes and their means of livelihood.[15] The lawyer, however, insisted that the *jhuggi* dwellers legally register themselves as a Society under the UP Registration of Societies Act. The *jhuggi* residents thus acquired the legal status of a Registered Society calling themselves the Harijan Workers Society for Social Struggle (Harijan Mazdur Sangharsh Sabha).[16] They were successful in obtaining a stay order from the court and used it in bargaining with the police. Simultaneously, they tried to pursue the demand for alternative accommodations with various political parties, especially during elections, organizing public meetings, holding demonstrations, and submitting petitions to various political leaders. Despite promises made every 5 years during elections, nothing concrete has resulted from these endeavors. After Nathu Ram's death, a variety of new leaders emerged, some from his own kinship group and others from different regional identities (e.g. a migrant from Bihar and another from Madhya Pradesh who do not even live in this cluster). One can see that the intensity of party politics at the State level is now reflected in the locality. Local chapters of major regional parties – the Bahujan Samaj Party which explicitly identifies itself with the cause of the Dalits (an appellation that till recently the residents actively rejected in favor of the State defined category of Scheduled Caste), the Lok Dal that seeks

to represent middle castes known such as the Jats, and Samajwadi Party which was dominant till 2007 but whose fortunes are on the decline.

It would be evident from the above description that the matter of securing rights over their residence did not end for the *jhuggi* dwellers with obtaining the stay order. It is true that this protected them from demolition but it did not ensure that they be provided alternative plots of land with permanent rights, which is their goal. Rather, the *jhuggi* dwellers have continued to find a variety of ways in which they can deepen their claims over housing. Just as the *jhuggi*s are built incrementally – you first occupy a bit of land, you then put up thatched mud walls and a tin roof, and then as more money comes in to the house and the family grows, you put up one cement wall, or you put a door or build a room on the roof – similarly, you try to build credentials for rights incrementally. The legal notion that you either have rights or you do not would make no sense within these strategies of creating rights. As many people here say, you try first to get one foot in the obscure realms of the government, then the whole body can be inserted referring to the popular folktale in which a camel manages to displace the tent owner by incrementally occupying the tent. One way to track this phenomenon of creating incremental rights is to think of what dwelling as distinct from building entails in ethnographic terms. Perhaps we can shift our gaze from rules and regulations to actual material objects such as electricity meters, water taps, and ration cards that become material embodiments of the rights to dwelling. Let me take up each of these objects in turn.

The agency of objects

As an unauthorized colony, the *jhuggi* cluster cannot claim either electricity or drinking water as a matter of civic rights. However, two opposite considerations have led the water board and electricity board to grant some *de facto* rights to the residents in this regard. As far as the water board is concerned, the residents still do not have running water but because of the fear of cholera epidemic that plagues Delhi and its adjoining areas every summer, there is a communal tap that gets potable water. In the height of summer when water supplies dwindle all over the city, residents are supplied water through tanks – the Pradhan claimed that this was a result of his political connections. This solved the problem of drinking water somewhat but did not create any documents such as water bills that could be used as proof of residence.

The story of electricity is quite different. Unlike water, which can be treated as a public good because of health externalities, electricity is not considered a public good. As an unauthorized colony, the residents do not have any claims over electricity. Nevertheless, all households use electricity. I cannot put precise dates on when houses began to get electricity, but the sequence of events is quite clear. Initially, some people began to draw electricity from the street pole but no one remembers who were the first households to do so.[17] During the precarious period of 1985–1986 that I described earlier, the Pradhan had suggested that if the residents were to apply for regular electricity connection and get electric meters installed, it could become proof of residence. At the same time, various government agencies were propagating a drive to get people to pay for the water and the electricity that they used. Thus, some houses were able to get electricity meters installed and could show one the bills they had accumulated. Other households hesitated because of the costs. As a result, the households are varied in the sources of electricity they use. Although most households continue to draw electricity from the electric poles in the street, a few others receive electricity legally and pay for it. Since 2005 many households that use electricity, have acquired TV sets or coolers for the summer, they have accumulated large

amounts in unpaid bills. Even in 2005, there was anxiety expressed by the Pradhan that several people had not paid their electric bills and that this might provide an excuse to the police to enter the settlement and that might upset the fragile balance that had been reached between the police and the residents to leave them alone.

Important as electricity and water are, perhaps the most important document for the poor is the ration card because it not only enables them to get various food items at subsidized rates but also serves as an identity card for purposes of being able to claim entitlements over various government schemes for welfare. The ration cards are color-coded. Red cards are issued to those who are below the poverty line, whose per capita income is less than one dollar a day. Next in importance, yellow cards are given to those who are defined as vulnerable groups but are not below the poverty line. They are entitled to subsidized food items but at higher rates, whereas all other citizens can get white ration cards that entitle them to buy food items from designated ration shops at prices fixed by the government. The most important function of ration cards though is that they function as identity cards and have to be shown for anything from getting a child admission in a neighborhood school to establishing proof of residence.

The government undertakes periodic drives to verify the ration cards of all recipients in order to update the statistics on people living below the poverty line. A survey was to be conducted in 2004 in the area and the Pradhan persuaded everyone to contribute money toward regularizing ration cards of all families. He is said to have arrived at an 'arrangement' with the local municipal office (probably a euphemism for a bribe) by which all earlier ration cards including any forgeries were to be returned and fresh cards were issued. He thought he would be able to get everyone a ration card that was of the appropriate color, but due to some confusion people ended up with either yellow or white cards. When I examined the cards I found to my surprise that the date of issue was stamped at the bottom of the card next to name and photograph of the person, the text in Hindi says: 'This is not recognized as a ration card – *yeh rashan card ke rupa mein manya nahin hai*.' Instead, it is a document that establishes a right (*pradhikaran patra*). What is more, the card also states that the period of validity of the card is three months – yet the record of transactions stamped on the card shows that people have been using it since 2004. Here is then an interesting paradox. The *jhuggi*s are built on land that was 'occupied' as the term *kabza* states – yet this term comes to have legal recognition. Furthermore, ration cards are issued that recognize the *jhuggi* dwellers as legal subjects while also undoing the claims of State as being the upholder of law because it issues a document which is ambiguous in terms of its legal validity.

How is one to understand the fact that the State undoes its own legal standing in the most quotidian of manners? I claim that in setting aside the letter of the law in favor of a commitment to preserve life, the State is claiming its legitimacy (cf. Fassin 2009) by recourse to its ability to declare exceptions. Yet there is a different notion of life that is operative here than what we find in Foucault or Agamben's idea of biopower and bare life, respectively, as I argued earlier. 'Life' in this context is not only that which is managed by the State: for, in that case, people in categories of illegal residents or migrants would simply fall on the side of 'letting die' in Foucault's (1980) terms. Nor do they fall into the category of those who represent bare life that can be taken at will – the idea of biological life is involved but not to the complete exclusion of other aspects such as the recognition that life can only be lived in a community, as witnessed in the administrative actions to give the entire community ration cards, or access to potable water.

In Indian bureaucratic parlance, the kind of documents that are given for short durations are known as 'emergency measures' – this applies to passports and other

temporary documents to establish rights of one kind or another for limited periods of time. But what is the notion of an emergency that is at play here? I have listened to the transcripts of the Pradhan Nathu Ram of my free flowing interviews with him several times and also studied the notes of various casual meetings with particular attention to the vocabulary he used. On one side, his language was replete with words that were like tracks left by his interactions with various State institutions that show how law impinged into the lives of the residents. Thus, there are police, court, judge, police-station, *hawaldar*, officer, bull-dozer, Harijan society, registration (*panjikaran*), and verification (*satyapan*). Along with these terms though, there are others that have both legal and ritual meanings. Thus *peshi* refers to both the State of possession by a hostile spirit and being summoned in court or in the office of a bureaucrat; *sunvai* pertains to a hearing in courts as well as the ritual of exorcism. In addition, such expressions as '*kuch khilana pada*' (something had to be fed) are used as an expression for bribes to officers as well as hostile spirits; *zuban pe koi hasti aa gayi* – a being came over my tongue – refers to how one might have become eloquent in court or in the presence of an officer overcoming the normal nervousness when confronted with the law as well as ritual speech under possession.[18] Such mutual contamination of ritual and legal vocabulary tends to show that the manner in which one becomes a legal subject is never on the precise picture of how law imagines the making of such subjects. Such subject positions are sometimes haunted, sometimes animated by one's place within forms of life that certainly go deeper than either the instrumentalist or constitutive views of law suggest.

I am not making the case that law's enormous coercive powers are completely tamed by other competing notions drawn from the flow of life – but I am suggesting that if we are to look at the everyday as the site on which we can track the movements of the State, performance of citizenship, and constitutive powers of law, then the everyday cannot be treated as simply the secure site of routines and habits as Marcus (1995) suggests; rather it is the space on which we can see how underlying these routines and habits there is a struggle to bring about a newness in which we can track the working of the law for better and for worse. If the story till now has tended toward a limited success, let me now turn to the perils that the NOIDA residents have faced since the death of the Pradhan.

Let me give a brief account of events in the last four years since the death of the Pradhan though I reserve a more detailed discussion of the sprawling networks of people and affects for another occasion. New forms of politics have come to be inserted within the structure of anticipation that was created as the people here began to expect that they would eventually succeed in not only saving their places of residence from demolition but will also be able to secure better housing from the State. After Nathu Ram's death, one of his nephews claimed the leadership of the Welfare Association he had founded but despite the stay order obtained from the court, the promise of better housing was still unrealized. Meanwhile the nephew's political career was cut short because of a criminal complaint filed against him by a rival group resulting in him fleeing the area to avoid arrest. In the last few years, the politics around housing became a major issue in State level politics marked by bitter rivalries between the Samajwadi Party of Mulayam Singh Yadav and the Bahujan Samaj Party of Mayawati. It might be recalled that the Pradhans of different settlements in NOIDA had begun to organize themselves in Nathu Ram's time by holding joint meetings and trying to negotiate the issue of alternative allotment of housing with various political parties, especially at the time of elections. By the time the State level Assembly Elections of 2007 took place, the number of registered societies each claiming to represent the residents of various shanty settlements in Noida had risen to 23, each with alliance to local factions of different political parties.

The registered society formed by Nathu Singh (Harijan Workers Society for Social Struggle) had become defunct in 2001 having failed to meet certain procedural requirements. Nathu Ram's nephew (the one who was to abscond later) had helped in registering it under another name – Jhuggi Jhopdi Welfare Association in 2001 and in 2006 its membership was renewed by the nephew's son (Vinod) who had now risen to position of some power. Under the auspices of this society, there was a writ petition filed in court submitting the names of 1440 *jhuggi* households as eligible for the allotment of alternative housing. The High Court found merit in the petition and ordered the NOIDA administration to provide alternative accommodations to these households on the payment of Rs 62,000, to be paid on monthly installments of Rs 120 per household. The lawyers of the Society contested this decision on the grounds that as a Welfare State, India could not charge such exorbitant sums from the poor. There were other petitions filed on behalf of other registered Societies claiming that their members had been left out of the list of those entitled to receive alternative housing.

The situation, which continues to be in a flux, might be summarized as follows. The High Court instructed the NOIDA authority to conduct an authoritative survey to submit a final list of *jhuggi* dwellers in all sectors of NOIDA with a view in providing them with alternative housing. Various registered societies sprung up and started to conduct their own surveys, often charging residents anything from Rs. 500 to 3000 as a condition of their names being included in the authoritative list. After the electoral victory of Bahujan Samaj Party in the Assembly Elections of 2007, the Dalit leader Mayawati was sworn in as chief minister of the State. Although there was great hope that as a Dalit she would expedite the allotment of houses to the *jhuggi* dwellers who are predominantly from her own caste, what has happened is that *more surveys have been ordered*; several registered societies have spawned as some have been derecognized as illegitimate by the administration; and residents of the cluster of households where I have been working have become so enraged by the various brokers who have emerged that they have held demonstrations against these brokers at the office of the NOIDA authority! As one resident of the area summarized the situation to me:

> Every year we wait that Mayawati will make an announcement on her birthday in January to the effect that we have been given rights over our *jhuggi*s or that all *jhuggi* dwellers have been given alternate plots. All that happens is that new surveys are announced, new documents have to be produced – the number of those who claim rights over *jhuggi*s has gone up from 1440 to 10,000 and will keep going up. Meanwhile nothing is going to happen.

Nevertheless, I sense a cautious optimism in the simple fact that septic tanks are being installed by a number of households agreeing to make a collective arrangement; a new floor is added here though precariously perched on the unstable foundation of the house; and walls are whitewashed.

Concluding observations

In following the struggles over housing among the poor I hope to have shown that claims to citizenship are crafted not through or only through formal legal procedures. Instead, it is the actual labor put in by residents of such marginal places as the *jhuggi-jhopdi* settlements, a labor of learning how to deal with legal spaces of courts and police precincts as well the labor in securing objects on whose agency they can call on to establish incremental citizenship that creates new forms in which citizenship can be actualized. One cannot but be moved by the manner in which an underlying allegiance to the idea of preserving life both at the level of the individual and that of the community comes to be expressed in the moments when the State is able to put aside its function to punish infringements of law – thus

allowing claims of life to trump claims of law. It is also the case that new forms of politics open up the space for continuous surveillance through governmental tactics such as surveys or renewed procedures of verification of documents, though on a model that is almost a parody of Foucault's model of surveillance because what it generates is the emergence of new forms of brokerage that drain people of their meager resources. The very instruments of surveillance such as surveys and verification of documents provide an opportunity for brokers to emerge from within the community and become a new face of the State. Instead of a panoramic view of State and citizenship through the Hegelian lens of civil society or the Habermasian notion of public sphere,[19] the attention to the minutiae of everyday life allows us to bring into view the complex agencies at play here in the claim to citizenship.

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Notes

1. I arrive at this constellation of meanings of the term *haq* not by following its dictionary meanings according to which *haq* (a term found in Arabic, Persian, Hebrew, and Urdu) means both justice and truth but through following its everyday use. Although I cannot elaborate on the ethnography of its use here for reasons of space, the term was evoked primarily in the sense of 'standing' as in having the standing to both give and receive. Thus, for instance, an elder sister might insist that she had acquired the *haq* to give gifts to a brother on his marriage whereas parents might insist that a girl only has the *haq* to receive from her natal family – never to give. On the other hand such statements as 'I am only asking for my *haq*' evoke the notion of justice while a police officer asking for bribe by saying that he is demanding his *haq* is extending the idea of standing and not of justice. My argument in this article, however, rests less on expanding on the discursive contexts of the term and more on showing the complex field of legal and political action through which notions of citizenship were actualized.
2. To take but one compelling example. '. . . while I complain of being able to glimpse no more than the shadow of the past, I may be insensitive to reality as it is taking shape at this very moment . . . ' (Lèvi-Strauss 1974, p. 43).
3. The other source for understanding the nature of the rule is the corpus of texts on sacrifice because a major concern there is the interpretation of Vedic injunctions. The rules of interpretation formulated in these texts are also used to interpret legal rules.
4. As this form of sexual transgression is considered as grave as an incestuous relation with the mother even though the preceptor's wife is not the biological mother but the wife of the person who fathers you into your place in the world, it nicely captures the notion of life as absorbing both, the social and the natural and thus going beyond each in itself.
5. The Sanskrit term that Buhler translates as substitute is *pratinidhi* that could also be translated as 'representative' – thus, the performance of an abbreviated ritual can 'represent' the more elaborate ritual.
6. The term *jhuggi-jhopdi* colony is an administrative term referring to shanties located over land that has been occupied and over which no formal rights exist.
7. I want to emphasize that local histories of neighborhoods in Delhi are varied. Some neighborhoods came up because people were allocated land in exchange for participation in various government schemes. The most notorious example was that of allocation of house plots in the beautification cum sterilization drive during the national Emergency of 1976 in Delhi. See Tarlo (2003).

8. In the case of Mumbai, the drive to clean slums, especially Dharavi, has led to fascinating local level movements supported by NGOs, international donors, and even state bureaucracies pressing for creation of permanent rights over land to slum dwellers. In part this was due to the increasing value of land and the desire to convert occupied land parcels into commodities that would be securely transacted. However, market considerations are not the only ones that have led to struggles over housing for the poor. See Appadurai (2001) and Chatterji (2005).
9. Important legal cases with regard to the right to be provided alternative housing if one can show continuous dwelling by pavement dwellers and other vulnerable groups are the following: Olga Tellis vs. Bombay Municipal Corporation 1985 (3) SSC 545 adjudicated in the Bombay High Court and then went up to the Supreme Court in which Justice Chandrachud held that the destruction of a dwelling house is the destruction of all that one holds dear in life. Thus, the Court while upholding the Bombay Municipal Corporation's act of clearing pavements of illegal occupiers, nevertheless held that they could only be evicted after they had been provided with alternative housing. This judgment was expanded in the 1990s in the Chameli Singh vs. State of UP and Ahmedabad Municipal Corporation vs. Nawab Khan Gulab Khan. See the excellent summary of the cases by Kothari (2002).
10. This is an important methodological point that I simply wish to flag here to block off the criticism that such examples of community level politics do not help in telling the large story and also to argue that spatial notions of State create the impression of the State as a container within which smaller communities are enclosed. Instead, my argument is that the presence of the State is also discerned in the imminence of the texture of relations. See Thrift (1999), Das (2007), and for classic formulation on the significance of the so-called small things see Tarde (1999).
11. All names are pseudonyms.
12. Though classified as a 'backward' community now belonging to the administrative category of 'Other Backward Castes', historians identify several past kingdoms as Gujjar or Gurjara in origin.
13. Observations based on interview with a local Gujjar leader in 2002 and frequent interactions with another upper caste medical practitioner who does not have a formal degree in medicine but wields considerable influence due to his ability to give high risk, high interest loans to the *jhuggi* dwellers.
14. I think that this form of supplication draws from the implicit idea of patron–client relations, which otherwise the migrant lower castes are vociferous in rejecting.
15. As I noted earlier, the 1980s was a period of some landmark cases in which rights of pavement dwellers and hawkers to their place of habitation, even if illegally occupied, were strongly protected by various High Courts of the country.
16. The name of the society bears trace of the intervention of the upper caste lawyer who might have suggested the name. *Harijan* was the term Gandhi used for untouchables but later *dalit* leaders rejected this appellation. Of the 23 or so registered societies that are now active in the local politics of the area, none uses caste terms – preferring such titles as Jhuggi-Jhopdi Welfare Association, Society for Worker's Struggle, etc.
17. It is important to mention that electricity has not been privatized in UP – thus, the *jhuggi* dwellers interact with government officials over electricity claims and not with private companies. However, private arrangements such as getting lines from street poles by paying a 'regular fee' to the local official or sharing the electricity provided to a neighbor are common.
18. For a more detailed discussion of the use of such ritual cum legal vocabulary in exorcism rituals, see Das (2008).
19. See, for instance, Bhargava and Reifeld (2005) for a variety of ways in which citizenship comes to be discussed through these overarching concepts, which, however, leave the lives of the poor outside the purview of these discussions.

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