

Approaches to the Lands for the Urban Poor, India



Darshini Mahadevia
Rutul Joshi
Rutool Sharma

December 2009



Centre for Urban Equity
(An NRC for Ministry of Housing and Urban Poverty Alleviation, Government of India)
CEPT University

Approaches to the Lands for the Urban Poor, India

Darshini Mahadevia¹²

Rutul Joshi³

Rutool Sharma⁴

December 2009



Centre for Urban Equity

(An NRC for Ministry of Housing and Urban Poverty Alleviation, Government of India)

CEPT University

¹ Urban Poverty Alleviation (UPA) Cell coordinator, CEPT University and faculty member at the Faculty of Planning and Public Policy, CEPT University. Email: darshini@cept.ac.in

² Supported by : Chintan Shah, Pooja Shah and Nidhi Shah

³ UPA Cell, CEPT University and a faculty member at the Faculty of Planning and Public Policy, CEPT University, Email: joshirutul@yahoo.co.in

⁴ UPA Cell, CEPT University and a faculty member at the Faculty of Planning and Public Policy, CEPT University, Email: rutool@gmail.com.

Acknowledgements

Research is funded by the Ministry of Housing and Urban Poverty Alleviation (MoHUPA), as an activity of the National Resource Centre of the MoHUPA. CEPT University is a designated NRC of the MoHUPA and Centre for Urban Equity (CUE) acts as CEPT NRC. Authors are grateful to MoHUPA for this research funding.

Disclaimer

The comments and opinions in this paper are of the authors and not of the Centre for Urban Equity or CEPT University.

1.0 Context

Time and again, it has been pointed out that an essential dimension of urban renewal is addressing the need for secure shelter for the low income groups in the cities, in particular of the slum dwellers. Slums represent poor living quality and also indicate urban distress. At the same time, these also indicate a housing solution as well as investments by the poor in urban housing stock.

A study report on the future population projection sponsored by the National Commission on Population mentions that the population of India is expected to go up from 1,027.9 million in 2001 to 1,400 million in 2026, i.e. an increase of 36 per cent. However, the level of urbanization in the country is expected to increase to 38 per cent by 2026. The urban growth would account for over two-thirds (67 per cent) of the total population increase by 2026. In absolute terms, out of a projected increase of 371 million in total population during 2001-2026, the share of increase in urban population is expected to be 249 million.

In the whole of urban India, 23 percent or 42.58 million of the total urban population in 640 urban centres of India, live in slums, as per the population census of 2001. But the actual population is much more as the census 2001 covered only 640 cities and towns with population of 50,000 and more (as in 1991 census). The enumeration of slum population was subsequently extended to 1,103 towns having population between 20,000 to 49,999 and those higher size towns which were left out at the time of the 2001 Census. These 1,103 towns have reported an additional slum population of 9.79 million, constituting 25 per cent of the population of the towns taken up for enumeration. Even then, some slum dwelling population was not enumerated because the non-notified slums (i.e. settlements with households less than 75), were not included in the 2001 Census. Further, by consumption expenditure, 80 million urban population, comprising 25.7 per cent of the total urban population, is below the official poverty line in 2004-05 (National Sample Survey Organisation's 61st Round data).

The numbers are quite large in absolute terms and a strategy to improve the living conditions of the low income groups, whether living in slums in the city or squatting on the pavements or living in any other dilapidated housing such as *chawls* in Ahmedabad, is essential for both 'Inclusive Growth' and 'Urban Renewal'.

In spite of the recognition of importance of housing in various policies, four decades of urban land use planning and government regulations ostensibly to meet the national aspirations and international obligations, as well as direct intervention in the land market in India, right to housing and land remains a distant dream for majority of the urban dwellers, especially in the metropolitan cities, where land has many contesting uses, including speculation. On one hand, land use planning and regulations are necessary in the larger public interest of overall public health and hygiene and equitable access to land for all. On the other hand, the planning standards and regulations, the planners' vision of cities and the bias of the planning authorities against the poor have together excluded the poor from the formal planning processes, excluding them from the 'formal land market' and thereby converting them into 'illegal citizens' of the cities.

In the 1960s and 1970s, work of John F.C. Turner brought a viewpoint into urban planning that the slums and squatter settlements are assets in the cities of the developing countries. That is, people were taking care of their housing needs on their own. Through his work, he implored the governments and the international development agencies to approach the existing slums and squatter settlements positively by creating conditions to facilitate the initiatives of the poor in addressing their own housing problem. One of the considered important facilitative actions of the government was tenure regularisation in the slums and squatter settlements.

The developing country governments have continuously espoused the cause of residents of slums and squatter settlements, with policy pronouncements addressing the issue. Based on the model of JFC Turner's approach and subsequently many other studies on how the poor build, sites and services and shelter upgradation programmes have become part of the official housing policy. In spite of that, access to land has remained a major bottleneck in the access of urban poor to shelter in the developing countries since the early 1970s. Also, the informal housing market, has commercialised over the years (Payne 1992). The entry to this market has become restrictive to an extent and expansion of this market has also become restricted, because of non-availability of lands to squat upon now. The informal commercial land market has numerous actors, ranging from local politicians, developers, and local government officials, who are able to manage the legal machinery. Governments of the developing countries have not been successful in implementing tenure regularisation in the informal housing settlements, partly because of the land legislation and partly because of the large array of locally powerful actors.

Housing rights subsumes right to land, right to housing finance and access to affordable building materials. Some finance is available from the government as well as private sector for low-income housing, as this is a large segment for new business opportunities. Wherever Non-governmental Organisations (NGOs) are effectively working, system of housing credit has been organised. However, in absence of land tenure, the housing finance available is limited. The workshop focussed on the finding solutions to increasing land availability for the urban poor in Indian cities.

One of the important aspect of increasing land availability for the poor in the cities is give tenurial rights to the slum dwellers in existing slums. However, that is easily said than done. This is because, land tenure, which basically gives land rights to the slum dwellers also give citizenship rights to the urban poor. Many of these are migrants and the dominating urban development ideology has always seen migrants as problems in cities. Secondly, the cities have not even found ways to give land tenure to the slum dwellers because of complications arising from land and planning legislations and lack of legal options available with the local and state governments. Thus, the local political economy, anti-migrant mind-set and legal complications have together resulted and giving tenurial rights as an important housing option for the urban poor. The only exception is Slum land tenure policy in Madhya Pradesh of 1985 and Tenure Regularization policy of Jaipur.

Land tenure gives citizenship rights to the urban poor, as they have an address and are not prone to evictions. Access to water supply and sanitation improves once land tenure is available. When the water supply and sanitation improves, the Housing finance is available for improvement and upgradation.

A land tenure survey should consist of following information:

- i) Land ownership.
- ii) Land transaction documents
- iii) Housing unit transaction documents
- iv) Who holds power to decide what can happen to the land in case of its redevelopment, sale etc.
- v) If there is any reservation of the land in the TP Scheme or Zonal Plan.
- vi) Past or ongoing disputes related to land and housing unit sale.
- vii) Proportion of households holding any Ration Card, Below Poverty Line (BPL) Ration card or Above Poverty Line (APL) ration card
- viii) Proportion of households paying property tax or are receiving property tax bills
- ix) Proportion of households having electricity connections and paying electricity bills.

Based on the above information, it can be assessed whether the slum dwellers have de jure (legal) tenure status or de facto (quasi legal) tenure status or insecure tenure status.

Workshop on Approaches to Lands for the Urban Poor was held by the Ministry of Housing and Urban Poverty Alleviation (MHUPA) with the National Resource Centre (NRC), CEPT University, was held in Ahmedabad on April 17, 2009. Secretary of MHUPA, Government of India (GOI), Smt KiranDhingra, kindly inaugurated the workshop and gave her inaugural speech. Dr. PK Mohanty, Joint Secretary, JNNURM, MHUPA, GOI, also gave a short address to the gathering in the inaugural session. The workshop's presentations covered the following topics (i) Housing priorities and Affordability of the urban poor; (ii) Land Requirement and Availability at the Macro (City) level; (iii) Defining Land Tenure and Complex Problem of Land Tenure formalization in Ahmedabad, the city of study for CEPT team as well as Mahila Housing Trust (MHT), SEWA and (iv) Alternative approaches to increase land supply based on the case of a Public Private Partnership in Magrapatta City in Pune.

The Inaugural Session

In the inaugural session, Dr. RN Vakil, Hon. Director of CEPT University welcomed the participants, and thanked the MHUPA for supporting the activities of the National Resource Centre (NRC) at CEPT University. He also told the gathering that the idea of NRC was excellent and in line of the thinking of CEPT University about need for Inclusive Development in Indian Cities. He also said that access to land gives a legal address to the poor. It helps in alleviating their quality of life. Both, the households themselves and the government would make investments in improving the living conditions when there is a legal address. In the recent economic crises, which has hit some of the cities of Gujarat very badly, the families that have not gone back to their villages and have been able to cope with the crises are the ones that have security of shelter.

Smt. KiranDhingara, Secretary, MHUPA, in her inaugural address described the challenges of urban India, stating that in post-independence era while population of India has grown three times, the urban population has grown five times. The increasing urban population has also given rise to increase in the number of urban poor. As per 2001 estimates, the slum population is estimated to be 61.8 million. The ever increasing number of slum dwellers causes tremendous pressure on urban basic services and infrastructure. In order to cope with the massive problems that have emerged as a result of rapid urban growth, it has become

imperative to draw up a coherent urbanization policy/strategy to implement projects in select cities on mission mode. The secretary outlined the progress of BSUP component of JNNURM and applauded the participation from various state governments.

She reaffirmed the commitment of the ministry to play a pro-active role on policy formulation on housing, habitat and urban poverty alleviation in the country. To supplement the efforts of the State Governments, the Ministry has been implementing various schemes/programmes for the urban population with focus on the needs of the urban poor. She suggested that the concerns of the urban poor could not be mainstreamed in the planning process unless they have an access to land in a city. To make land available to the urban poor, the state government and the city government will have to be committed to the concerns of the urban poor and they will also have to use their formal planning systems efficiently.

Dr. P. K. Mohanty (Jt. Secretary, MoHUPA) presented innovative approaches to housing for EWS sections in different cities in India. He indicated the need to document these case studies to learn from them.

2.0 Why Lands Are Not Available for the Urban Poor Today?

Pre-eminent presence of slums in the metropolitan cities and their increasing number on one hand and difficulties that the cities are facing in implementing BSUP component of the JNNURM indicates severe crises in our cities with regards to land availability. The solution to the problem has become all the more difficult because of lack of realistic estimates of slum dwellers and urban poor at the city level, lack of understanding about the land tenure complexity in the cities and above all, lack of political will at the local level to address the problem, however with some exceptions. First of all, not more than 2-3 per cent lands are required to house the existing slum dwelling population in the major metropolitan cities of India⁵.

Secondly, the land supply to the poor has been considered more of an issue of appropriate land management tools than appropriate policy. Appropriate policy framework is required, which now has been introduced through the JNNURM reforms, which states that 20-25% lands would be reserved for low income and economically weaker section housing (EWS) in the new developments. Besides, National Urban Housing and Habitat Policy, 2007 has been enacted, which states that the endeavour would be to carry out in-situ upgradation of dwelling units for 95 per cent of the slum households. Application of land management tools without appropriate policy may work in the favour of real estate firms, as Mahadevia (2009)⁶ has illustrated. Further, economic reforms have resulted in unprecedented increase in land and property prices across urban India and particularly in metropolitan India, pricing out not just the poor but a large section of the non-poor in these cities. While, this is the situation, the governments, state and local, have played proactive role in making land accessible for various high end uses such as IT parks, townships, SEZs, etc. At the same time, all major national and international events in any of the major city of India has led to demolitions to reclaim lands squatted upon by the poor for 'development purposes'. For housing rights activists, urban renewal is the synonym of slum demolitions.

The legislative tools available with the government have been used for converting urban poor as firstly illegal residents of the city and then deligitimising them. Strict interpretation of existing legislation, as amply demonstrated by some of the recent judgements⁷, have further taken away the space for the urban poor which they had gained through the political process of 'patron-client' relationship. The schemes meant for the urban poor to increase their access to urban land and housing have been fragmented and with very low effective coverage⁸. Thus, the objective of slum-free cities has become unattainable today because of the land

⁵ Mahadevia, Darshini (2009): "Urban Land Market and Access of the Poor", in India, Ministry of Housing and Urban Poverty Alleviation (ed.) *India: Urban Poverty Report 2009*, Oxford University Press, New Delhi, pp.199-221.

⁶ Mahadevia (2009), op cit.

⁷ For Delhi see, Dupont, V. and U. Ramanathan (2005): *The Courts and the Squatter Settlement in Delhi – Or the Intervention of the Judiciary in Urban Governance*", a paper presented at the IDPAD seminar on *New Forms of Urban Governance in Indian Mega-Cities*, held at Jawaharlal Nehru University, New Delhi, 10-11 January.

⁸ Risbud, Neelima (2009): "The Poor and Morphology of Cities", in India, Ministry of Housing and Urban Poverty Alleviation (ed.) *India: Urban Poverty Report 2009*, Oxford University Press, New Delhi, pp.177-198.

market dynamics in the cities, particularly in the metropolitan cities and lack of willingness of the government, local and state level, in effectively intervening in the market for urban land redistribution. Both the market dynamics in the period of global integration of the urban economy and the land regulations and controls of the pre-reforms period, have worked against the interests of the urban poor to deny them access to tenured urban land.

Mahadevia (2009) concludes from the review of policies, programmes and processes in the urban land market, that the State has ceded its legitimate space of policy making to the private sector, specifically the land developers and builders. The State has abdicated its responsibility of intervening in the markets that are speculative and monopolistic, creating great difficulties in addressing the question of access of the urban to lands in the cities and in fact, pushing farther away the goal of 'Slum-free Cities' or 'Inclusive City'.

As example of the abdication of the responsibility by the State for housing the poor can be seen from the difficulties observed in some cities with regards to implementing the BSUP projects. Case of Patna was presented by Mr. S K Sinha, Senior Project Appraisal Officer, HUDCO, Patna Regional Office. First of all, the Government of Bihar entrusted the work of implementing the BSUP projects to HUDCO, because there was no other public agency that could have accomplished the task. According to the agreement of Bihar Government with HUDCO main office in Delhi in July 2007, the Patna regional office of prepared the DPRs of the BSUP projects in the state. The first DPR was sanctioned on 26.09.07 and then 9 DPRs were prepared and sanctioned till 9th January 2008. Another 9 DPRs were sanctioned in Feb 2009. However, the progress on implementation has been very poor. Mr.Sinha identified three reasons for the slow progress of BSUP projects: (i) Non-availability of lands for BSUP, (ii) Increase in cost of construction above the approved Schedule of Rates (SOR) and (iii) non-availability of private contractors in the state to even bid for the tenders floated by the HUDCO.

The process of allocating lands for the BSUP is: (i) the land is first identified by the State Government (Urban Development & Housing Department of Government of Bihar, Concerned Urban Local Body or District Collector's Office); (ii) transfer of land to Urban Development and Housing Department of the Government of Bihar from the land owning authority, because the former is not owning the land; (iii) the land owning authority are generally the Public Works Department (PWD) of the Irrigation department or even private land owners, from whom the land has to be either transferred or acquired (in case of private land owners); (iv) in many instances the land selected for BSUP is already occupied either by the slum dwellers or others, requiring their shifting and for which government order is required; (v) if the land is occupied by the slum dwellers then they have to be shifted temporarily (with the assumption that they would be rehabilitated back on these lands) and re-housed somewhere else; (vi) some slums are on sites that are disaster-prone such as the banks of rivers, ponds, etc.' and such sites cannot be used, requiring identification of other sites; (vii) some sites are under litigation and clearance cannot be obtained for constructing BSUP housing and (viii) sometimes even the state government wants to change the site and has to restart the process. The process of identifying lands is long and in many instances No Objection Certificate (NOC) is not available or the NOC takes a very long time to come. By the time NOC is made available the costs of construction increase and the SORs on which the tender has been awarded becomes outdated. In short, the Government of Bihar has not been

able to resolve the land problem for the BSUP projects. This is likely to be the case in many other cities as well.

3.0 Housing Priorities and Affordability

The CEPT research team, in collaboration with Urban Resource Centre (URC) established by Saath undertook primary survey in slums in Vasna ward of Ahmedabad City to understand the aspirations and priorities of the slum dwellers with regards to their housing conditions. In all, six slums with different levels of basic service provisions were selected for survey. Among these six, three slums were such where an NGO had already intervened to assist the dwellers to access basic services. Saath has implemented Slum Networking Programme (SNP), a partnership-based slum development programme in Pravinnagar-Guptanagar slum and Mahila Housing Trust (MHT), SEWA (Self employed women’s association) had implemented SNP in Jadibanagar and Sorainagar. On an average, 74 per cent households stated that they preferred in-situ upgradation, indicating that only 26 per cent households stated that they wanted to move to a better place (Table 1). In other words, three-fourths of the households did not want to move from their current location and were also interested to upgrade their housing on the current location. Interestingly, a higher percentage of households than the average (for all slums) in Jadibanagar and Sorainagar stated that they preferred in-situ upgradation. This indicates that the slums where NGO intervention had occurred had realised a possibility of in-situ upgradation and hence the residents had expressed that as an option for housing. In Pravinnagar-Guptanagar, where Saath has worked for a long time, 29 per cent residents (more than average for all slums) had indicated that they wanted to shift to a better place. This was also expressed as an option by the slum dwellers in a Focus Group Discussion (FGD) held in this slum. This is likely because many of the households had observed increased income and wanted to shift to middle class housing colonies. In other words, with increase in incomes, slum households want to shift to better housing, but, affordable to them.

Table 1: Housing Options in General and For In-Situ Development (%age)

S. No	Slum	Housing option preferred		Housing option preferred at current location			
		In-situ upgradation	Shift to a better place	apartment	like current house	SNP	developed land sites
1	Pravinnagar - Guptanagar	70.69	29.31	13.70	65.75	17.81	2.74
2	Jadibanagar	82.76	17.24	5.88	88.24	5.88	0.00
3	Sorainagar	92.41	7.59	27.27	36.36	9.09	27.27
4	Yogeshwarnagar	76.69	23.31	10.87	86.96	0.00	2.17
5	Mangaltalav	66.00	34.00	43.33	33.33	23.33	0.00
6	Shri Om Nagar	58.90	41.10	0.00	89.74	5.13	5.13
	Total	74.38	25.63	14.65	71.79	9.16	4.40

Source:Mahadevia et al (2009)

34 per cent households in MangalTalav and 41 per cent households in ShriOmnagar wanted to shift to another location because their land tenure situation is insecure. The households in

these slums are expected to face demolition any time. Hence, they expressed their desire to shift, Of those who desired to shift in Mangaltalav, 43 per cent wanted an apartment type of dwelling unit and 33 per cent wanted to shift in housing type they were currently living in. In ShriOmnagar, overwhelming proportion (90 per cent) wanted to shift to a site where they can construct houses similar to their current house form. Their current house form is one room units laid close to each other in a haphazard manner. On the whole, of those who had expressed their desire to shift, 72 per cent wanted to shift to a site where they could live in their current house form. Only 4 per cent stated their desire to developed plots. All households that had expressed desire to shift wanted that any public agency provides them with new houses.

Table 2: Housing Options At New Location (For Those Who Wanted To Shift) (%age)

S. No.	Slum	Distance from the current place of residence (in kms)			Type of Housing Preferred			
		Upto 5	5- 10	> 10	Apartment	like current house	SNP	Developed land sites
1	Pravinnagar - Guptanagar	82.35	5.88	11.76	23.08	65.38	7.69	3.85
2	Jadibanagar	100.00	0.00	0.00	0.00	100.00	0.00	0.00
3	Sorainagar	100.00	0.00	0.00	33.33	0.00	0.00	66.67
4	Yogeshwarnagar	96.55	3.45	0.00	29.41	70.59	0.00	0.00
5	Mangaltalav	100.00	0.00	0.00	6.67	93.33	0.00	0.00
6	Shri Om Nagar	82.14	14.29	3.57	5.56	66.67	0.00	27.78
	Total	89.66	6.03	4.31	17.50	70.00	2.50	10.00

Source: Mahadevia et al (2009)

In Table 1, it was seen that 26 per cent households had stated that they would like to shift to another better location. Overwhelming 90 per cent stated that they did not want to shift to a location more than 5 kms away from the current location and 70 per cent of them would like to shift to a location where they can construct a house resembling their current house type. The current house type provides the households an option of improving their houses incrementally, according to their need and their affordability. There are some minor variations across the slums with regards to preference of location within 5 kms distance.

More than half the households (51 per cent) stated that they were willing to pay for formalizing land titles (Table 3), as they had identified this as a major handicap in further investments in housing. They also wanted to have a sense of security in housing and did not like the idea of being always under the threat of evictions. Willingness to pay for tenure was highest in Sorainagar (94 per cent) followed by Pravinnagar-Guptanagar (77 per cent), both having implemented the SNP. From among those willing to pay for land tenure, 37 per cent indicated that they were willing to pay upto Rs. 25,000; another 20 per cent indicated that they were willing to pay between Rs. 25,000 to Rs. 50,000 and another 16 per cent stated that they were willing to pay between Rs. 50,000 to Rs. 75,000 for land tenure. These are substantial amounts that the households are willing to pay to get land tenure on their current site. In other

words, the slum dwellers of Vasna ward were willing to pay premium for option to stay on their current location.

Table 3: Willingness to Pay for Land Tenure (%age)

S. No	Slum	% willing to pay	Amount (Rs.) for land tenure				
			Upto 25,000	25,000 to 50,000	50,000 to 75,000	75,000 to 100,000	> 100,000
1	Pravinnagar - Guntanagar	76.71	35.61	13.64	16.67	16.67	17.42
2	Jadibanagar	37.93	12.50	12.50	31.25	31.25	12.50
3	Sorainagar	93.67	58.67	40.00	1.33	0.00	0.00
4	Yogeshwarnagar	12.68	56.25	31.25	12.50	0.00	0.00
5	Mangaltalav	57.69	23.68	18.42	23.68	23.68	10.53
6	Shri Om Nagar	32.10	15.38	0.00	33.33	33.33	17.95
	Total	51.23	37.03	19.62	16.46	15.51	11.39

Source:Mahadevia et al (2009)

Table 4: Willingness to Pay for House (%age)

S. No	Slum	Amount (Rs.) for the House				
		upto 25,000	25,000 to 50,000	50,000 to 75,000	75,000 to 100,000	> 100,000
1	Pravinnagar - Guntanagar	64.86	23.42	1.80	5.41	4.50
2	Jadibanagar	83.33	16.67	0.00	0.00	0.00
3	Sorainagar	88.00	12.00	0.00	0.00	0.00
4	Yogeshwarnagar	77.66	10.64	0.00	2.13	9.57
5	Mangaltalav	96.88	3.13	0.00	0.00	0.00
6	Shri Om Nagar	82.35	15.69	0.00	0.00	1.96
	Total	78.40	14.93	0.53	2.13	4.00

Source:Mahadevia et al (2009)

If house was to be provided by a public agency, then 78 per cent households were willing to pay uptoRs. 25,000 for that house and another 15 per cent were willing to pay between Rs. 25,000 to Rs. 50,000 for the house. If a rental house or housing loan were to be made available to the households then 61 per cent stated that they were willing to pay uptoRs. 1,000 per month as rent or instalment for housing loan and another 28 per cent were willing to pay between Rs. 1,000 to Rs. 2,500 per month for the same purpose (Table 5). This could make the households access a house whose cost could be between Rs. 100,000 to Rs. 250,000. 78 per cent of the households also expressed their willingness to contribute towards maintenance of their new housing (Table 6). 87 per cent of them stated that they were willing to contribute or incur expenditure of uptoRs. 1,000 per year on maintenance of their houses and another 11 per cent stated that they could pay between Rs. 1,000 to Rs. 2,500 per year for this purpose.

Table 5: Willingness to Pay Per Month as Rent or Housing Loan instalment (%age)

S. No	Slum	Monthly Payment as Rent or Housing Loan Instalment (Rs.)			
		Upto 1,000	1,000 – 2,500	2,500 – 5,000	> 5,000
1	Pravinnagar - Guptanagar	62.26	25.47	7.55	4.72
2	Jadibanagar	66.67	25.00	8.33	0.00
3	Sorainagar	52.70	47.30	0.00	0.00
4	Yogeshwarnagar	76.04	20.83	0.00	3.13
5	Mangaltalav	90.63	6.25	3.13	0.00
6	Shri Om Nagar	68.52	29.63	1.85	0.00
	Total	67.38	27.54	2.94	2.14

Source:Mahadevia et al (2009)

Table 6: Willingness to Pay for Maintenance (%age)

S. No	Slum	% Willing to contribute for maintenance	Amount (Rs.) per for maintenance		
			Upto 1,000	1,000 – 2,500	2,500 – 5,000
1	Pravinnagar - Guptanagar	89.52	80.34	16.24	3.42
2	Jadibanagar	100.00	84.62	0.00	15.38
3	Sorainagar	100.00	89.33	10.67	0.00
4	Yogeshwarnagar	43.09	92.45	7.55	0.00
5	Mangaltalav	100.00	96.88	3.13	0.00
6	Shri Om Nagar	77.19	85.37	14.63	0.00
	Total	77.52	86.71	11.48	1.81

Source:Mahadevia et al (2009)

The survey of slums in Vasna ward in Ahmedabad City indicated that a majority of the households wanted to stay in the current slum settlement, but, not in the same condition. They wanted the slum to be upgraded in a way that they could make incremental investments in their houses. A permanent solution to their living in the same slum would mean that they need to get a legal title of the land they were occupying. In other words, the slum dwellers had expressed formalizing land tenure as their most important priority in housing. They were willing to pay some amount if the land titles were to be legalized. After the land titles were legalized, they were willing to even invest in house and pay towards maintenance of the house and locality. In other words, the slum dwellers were not asking for a free house. But, they wanted that a public agency would get involved in the process. A quarter of households who wanted to shift out from the slum they were living in, however wanted a housing option within 5 kms distance of their current location and wanted a house type like they were living in currently. This is because; this house type would give them option of incremental housing, suitable to their need and affordability. A most important policy and then programme intervention in context of Ahmedabad could therefore be tenure regularization.

4.0 What is Land Tenure? Why Land Tenure is important for the Poor?

Land tenure can be defined as the mode by which land is held or owned, or the set of relationships among people concerning land or its products.⁹ It is believed that one of the most important reasons for the poor quality of housing stock in slums is the insecurity of tenure.¹⁰ The insecurity of land tenure pushes the poor households into a constant state of impermanence compromising of their abilities to be a legitimate part of the urban systems. Land tenure security is known to be an important step leading to housing investments in low income households.

Many low income settlements where land is originally bought informally get into a vicious cycle of informal trade. They can't trade their property in the formal market because they do not possess any documents or clear land tenure. This situation creates a land locked situation for settlements where no legal buying, selling or renting can take place. This situation puts the low-income households in a fix with constant threats of eviction which discourages them from making any investments in the housing or infrastructure.

Many slums are a product of the informal market sale of land where the sale deeds are not registered with the government. Many researchers have argued that if these informal settlements are formalized, it will lead to improvement in the living conditions in these slums. Registration of property rights in squatter settlements is important in making land and house transactions possible and giving the occupants legal protection. It encourages the buying and selling of housing and makes it possible for households to move to a dwelling that suits their needs and their budgets. It also increases the choice of tenure available to households, allowing them to own or rent.

Tenure regularization has found its way into the public policy debates via two different routes. The first is the "Functional Approach". In this, secure tenure is seen as a means of achieving one definite objective, like poverty alleviation, increasing creditworthiness of the households for housing loans, and compensation for relocation of squatters. In other words, this approach fits into the paradigm of 'Inclusive Capitalism' as propounded by Hernando de Soto. On the other hand the "Rights Approach" says that every citizen has the right to a secure place to live". Whichever route is taken, the results are security of tenure in the form of legally valid tenure documents.¹¹

Land rights exist as part of other rights in a society and cannot change easily without the change in other rights.¹² Land rights cover not only development and transfer but also access and use of land in parallel with ownership rights in various part of the country. Changes in the urban land tenure policies are necessary but it cannot be a singular system as the land tenure situations are found to be complicated and varying in different context.¹³

⁹ Payne, Geoffrey (2000): *Urban Land Tenure Policy Options: Titles or Rights?*, World Bank Urban Forum, Virginia USA, source: http://www.landnetamericas.org/docs/urban_landtenure.pdf (accessed on June 1, 2009).

¹⁰ National Urban Housing and Habitat Policy 2007

¹¹ Durand Lasserre, Alain and Lauren Rayston (2002): *Holding Their Ground*, EarthScan Publications, London.

¹² Payne, Geoffrey (1997): *Urban Land Tenure and Property Rights In Developing Countries*, Intermediate Technology Publications.

¹³ Payne, Geoffrey (2000): op cit.

Though, there are also arguments that provision of land tenure does not necessarily help the situation as the tenure security is a perceived security. Alan Gilbert argues that tenure security in illegal settlements depends less on the exact legal status and more on occupants' perceptions of the probability of eviction and demolition (enforcement); as well as the availability of services and passage of time."¹⁴ A number of case studies in the developing world point out that giving land titles directly could create much adverse impact such as gentrification of middle income groups into the settlements of low income households. Besides, there are number of case studies pointing out that distributing land titles to the low income households without adequate infrastructure, access to finance and investments in health and education has not really significantly improved the situations for the urban poor. In essence, secured land tenure is the beginning of better quality of life for the low income households and not the ultimate solution for all forms of deprivation.

5.0 Land Tenure Formalization

Land tenure security is a complicated issue that relates to providing legitimate space for the poor in the city. Each slum settlement has a unique situation related to land tenure, community mobilisation, their aspirations and the stakes of the government. Thus, it is difficult to generalise resolution of land tenure security. But it is possible to identify similar land ownership patterns in the urban areas for which context-specific area level strategies could be worked out.

Based on the study conducted by the CEPT team in 6 municipal wards of Ahmedabad, namely, Sabarmati, Dudheshwar, Naroda, Amaraiwadi, Odhav and Behrampura, the land tenure situation in 25 slum pockets in Ahmedabad was presented.

¹⁴ Gilbert, Alan (2001): *On The Mystery Of Capital And The Myths Of Hernando Desoto: What Difference Does Legal Title Make*, source: <http://www.n-aerus.net/web/sat/workshops/2001/papers/gilbert.pdf> (accessed on March 20, 2009).

To devise possible solution of land tenure situation, it is essential to understand, various tenure situations prevailing in Ahmedabad. Based on the study, three broad categories of the level of land tenure security were outlined:

1. **Secure Tenure:** It is a clear legal title with the owner
2. **DefactoTeure:** Here the occupants believe that by being part of municipal services or by paying property tax or electricity bill, they have stakes in the land ownership or at least, they would be able to claim their stakes in case of rehabilitation or resettlement.
3. **Insecure Tenure:** There are a number of settlements where the occupants could only produce documents of having purchased the housing unit or land through informal sale and the municipal corporation has also refrained from giving them any services.

Based on the ownership, the land could be categorised in two categories, namely, public land and private land. It is assumed that the government would be equally keen to find solutions to slum encroachment on the public as well as private lands.

Formalizing Land Tenure on Public Lands

Chart 1 shows the possible solution of land tenure security to the urban poor on public land. The grey boxes show the changes required in the legislation and the red boxes show the possible solution to the complicated land ownership/occupation situation.

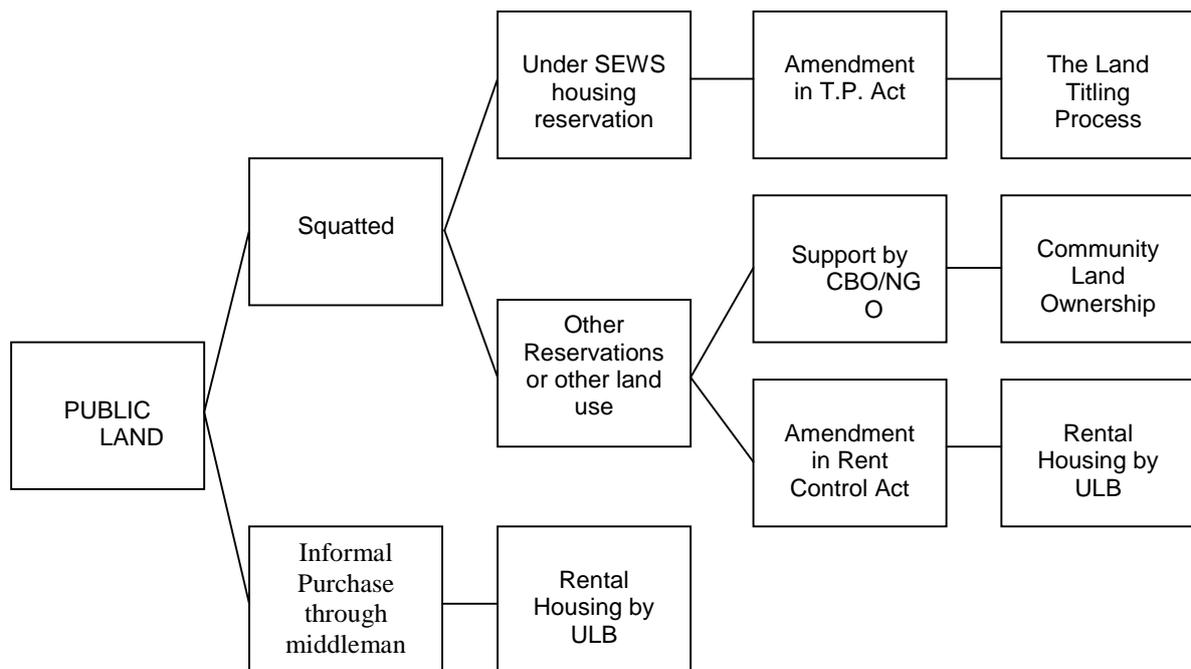


Chart 1: Land Tenure Options for Public Lands
Source:Mahadevia et al (2009)

The public land whether belonging to Ahmedabad Municipal Corporation (AMC) or to the other government bodies (central or state government) is relatively easier to transfer to the urban poor. These could be covered under the transfer of lands to the socially and economically weaker sections of the population, for whom there are reservations under the Master Plan/ Development Plan. However, it would not be possible to give the secured land tenure to the existing occupants within the existing land legislation regime. Thus, for formalizing land titles on public lands, there is a need to make amendments in the existing legislation related to land. For example, in case of Ahmedabad, there is a need to amend the Gujarat Town Planning and Urban Development Act (1976). Similarly, other reservations or land uses on the land belonging to various government bodies should also allow community land ownership to the existing occupants supported by NGOs/CBOs. In some cases, where it is not possible to give land titles to the existing occupants, rental housing agreement can be worked out between the occupants and the concerned government department.

Formalizing Land Tenure on Private Lands

This is a more complicated process. Bijal Bhatt of MHT SEWA presented the complex situation in case of private lands squatted upon. When such lands have to be formalized in Ahmedabad context, the following documents are required:

- 6 NuHakkapatrak (that gives occupancy right) - From Talati of village
- 7\12 Record (land ownership documents) - From the Collectorate
- Land Record - District Land Record Office
- “F” Form
- Copy of Part Plan (about the TP Scheme reservation) - From Town Panning Office
- Zoning Certificate - From Town Planning Office
- Document from Court (stating there are no legal disputes)

The process is complex, as the land occupant has to go to various offices to get these documents. It is not easy for the slum residents as firstly, they do not know whom to contact. And, in the system not friendly to the people, some bribes are required to get these certificates. The ownership of private land is very complicated when there are disputes amongst the owners or in the absence of the original owner. Many of the disputed land parcels have middlemen who would have developed the land and transferred it through informal sale or are collecting rent on the land. The slum dwellers think it prudent to remain in *de facto* tenurial security situation than go for the complicated and expensive legalization process.

In such situations, it is necessary that the government has stronger will and develop institutional framework to resolve the tangle. To resolve some situations, the government will have to enact new legislation. For example, in a situation where the land owner is absent and cannot be traced. In a situation where there are disputes among the multiple land owners, government may have to act as an arbitrator or government can establish special tribunal that

closely works with the people, their representatives and the revenue departments of the state government to arrive at an equitable, lawful resolution of the land conflicts.

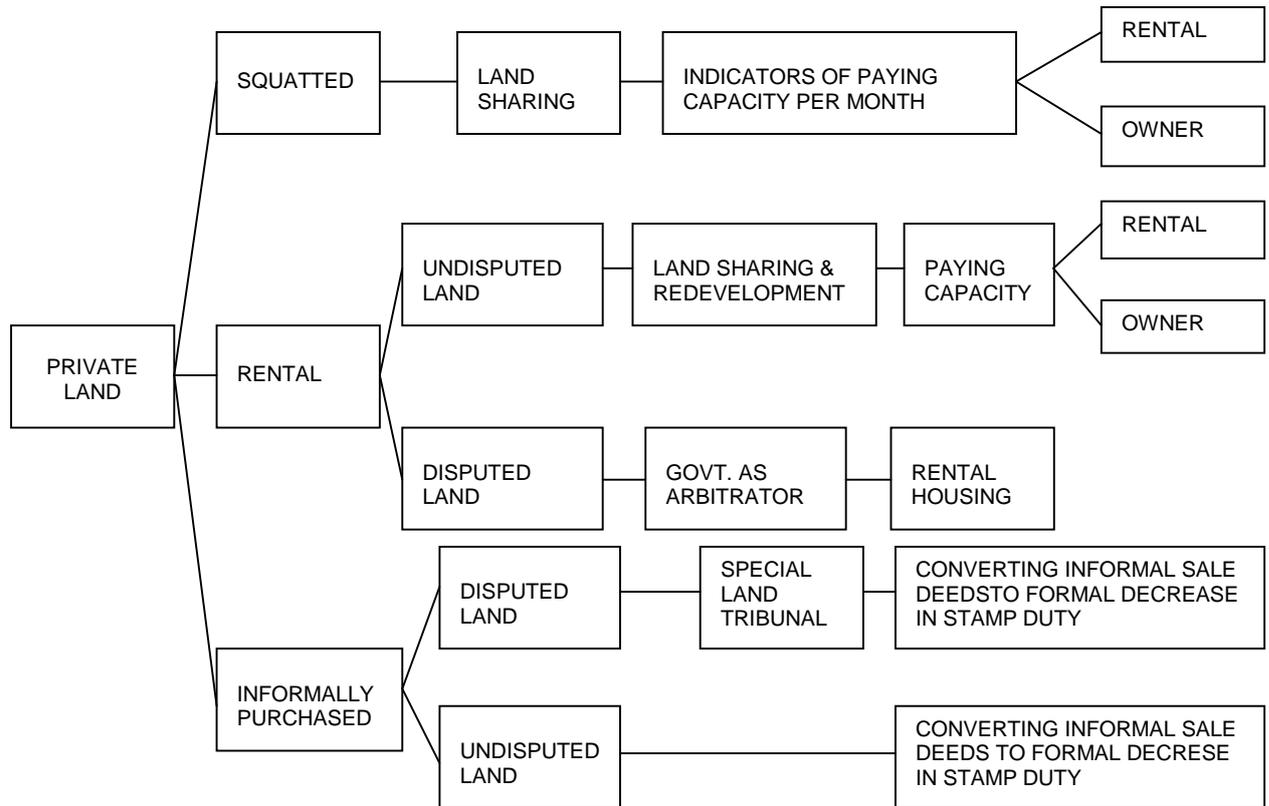


Chart 2: Land Tenure Options for Private Lands

Source: Mahadevia et al (2009)

It is also possible to work out land sharing models that creates a win-win situation for all the stakeholders, where the owners of the land keep part of the land and the occupant community keeps the other part of the land. This is possible in locations where land prices are high. It is important here for the state government to create an authority which is legally empowered to legitimise the resolution of land tenure conflicts in an efficient manner. Such interventions should create possibilities of providing secured land tenure to the urban poor and promoting in-situ development that takes shape of incremental housing in the coming years.

6.0 Making Land Available for the Poor

One of the biggest hindrances to implement developmental project related to the urban poor is the availability of land and number of government agencies have, time and again, argued so. In order to make land available to the government, various planning systems of the country have practices of reserving land for public purposes out of the total land pool. As per the Gujarat Town Planning and Urban Development Act (1976), about the 50-60 per cent of total land is given back to the owners in a town planning scheme and rest 40-50 per cent of land is used for public purpose. Out of 40-50 per cent of remaining land for public purpose, 15 per cent of land is reserved for roads, 5 per cent for open spaces (play ground, garden, parks), 5 per cent for social infrastructure (schools, dispensaries, fire station, public utility etc.) and there are also norms for up to 10 per cent reservations for socially and economically weaker section (SEWS) housing.

Lands Availability in Ahmedabad

CEPT team conducted a survey of reserved land for Socially and Economically Weaker Section (SEWS) housing in Ahmedabad city. There are total 176 plots reserved for SEWS housing amounting to be 135.85 ha within the old AMC area (prior to 2006) of 256 sq. kms.

Table 7: Land use Survey on SEWS Land

Type of Land	%age Distribution
Vacant Land	28
Agricultural Land	20
EWS Public Housing	6
Other Commercial	13
Other Residential	30
Others	3

Source: Sanga, Prashant (2009: Land for the urban poor in the planning mechanism: the case of Ahmedabad, unpublished thesis at school of planning, CEPT University.

Table 8: Total Reserved Lands Available, Ahmedabad

Land use	Area in ha	Area in %
Vacant land	37.43	27.55
Agricultural Land	27.20	20.02
EWS Public Housing	8.30	6.11
Other residential	41.33	30.42
Other commercial	17.23	12.68
Others	4.36	3.21
Total	135.85	100.00

Source: Sanga, Prashant (2009: Land for the urban poor in the planning mechanism: the case of Ahmedabad, unpublished thesis at school of planning, CEPT University.

Table 9: Housing Supply Possibility on Reserved Lands

Available Land (Ha)	68.99	68.99
FSI (as per DCR)	1.80	2.00
Available Built up	124.18	137.98
In SqMts	1,241,820.00	1,379,800.00
SEWS Unit size	25.00	25.00
Number of Units	49,673.00	55,192.00
SEWS Unit size	30.00	30.00
Number of Units	41,394.00	45,993.00
SEWS Unit size	45.00	45.00
Number of Units	27,596.00	30,662.00

Source: Sanga, Prashant (2009: Land for the urban poor in the planning mechanism: the case of Ahmedabad, unpublished thesis at school of planning, CEPT University.

The city map given here shows the location of these 176 plots of reserved land. It was found that out of 135.85 ha about 37.43 ha (27.55%) was vacant land and about 27.2 ha (20%) land was still agricultural land (Table 7). SEWS public housing was built merely on 6.11% of land and rest of the land had residential and commercial development. It is not known whether the surveyed residential and commercial use were legitimate use of land or not. In any case, Ahmedabad municipal corporation has about 68.99 ha of land (vacant+agricultural+others) where SEWS public housing is possible. With expanded municipal limits, there might be even more land on which housing for the urban poor is possible. Yet it is true that out of this 68.99 ha the municipal corporation might not have all the land pockets read to build. Much of this land might be entangled in the planning process where the town planning scheme might not be finalised and sanctioned or some of the land might be under legal disputes. It is also observed that the land pockets which are reserved as SEWS housing are the low priority areas like the plots with odd shapes or the plots on sloping land etc.

Table 8 shows that on the given land (68.99) ha, it is possible to build more than 27,000 housing units following the existing FSI norms and following the current norms of construction for the EWS housing. With an increased FSI of 2, more than 30,000 housing units could be built.

The formal planning tools such as the town planning scheme provided land for the poor which are generally not built upon due to various administrative and legal reasons. Such lands could be squatted upon and may be used by the SEWS for their own housing. However, their housing is not legal. To legalize such housing units, the Town Planning Department has to first dereserve that piece of land and then grant *patta* (land title) to the occupants of the same land. It is a long and tedious process however. This example also contradicts the claim that there is no land available for the poor. There are designated lands for the poor in the city but they are not utilised effectively. Such practices reflect inefficient land management and lack of co-ordination on the part of various planning authorities at the state and the ULB level.

Making Land Available For the Poor In Ahmedabad

Dr. Bimal Patel argued that the government should use all possible ways of making land available to the urban poor. If the land is utilised efficiently the quantum of land required for the urban poor in the city of Ahmedabad is not much compared to the size of the city. To house about one million urban poor (2 lakh households) in the city the gross land requirement is about 10 sq. kms. For an urban agglomeration of Ahmedabad, which is more than 700 sqkms, it is not difficult to find about 10 sqkms of land distributed across the entire agglomeration. He suggested the following strategies to make the land available for the poor:

A. Appropriating and Transferring land

- i. Reserving and Acquiring land
- ii. Land pooling, land reconstitution, land appropriation: T. P. S. mechanism
- iii. Buying land from the open market

It is very crucial for the government to use their formal planning mechanisms effectively to earmark land for the urban poor. There are mechanisms by which the planning authorities can reserve or acquire the land for the poor. The town planning schemes in Gujarat have been a successful instrument in reserving land for infrastructure project and the same can be used effectively to allocate land for the poor. If the need be the government should not hesitate to buy land from the open market to implement the housing for the urban poor. The state government should encourage the city government to develop land pools which could be utilised for the benefit of the urban poor.

B. Using Available land

- i. Under-utilised government land
- ii. Unused appropriation

The city government should consider utilising the unused land in large government campuses and other unused appropriation to make available land for the urban poor.

C. Using land/ land value locked up in slums

- i. Voluntary relocation
- ii. In-situ redevelopment
- iii. In-situ land sharing
- iv. In-situ up-gradation

If the land value locked up in the slum settlement used for the urban poor, it can be instrumental in resolving the conflicts of land ownership in equitable manner. In slum settlements which are located on water bodies or on their catchments or on hazardous sites could be relocated voluntarily with the help of NGOs/CBOs. Slum settlements on the government land should be considered for in-situ up-gradation and based on community dynamics the site can be re-developed completely. Slum settlements on the private land should be considered for land sharing arrangements between the occupants and the land owners.

D. Improving formal land delivery system

- i. DP-TPS mechanism
- ii. Township policy

The city level development plan (DP) and the area level town planning schemes (TPS) are the formal and most important mechanisms to earmark land for the poor time to time. Planning authorities should make sure that these plans are timely revised and sanctioned. The new township policy in the Gujarat State would allow large scale housing projects possible and the government should make sure that there are pro-poor components in such projects.

Ahmedabad Municipal Corporation's Efforts

The presentation from AMC outlined the efforts of the city government to provide housing under Basic Services to Urban Poor (BSUP) component of the Jawaharlal Nehru Urban Renewal Mission (JNNURM). The AMC officials agreed that absence of formal mechanisms to provide affordable housing and livelihood has led to formation of slums. AMC has initiated survey of all the slums along with biometric identification and socio-economic survey of all the slum dwellers.

Table 10: AMC's Land Allocations for BSUP Projects

No.	Description	Area in Ha
1	New T.P. Scheme	200
2	Closed Mill land	15
3	ULC Land under Encroachment	250
4	Encroachment on private and public (govt) land	500
	Total (Ha)	965

Source: AMC presentation at the workshop

AMC has proposed 110,000 houses during the entire JNNURM period upto 2012, which requires 350 ha of land. AMC has completed and allotted 8,000 units from 2005-06 outlay and have completed 10,000 units from the 2006-07 outlay. AMC is building 12,000 units from 2008-09 outlay and 20,000 units from 2007-08 outlay. AMC has five projects (12,440 units) under process where the urban poor will get houses at the one-third cost (Rs. 87,000) and other two-third part will be the cross subsidy component which will be recovered by capturing the value of the land. The Builder will get two-third part of the land for commercial development and would be liable to build all the units to rehabilitate the slum dwellers.

Till now, AMC has managed about 73 ha of land for 18,976 houses mainly from TPS mechanism (30 ha), 20 per cent from closed mill lands (20 ha) and 23 ha from Urban Land Ceiling reserved lands. For the proposed housing development under JNNURM, AMC will manage about 965 ha of land as per Table 9. AMC also claimed that about 74 ha of land will be earmarked for the housing of the urban poor under the proposed redevelopment of closed mill lands in Ahmedabad.

The AMC also claims that 750 ha of land pockets have 'encroachments' on it. It will crucial for AMC to see that in the name of development under JNNURM, the urban poor are not displaced from the so called 'encroached' lands. In case the slum dwellers have to be displaced, onus lies on the AMC to rehabilitate theseslum dwellers in better housing with improved quality of life. Otherwise the proposed development under JNNURM will become the largest ever drive to displace the urban poor eliminating their existence from the core city areas.

7.0 PPP Approach

The PPP Approach was discussed by Ms.Poonam Mehta of YASHADA, Pune. However, this example was of Magarpatta City in Pune, where farmers came together, formed a company, pooled their land parcels together and developed the entire land for an IT city. This PPP is therefore illustrating increasing land supply for urban use and not for housing the poor. The Magarpatta City houses only high income groups, many of them working in IT companies located in the city.

Introducing the city, she said that Magarpatta City is a township plan for about 50,000 inhabitants with optimum sustainable systems. Mr.SatishMagar, who spearheaded this development, is the Managing Director of Magarpatta Township Development and Construction Company. The overall layout and the landscape is planned in such a way that human beings and the nature get integrated to each other. The city has residential layout, commercial infrastructure, health infrastructure, educational infrastructure and sports infrastructure besides having the cybercity enclave. The cybercity has 4 million sq.ft. of IT space. It would create direct employment for 40,000 professionals and indirect employment for about 15,000 people.

The concept of Magarpatta City originated in early 1990s. About 400 acres of land owned by over 120 families and 800 odd beneficiaries was pooled together to develop an integrated township. The landowner farmers formed a Limited Company 'Magarpatta Township Development and Construction Company Limited'(MTDCCL) and executed a Contract for joint Development amongst themselves with their self-promoted Company, to develop Magarpatta City. The Landowners jointly approached the Government of Maharashtra with an integrated Township Scheme proposal. The state government gave the permission. All landowners are shareholders in proportion to their land-holdings. They are entitled to receive a percentage of sale-proceeds in proportion to their land-holdings. Irrespective of the location of land everyone was treated equally. The company has benefitted due to escalation of land price over 8-10 years. The sale-proceeds from lands are expected to be invested in various Businesses, Industries and Hi-tech Agricultural activities. The company's profits are shared by the former farmers through their shares. Some among them were trained to be entrepreneurs who then entered into construction business. Today, most of the construction work is taken up by the former farmers trained to be entrepreneurs. The former farmers have been allotted houses in the new scheme. This is the way to integrate farmers in the urban periphery into urban mainstream without displacing them from the land. This company has now gone ahead and set up another such project at Nanded, with the landowner farmers of the city owning 49 per cent of stake in the new company and the MTDCCL holding rest 51 per cent stake in the new company. This option however is not suitable for increasing land supply for the urban poor unless such townships are asked to reserve certain percentage of their developed housing of less than 25 sq meter (or any such small sized housing unit)

8.0 Conclusions and Recommendations

The workshop's main conclusion was that there has to be multiple approaches to increasing land supply for the urban poor in Indian cities. One size fit all approach would not work. Further, question of land was key to the success of BSUP component of JNNURM, and not

much thought has been given to the same in many states while getting the BSUP funds. The presentations in this workshop also suggested that there were solutions possible within the existing planning and regulatory system if these were made more flexible and certain amendments were initiated within the existing system. However, for all these to happen, a proactive local government was necessary. It was equally necessary that the state government cooperate with the local government in bringing about speedy and necessary legislative amendments and create institutional structure for the same.

The essence of the presentations made at the workshop, mainly based on the studies of Ahmedabad City, was: public lands are available in the cities and these should be first tapped. Thereafter, the option of improving the existing land delivery system is necessary and which would require legislative reforms. Their third option is to provide tenure security to slum dwellers on their existing sites and then upgrade the slums or create tools for upgrading the slums. Lastly, look for new options for increasing land supply.

The concrete actionable agenda for increasing land supply for the urban poor is:

- A. Undertake an exercise of land inventory in the city
 - i) Prepare inventory of public lands in the city
 - ii) Prepare inventory of under-utilized public lands in the city
 - iii) Prepare inventory of lands available with public sector undertakings in the city
 - iv) Prepare inventory of unused private lands in the city and find out reasons for their not being used
 - v) Prepare inventory of lands frozen under the ULCR Act
- B. Improving formal land delivery system
 - i) This can be through reforming the land legislation to make them less complex
 - ii) Reduce the number of clearances required for developing land
 - iii) For both the agenda above, research on the existing bottlenecks caused by the land legislation need to be carried out.
 - iv) Introduce Development Plan and Town Planning Scheme mechanism of planning where there is flexibility of planning
- C Improving the Planning System
 - i) Introduce reservations in the local plans or TP Schemes
 - ii) Ensure use of reserved lands for the poor more efficiently
 - iii) If slum is existing on reserved lands for the EWS section, introduce a mechanism of quick resolution of legal tangle to transfer land use rights to the slum community
- D Providing tenurial security to the existing slums
 - i) Identify slums where land tenure security can be granted
 - ii) Give land use rights to the dwellers of such slums, preferably on communal basis than individual basis
 - iii) Wherever tenure cannot be given to slum dwellers living on public lands, provide alternative sites for relocation in location preferred by the dwellers.
 - iv) Promote in-situ upgradation or redevelopment on such sites

- v) For slums on private lands, in case of informal contracts between the occupant and the developer such as the ones executed on stamp-paper, convert these into legal contracts.
- vi) For slums on private lands with legal complications on land, institute a mechanism of arbitration by a government agency.
- vii) For slums where there are conflicts on land ownership and use, create 'Land Tribunals' at the ULB level for fast and efficient conflict resolution.
- viii) For slums on private lands where land values are high a land sharing model could be worked out, with transfer of land use rights to the slum dwellers for part of the land and the other part being commercially exploited by the land owner.

E Increasing Housing Supply through rental housing

F Increasing land supply

- i) Through buying land from the open market
- ii) Through encouraging PPP in certain locations with a condition to reserve certain percentage of new development for low income groups and EWS.
- iii) Through appropriating unused lands

The answer to increasing land supply for housing the poor is complex and requires multi-pronged approach. The housing and slum policy should allow for the flexibility of approaches, which are locally suited.

List of CUE Working Papers

WP 1 *Subversive Urban Development in India: Implications on Planning Education*, by Darshini Mahadevia and Rutul Joshi, December 2009.

Centre for Urban Equity (CUE) advocates a human-centered and equitable urban development paradigm. The activities of CUE are research, policy advocacy, training and capacity building and data documentation and dissemination. The Centre is a National Resource Centre of Ministry of Housing and Urban Poverty Alleviation, Government of India.



Centre for Urban Equity
(An NRC for Ministry of Housing and Urban Poverty Alleviation, Government of India)
CEPT University
Kasturbhai Lalbhai Campus, University Road, Navrangpura, Ahmedabad – 380009