

The post-2005 period has seen in India intensive discussions on the alternative approaches to addressing issues of slums and affordable housing. Discussions have involved a cross-section of experts including members of the bar, representatives of the government at various levels, private sector, and civil society. At least two major policy announcements have been made by the government on this subject. In November, 2011, the Ministry of Housing and Urban Poverty Alleviation, Government of India put out a draft model Property Rights to Slum Dwellers Act for consultation. This presentation attempts to capture the relevant propositions advanced in the discussions and the draft model Act.

CONTENTS

Slum Clearance to Property Rights: What does it entail?

Slum-Free Cities: Legislative Imperatives

Alternative Approaches to Slum Free Cities: The 12th Five Year Plan

Will the Proposed Framework deliver Slum-Free Cities: The Connects and Disconnects

SLUM CLEARANCE TO PROPERTY RIGHTS: WHAT DOES IT ENTAIL?

The proposed draft model Property Rights to Slum Dwellers Act, 2011 is the first federal government initiative, since the enactment of the Slum Areas (Improvement and Clearance) Act, 1956 that deals with slums in a legislative framework.

Moving from Slum Areas (Improvement and Clearance) Act, 1956 to the proposed draft model Property Rights to Slum Dwellers Act, 2011 represents, as many public policy analysts contend, a major paradigm shift in India's approach to and thinking on "slums" and "urban poverty".

They also contend that the proposed model Act is a major step towards providing a *de jure* cover to tenurial security and universalisation of basic services, the two ingredients of slum upgrading strategy under the JNNURM.



There are five major ingredients of the draft model Property Rights to Slum Dwellers Act:

1.To facilitate inclusive growth and slum-free cities

2.To provide assured security of tenure, basic amenities and affordable housing for slum dwellers;

3.To assign a “legal document of entitlement” to every landless person in a slum area entitled to a dwelling space;

4.To give mortgageable rights to allottees of dwelling space; however, tradeability of dwelling space limited to the Government or the slum collectives; and

5. To provide compensation for acquisition of land, wherever necessary, in the form of concessional building rights in lieu of land foregone or monetary compensation.

The issue is:

Will the proposed Property Rights Act deliver slum free cities? Are the provisions in the proposed Act adequate? Does the proposed draft Act take into account the range of discussions that have been held in recent years to address the issue of slums?

SLUM-FREE CITIES: LEGISLATIVE IMPERATIVES

Guiding Policy

Slum improvement and upgrading is a necessary condition for slum-free cities; however, it is not a sufficient condition; Several complementary steps to accompany this policy.

Complements to Slum Improvement and Upgrading

- Bring in additional lands for urban usage on a **continual basis**
- Revise upwards the floor space index (FSI)
- Provide tenurial society
- Extend basic services to slum areas
- Involve the community in the process of upgradation
- Integrate slum improvement strategies (RAY) with the JNNURM

Legislative Imperatives

- Simplify the process of converting rural land for urban usage
- Change cumbersome land acquisition procedures
- Modify building bye-laws and zoning laws
- Put in a transparent land record system

Assessments

Sale, purchase and use of urban lands are heavily regulated and controlled. Well-defined and well-implemented policies enable the supply of land to match the demand. On the other hand, ill-defined policies through over-regulation create land shortages and distortions, and lead to speculation and rent-seeking.

Most land transactions take place under non-market conditions, hurting the urban poor

Most of the laws/regulations brought in to serve the interests of the poor have acted against their interests and created barriers that have proved difficult to dismantle.

ALTERNATIVE APPROACHES TO SLUM-FREE CITIES: THE 12TH FIVE YEAR PLAN

Guiding policy

Slum improvement and upgrading is growth-enhancing. It is an important lever of growth with significant productivity impacts.

Alternative approaches

- Rights approach: right to shelter, right to basic services, and right to employment
- Universalisation of services and shelter as a strategy to reach out to the poor
- Pro-poor focus in urban programmes, using the tool of earmarking
- Formalization of “informal” settlements

Assessments

Existing legal frameworks work against the poor

Existing building bye-laws assume that cities are formal spatial entities; in reality, 20-80% of cities are informal

Master planning exercises do not recognize informality

WILL THE PROPOSED LEGISLATIVE FRAMEWORK DELIVER SUM-FREE CITIES?

THE CONNECTS AND DISCONNECTS

The proposed legislative framework constitutes a major step towards a formal recognition of slums and implicitly their contribution to the national socio-economic system. It signals a formal shift in India's policy towards slums.

Basic assumption is that property rights in the form of a legal document of entitlement and mortgageability will enable slum dwellers access "credit", a key factor in urban poverty alleviation strategy.

There are several important disconnects:

- i. The proposed Act is, at best, a partial response to the problem of slums. It misses out on slum prevention strategy as a complement to slum upgradation strategy which could prove "counter-productive".

- ii. The properties rights of “slum dwellers” under the proposed Act are inferior. Global experience suggests that formalization of property rights does not necessarily lead to access to credit;
- iii. Upgraded settlements will have an incomplete formal status; and
- iv. Creating a separate Act to grant property rights to slum dwellers rather than to amend the existing Acts (which do not recognize informality and which are adverse to the interests of the poor) would make it difficult to integrate slum dwellers and settlements into the local fiscal system.

A long term sustainable approach lies in a legislative framework that aims at integration of slums with the city economy rather than to formalize the existing division between slum and non-slums.

Legislative reforms lag behind the policy initiatives for slum upgradation and urban poverty alleviation.



Thank you.