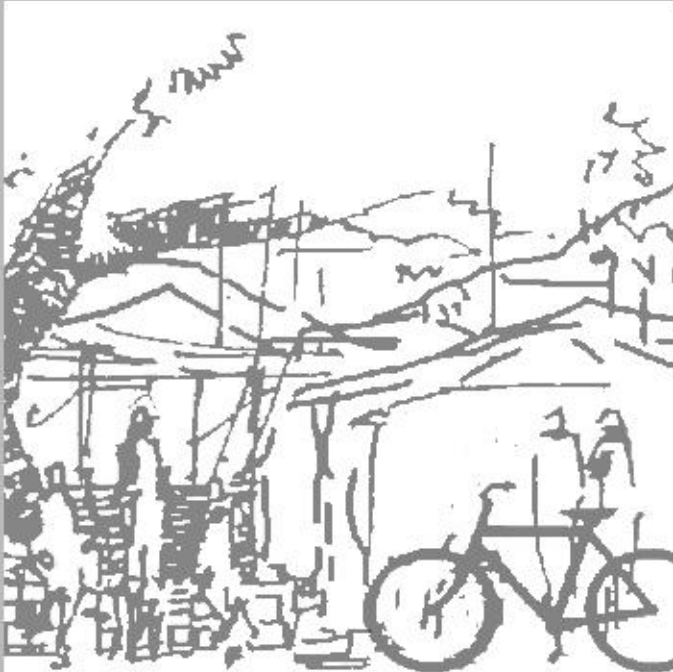


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The Status of Pro-Poor Reforms in Indian States



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1. Background

Indian economic reforms are attributed to the year 1991, when macro economy was opened up for global investments and goods, a push towards privatizing public services including the basic services, increasing thrust on decentralization of governance in giving grassroots a say but in practice moving closer to privatization and promotion of Public-Private-Partnership (PPP) (a euphemism for handing over public resources to private corporate sector) and increasing reliance on exports as growth sector. Urban reforms, starts with the 74th Constitutional Amendment Act (CAA) introduced in 1994 to give powers to the local governments but picks up after the introduction of the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) in 2005 December. The 74th CAA created a third tier of government as referred in the section IX A of the Indian constitution as “The Municipalities” whose functions are given in the 12th schedule. This amendment was done at the National level, and all the states adopted it but neither enacted all the provisions provided in the act nor transferred all the duties as per 12th schedule to the Urban Local Bodies (ULBs). The JNNURM has been a reform-linked urban development programme and has been meant to achieve two simultaneous targets, urban reforms and development of urban infrastructure.

Prior to the JNNURM reforms, Urban Reform Incentive Fund (URIF) was announced in 2002-03 budget with allocation of Rs. 5000 million (Rs. 500 crores), to provide reform-linked assistance to states. The URIF was approved in June 2003. The reforms proposed were¹:

- i) Repeal of the Urban Land Ceiling and Regulation Act at the state-level by resolution,
- ii) Rationalisation of stamp duty in phases to bring it down to no more than 5 per cent by the end of the Tenth Plan period,
- iii) Reform of rent control laws to remove rent control so as to stimulate private investment in rental housing,
- iv) Introduction of computerized processes of registration,
- v) Reform of property tax so that it may become a major source of revenue of ULBs and introduction of arrangements for its effective implementation so that collection efficiency reaches at least 85 per cent by the end of Tenth Plan period,
 - vi) Levy of reasonable user charges by urban local bodies, with the objective that the full cost of operation & maintenance is collected by end of the Tenth Plan period, and
- vii) Introduction of double entry system of accounting in urban local bodies.

Like in JNNURM, the central funds were to be released as the Additional Central Assistance (ACA) to the states and were based on the share of each state's urban population compared to total urban population. Each reform area was assigned a special weightage. On signing the Memorandum of Agreement (MOA) 50 per cent of the outlay was to be released and then the balance 50 per cent after the state governments achieving the prescribed milestones of reforms.

The evaluation of the URIF is not available. But, at the first instance, it can be seen that the amount committed by the central government was just Rs. 500 crores, much lower (just 1 per cent) than that under the JNNURM. The amount to be released in year 2003-04 was slated to be Rs. 188.14 crores and Rs. 58.01 crores was still to be released at the end of this year because the states did not claim them². It seems that the funds committed by the central government were too small to interest the states and the ULBs, resulting in non-utilisation of the funds allocated. All the URIF reforms have been continued forward to the JNNURM, something we will next.

The JNNURM reforms are in three categories: (i) Mandatory at the state level, (ii) Mandatory at the ULB and parastatal level and (iii) Optional at the state and ULB/ parastatal level. Two optional reforms have to be achieved every year and by that all the optional reforms have to be accomplished by the end of the mission period. The classification of reforms, their nature and progress at the state level and city level are given in Mahadevia (2010). These are given in Table 1 below:

Table 1: Reforms and Their Purported Purpose

Checklist of reforms	Objective (s)
1. Devolution of Powers to the ULBs from the state governments	
Implementation of 74 th Constitutional Amendment Act (CAA) -Transfer of 12 Schedule Functions	To ensure meaningful association and engagement of the ULBs in planning and service delivery.
City planning functions to be transferred to cities;	Assigning the ULBs with city planning functions.
Water and sanitation functions to be transferred to cities	Assigning all civil services to the ULBs for creating the accountability of the civic service providers.
2. Institutional Co-ordination	
Implementation of 74 th Constitutional Amendment Act (CAA) – Constitution of DPC	To ensure meaningful association and engagement of the ULBs in planning and service delivery.
Implementation of 74 th Constitutional Amendment Act (CAA) – Constitution of MPC	To ensure meaningful association and engagement of the ULBs in planning and service delivery.
3. Financial Sustainability	
Shift to Double Entry Municipal Accounting	<ul style="list-style-type: none"> • Better financial management • Transparency • Increasing self-reliance.
Property tax coverage -85%	<ul style="list-style-type: none"> • Establishing a simple, transparent, non-discretionary & equitable property tax regime • Encourages voluntary tax compliance

Property tax collection efficiency – 90%	<ul style="list-style-type: none"> • Increasing tax collection • Increasing self-reliance in finance
User charges to be 100% cost recover for O & M in water supply;	Securing effective linkages between asset creation and asset maintenance ultimately leading to self-sustaining delivery of urban services.
User charges to be 100% cost recover for O & M in Solid Waste Management	Securing effective linkages between asset creation and asset maintenance ultimately leading to self-sustaining delivery of urban services.
Encouraging PPP	Increasing finances available for provision of urban infrastructure
4. Deepening Participation	
E-Governance to be set-up	Having a transparent administration, quick service delivery, effective MIS, and general improvement in the service delivery link
Enactment of Public disclosure law	Ensuring that municipalities and parastatal agencies publish various information about their functioning on a periodic basis. Such information includes but is not limited to statutorily audited annual statements of performance covering operating and financial parameters, and service levels for various services rendered by them.
Community participation law*	Institutionalising citizen participation as well as introducing the concept of the Area Sabha in urban areas for involving citizens in municipal functions, e.g. setting priorities, budgeting provisions, etc.
5. Equity	
Internal earmarking for basic services for poor	Providing security of tenure at affordable prices, improved housing, water supply and sanitation to ensure basic services to the urban poor.
Earmarking 25% developed land in all housing projects for EWS/ LIG	Ensuring housing access of the low income groups
6. Transparency and accountability	
Revision of building bye-laws – streamlining the Approval process	To reduce the transaction costs and to make municipal governments more transparent and accountable
Simplification of legal and procedural framework for conversion of agricultural land for non-agricultural purpose	For increasing the transparency of the process and increasing new land supply for urbanization.
Introduction of computerized process of land & property registration	For increasing transparency in land market transactions
Introduction of Property Title Certification System in ULBs	For clearing land titles for land market operation as well as transparency.
7. Efficiency Enhancement	
Administrative reforms	Increasing staff, capacity building.
Structural reforms	
8. Environmental sustainability	
Rainwater harvesting in all buildings – Revision of building byelaws	For water conservation in the times of increasing urbanization and decreasing fresh water supplies
Byelaws on reuse of recycled water	For water conservation in the times of increasing urbanization and decreasing fresh water supplies
9. Land Market promotion	
Rationalization of stamp duty to 5%	For establishing an efficient real estate market with minimum barriers on transfer of property.
Rent control	To create a system that balances the rights and obligations of landlords and tenants to create new housing stock and promote robust rental housing market for all income categories.
Repeal of Urban Land Ceiling & Regulation Act (ULCRA)	Increasing the supply of land in the market, removing the inefficiencies and in the establishment of an efficient land market.

Source: (Mahadevia, 2010)

Table 1 shows that the reforms are of varied type and are towards fulfilment of very different objectives. Mahadevia (2010) has classified them into nine categories, some falling within the neo-liberal paradigm and some within welfare paradigm. There are two reforms also for environmental sustainability. Thus, a large menu has been given to the state and city governments for implementation and as the experience goes, the states and cities pick and choose them depending on their interest and development paradigm. More urbanized states are more interested in financial sustainability and have therefore implemented these reforms first. The states dependent on the state government for provision of various services through parastatals have not divested the functions to the ULBs, such as Karnataka, Tamil Nadu and Andhra Pradesh. But, their parastatals are now converted into behaving like Special Purpose Vehicles and shifting towards financial sustainability model. Mahadevia (2010) shows that to be the case with regards to Bangalore Water Supply and Sewerage Board. There is very high diversity of institutions implementing the JNNURM projects across the states and these have remained. The JNNURM reforms have been interpreted in suitable manner by the states and the ULBs.

The equity related reforms have more or less not been implemented by the state and city governments. The JNNURM had two reforms for this purpose and were relevant for the implementation of the Basic Services for the Urban Poor (BSUP) agenda in the mission cities and the Integrated Housing and Slum Development Programme (IHSDP) in the non-mission cities. These are termed as 'pro-poor reforms' by the Ministry of Housing and Urban Poverty Alleviation (MoHUPA). These are:

- a) Internal earmarking within local body budgets for basic services to the urban poor- eventually developing a Basic Services to the Urban Poor Fund.
- b) Implementation of 7-Point Charter, i.e. provision of basic services to urban poor including security of tenure at affordable prices, improved housing, water supply, sanitation and ensuring convergent delivery of existing universal services for education, health and social security within the Mission Period (2005-12) according to agreed timelines.
- c) Earmarking at least 20-25 per cent of developed land in all housing projects (both public and private agencies) for EWS/LIG category with system cross- subsidization.

Source: Revised BSUP Guidelines (2009).

JnNURM was still halfway in its 7-year mission period (2005-2012) and MoHUPA in the year 2009 announced a new flagship programme for housing the urban poor called Rajiv Awas Yojana (RAY). The scheme was formally launched in the year 2010. RAY had three major deviations from BSUP and IHSDP. The first one was in its approach called as comprehensive 'Complete City, Complete slums' or 'Whole City, Whole Slum' approach which required planning for the whole city and preparing a Slum Free City Plan (SFCP)

document. The second was to provide options for slum resettlement and rehabilitation giving priority to in-situ development. The third was to create measures to stop the growth of further slums. The successful implementation of RAY programme depends on completion of RAY reforms agenda, which has one addition over the JnNURM's pro-poor reforms. The first one is to create legislation for granting 'Property Right' to the slum dwellers. The reforms under RAY are following:

- a) Provision to assign property rights to the slum dwellers preferably in the name of the wife or in the name of the both wife and husband. Enactment of legislation to be done in the first part of the first project sanctioned. For north eastern states timelines are to be worked out at a later stage.
- b) Provision of 20-25 per cent developed land for EWS/LIG housing in every new public and private residential development.
- c) Provision of 20-25 per cent budget reservation for the poor by the urban local body constituting a 'basic services for urban poor fund'.

Source: RAY Scheme Guidelines (2011)

As one can refer from the above listed reforms, there are two major objectives of reforms. The first crucial objective is to, create pro-poor mechanisms in distribution of land and public finance to the poor, so that their place in the city is allocated and their rights on public exchequer restored. The reform for 'property rights' has its root in security of tenure to slum households and remove the tag of 'illegal citizens' from them, however, in line with the advocacy by Hernando de Soto, a Peruvian economist. There are however reservations to giving property rights than thinking of tenure security.

RAY's success completely depends on the way these reforms are carried forward by the states, and implemented on ground. It is therefore important to understand the theories behind these reforms and underlying debates, which have made them important. This paper is an attempt to look at the rationale behind these reforms, status of these pro-poor reforms across different states in India and bottlenecks hampering the implementation of these reforms. As two reforms from the RAY reform agenda are from JnNURM era, and also many states already have acts and policies to provide property rights to slum dwellers, certain case studies and legislation reviews have been added to make this paper further informative.

2. Property Rights to the Urban Poor

2.1 The Rationale

The concept of poverty alleviation through land tenure security to the poor is not new, and has remained in development debates since long. A gamut of research has been done on impact of tenure security on betterment of basic services and other social welfare, leading to betterment of living conditions, and in turn removing households from poverty trap. This

approach goes hand in hand with the self-help housing, and strengthens the argument that provision of constructed housing to the urban poor entails high subsidies and totally neglects accounting of the investments by the poor themselves in their own habitat. The most basic argument behind the tenure security is that even a little amount of investment done by poor households in betterment of housing is important, and eviction and resettlement leads to wastage of this investment. Empirical research also suggests that slums invest in their own housing if security of tenure is provided to them. Security of tenure brings households into formal cover, and creates legal access to water and sanitation. There is a conventional view that secure tenure works to reduce poverty by increasing the security of households against eviction and increasing their access to credit markets using their property as collateral. (Mooya & Cloete, 2008).

There are complexities associated with land, and land issues are politically sensitive in many developing countries complicated by the presence of powerful vested interests and sometimes accompanied by conflict; the ability to control land is linked specifically to issues of power (Hurley & Hobley, 2005). There are also complications of different systems of legislations associated to land, and different forms of tenure co-existing in the same country and sometimes even in the same city, or between an urban area and its surroundings, therefore any attempt to develop appropriate tenure policies, therefore needs to take into account this variety and the factors influencing it (Payne, 2000). The security of tenure is a wider subject with many sub currents, and there are two approaches. First is the rights based approach. Payne (1997) said that 'land rights' exist as a part of other rights in society as a whole and one cannot be changed easily without the change in others. The right based approach is more sensitive to the existing social fabric, and "Rights" is a wide word to interpret, which can cover access, use, development or transfer and as such exist parallel with ownership.

The other approach is the title based approach popularized by De Soto (2001)'s work which claimed that Capitalism has not worked for developing nations because of red-tape free formal land systems and capitalist apartheid which has created legal and political systems that prevent the majority from entering the formal property system. He termed the value hidden in the informal lands as "Hidden Capital" which could be only be unearthed if formal titles are distributed to households which are recognized by formal legal system, so that households would be able to access the formal credit market (De Soto, 2001). The cities will gain funds by collecting formal taxes from these lands and households will benefit from the credit they will receive for starting new employment activities, as formal property can be offered as collateral for borrowing. In the absence of such system under-developed nations fail to make worth capital locked in the informal settlements. The theory put forward by De Soto became popular in Latin American countries like Peru and underdeveloped countries like Mexico. In India also, MoHUPA is somewhat convinced about property titling in informal settlements.

De-Soto's theory was also supported by the World Bank which also started pushing land titling projects in many countries after 1990. Gilbert (2002) wrote a criticism of the approach and pointed out that the continuum of security in illegal settlements depends less on exact legal status and more on occupant's perceptions on the probability of eviction and demolition (enforcement) as well as the availability of services and passage of time (Gilbert, 2002). Many other also pointed out that provision of land titles may also raise the living expenses of others who are not direct beneficiaries, for example, tenants may be hurt by rents rising in legalised settlements. Legalisation may also create problems within the family, particularly for common-law or second wives (Varley, 2000). Burgess (1982) feared that owners will lose out through rising property values, by opening up poor settlements to downward raiding from higher income groups. Nevertheless none of the studies including Gilbert (2002) denied importance of security of tenure for the poor, and concluded it to be the most important aspect for betterment of quality of life.

The National Urban Housing and Habitat Policy (NUHHP) 2007 has acknowledged that the quality of housing stock in slums is extremely poor and an important reason for this is insecurity of tenure (Ministry of Housing and Urban Poverty Alleviation, 2007). Land in Indian cities is the most contested issue and very less is been said and done to ensure its equitable availability. Land is a state government subject in India and urban planning is the city government subject which is totally dominated by the state government. A welfare-oriented state government is interested in providing housing for the poor in locations convenient to the poor. A growth-oriented state government, with low priority of welfare, tends to eject the poor out to the peripheries, through either the housing programmes or demolitions, disregarding the right of the poor to the city. There is also high inequity in the land distribution in Indian cities. The earlier way of intervention in slums was through slum clearance, which consisted of mostly rehabilitation by shifting slums to new housing blocks. The task required more capital investment and large subsidies. Even after this ordeal many research studies report loss of livelihoods and partial or no betterment in living conditions. BSUP also relied on construction of heavily subsidized housing, at the city periphery. This housing was left unoccupied by the people in cities like Hyderabad³ (Mahadevia and Gogoi 2010) as it was situated in far off locations away from livelihood, and huge contestations took place for allotments in Ahmedabad⁴.

MoHUPA after learning from the many failures of the BSUP schemes and its limited reach to people announced RAY in 2009, taking a position that in-situ development must be favoured to decrease ill effects of relocation and whole city-whole slum approach must be taken to avoid exclusion and ad-hoc selection of settlements and beneficiaries from them. RAY strengthened the requirement of tenure security for the poor by turning it into a major reform asking states to create relevant legislations for it. Many states like Madhya Pradesh and Rajasthan already had relevant acts and policies for granting land tenure security in the form

of “*Patta*”. But, the MoHUPA decided to go for ‘property rights’ than ‘tenure security’ through various means.

2.2 International Experiences

Two major examples in this regard are from two countries of Peru and Mexico. The World Bank was an early supporter of land titling programmes and began funding a major programme in Peru. By November 2000, 1,049,134 land titles were allotted nationally in Peru out of which, 512,581 (48.8 per cent) were in Lima alone. Municipalities were again able to give property titles since April 2011. COFOPRI⁵ (Organasimo De La Formalizacion De La Propiedad Informal) which was the nationwide Agency for Formalisation of Informal Property in Peru, continued giving property titles and delivered it to 126,752 families between August 2001 and July 2002. In Mexico, CORETT⁶ ([Comisión para la Regularización de la Tenencia de la Tierra](#)), which is the Commission for the Regularisation of Land Tenure had regularized more than 2,500,000 plots.

In Uruguay the programme to regularize informal settlements occupying municipal lands started in 1990. It established that the tenure of all municipality owned land that was occupied by buildings made of durable materials carried out by organised communities was given to citizens. (Durand-Lasserve, Fernandes, Payne, & Rakodi, 2007). The military government in Chile gave out more than 500,000 land titles between 1979 and 1989 and the two democratic governments that succeeded it, distributed a further 150,000 titles by 1998 (Gilbert, 2002).

Payne (2000) did not report many improvements due to tenure regularisation in Peru, and also added that assuming that poor would always want to borrow is a flawed premise. Kagawa (2000) did research on effects of tenure regularisation in Peru and through an extensive primary survey analysis demonstrated that regularisation was creating a positive impact on quality of housing, services and incomes, but also concluded that it is difficult to claim that regularisation policy has opened doors for the urban poor to access the private sector of the economy through access to credit (Kagawa, 2000).

2.3 MoHUPA’s Approach to Property Rights

MoHUPA in the year 2011 published a draft bill called “Model Property Rights to Slum Dwellers Bill 2011” which was proposed as a model act to provide for comprehensive property rights legislation for slum dwellers, and establish the mechanism for its implementation and for other purposes⁷. The introduction of the act read that it is an act to provide for facilitation of growth and slum free cities, including basic amenities and affordable housing to the slum dwellers.

The bill defines “slum area” as a compact settlement of at least twenty households with a collection of poorly built tenements, mostly of temporary nature, crowded together usually with inadequate sanitary and drinking water facilities in unhygienic conditions. It also further segregates the slum settlements into tenable and untenable. Untenable slums are those which are on environmentally hazardous sites (like riverbank, pond sites, hilly or marshy terrains, etc.), ecologically sensitive sites (like mangroves, national parks, sanctuaries, etc.), and on land marked for public utilities and services (such as major roads, railway tracks, trunk infrastructure, etc.). The housing size recommended by the bill is 25 sq m carpet area. If the land has to be given than it should be of a size allowing construction of a dwelling unit of minimum 25 sq m carpet area. The act recommends granting of a legal document of entitlement to each slum dweller. The affordable cost of housing is defined as cost which is based on the needs and financial capacity of the slum dweller as prescribed by the State Slum Redevelopment Authority created for the implementation of the act. The land/dwelling unit allotted has been kept non-transferrable till 7 years from the date of allotment and mortgaging it is allowed for raising finance.

The bill recommends in-situ development for tenable slums even by modifying land-use and town planning provisions if required. The option of relocation suggested is that it should be within only 5 km from the original site for un-tenable slums, and that too after ensuring connectivity to the public transport. The bill also gives power to the state governments to acquire land within, adjoining or surrounded by slum area to execute any work of up-gradation, redevelopment and resettlement defining such acquisition as “public purpose”.

The only unacceptable content in the bill is section-17 (Chapter-VI) which is written for prevention of encroachments and construction of illegal structures. It recommends that any person encroaches upon any government land or constructs an illegal structure or abets the encroachment or construction of illegal structure thereon shall be punished with imprisonment of not less than three years or with a minimum fine of Rs. one lakh or with both. This section would lead to harassment of the new migrants to the city who cannot afford a legal house and there is no affordable housing supply by public housing agency or housing provision by the employer. This chapter seems to have been written under the influence of “preventive strategies” suggested under RAY. The bill also does not mention the responsibility of the local or state government to ensure land supply for the low-income recent migrants to the city for their housing.

The bill has left large many decisions to the discretion of the state government. Many such decisions like the minimum residence of the beneficiary in the city for determining eligibility of a beneficiary, and the time period of tenure could become instruments of exclusion for a large number of beneficiaries. The bill also seems to have taken land titling approach rather than land rights approach, as there is no mention of any stipulated lease period for the slum

dwellers. This may lead to gentrification at a large scale and also eviction as it leaves the beneficiaries on the mercy of volatile and speculative land markets. This is also a serious concern with the approach taken by the MoHUPA to land tenure through this proposed legislation.

2.4 Status of Reform in Indian States

There are many states which already have acts and policies for land tenure regularisation prior to the announcement of the RAY scheme. A number of states such as Andhra Pradesh, Madhya Pradesh, Orissa, Rajasthan and Maharashtra in the past have opted for tenure regularisation as state wide policy across all urban areas. These legislation at the state level state that they are for giving of *Patta*, or right to use land. States such as West Bengal and Tamil Nadu have adopted a city specific or programme-specific approach (Banerjee, 2002). In Andhra Pradesh up till 1998, about 9.5 million urban households have benefited from tenure regularisation administered by Revenue Department. The policy of 1995 stated, that people squatting government land for more than five years were considered eligible for *Patta*. Poor families were given freehold *patta* without any charges. In Madhya Pradesh about 150,000 *pattas* have been granted under the Patta Act of 1984, however for slum households that are on state government lands. In the eastern state of Orissa, Orissa Government Land Settlement Act provides for the extension of tenure rights to the slum population on both freehold and licence basis. The state of Rajasthan adopted a systematic programme regularising “*katchi bastis*” in all the 147 municipal towns in the state and a 99 year lease was offered. About 7 million people were included in this programme all over Rajasthan till 1998 (Banerjee, 2002). The detailed review of each such legislation in practice and in draft stage is presented below.

Madhya Pradesh

The *Patta* Act of 1984⁸ was introduced in the state of Madhya Pradesh to grant leasehold rights to landless persons occupying urban lands. A “*Patta*” is the lease right which is given to a slum dweller under the scheme. There are two kinds of *patta* as per the act, the first one is the permanent *patta* which could be given on all lands belonging to the state or city government, and the tenure is 30 years which can be renewed. Permanent *patta* is to be applied through Form-B in the Act. The other one is temporary *patta* which is given to the slum dwellers which are liable to get resettlement. The span of this *patta* is 1 year which could be renewed as per requirement. Temporary *patta* is to be applied through Form-C in the act. In case of encroachments on lands by landless persons on public park, road sides or in between the person was allowed to be shifted and resettled elsewhere by giving him/her leasehold right, however, after giving the person proper hearing.

Land tenure regularisation could be done in all four kinds of cities in Madhya Pradesh, namely *Nagar Panchayats*, Municipal Councils, *Rajbhogi*³ Cities (Gwalior, Jabalpur, Indore and Bhopal) and other Non-*Rajbhogi* cities. The city wise plot size and annual development charge is given below.

Table 2: Area of *Patta* Land and Annual Development Charge, Madhya Pradesh

S.no.	Type of Cities	Land Area for Patta (sq.ft.)	Annual Dev Charge/ Yr. (Rs.)
1	Nagar Panchayat	1,000	1.00
2	Municipal Council	800	1.50
3	Non-Rajbhogi Cities	700	1.50
4	Rajbhogi Cities	600	2.00

Patta Act was amended twice, first was in the year 1998 (Madhya Pradesh ordinance number 3 under the Rajiv Ashraya Abhiyan) and the second amendment was in the year 2003. The 1998 amendment increased the cut-off date to 31st May 1998. The 1998 amendment was also important as it brought into picture a new community decision making structure called the “Mohalla Samiti” into the act. A Mohalla Samiti had to be formed at every settlement which was liable to get *patta*, and special Mohalla Samiti rules were formed. A Mohalla Samiti was recommended to consist of a minimum of 7 and maximum of 15 members. Fifty percent of the total members of a Mohalla Samiti should be from the Scheduled Castes, the Scheduled Tribes or Other Backward Classes. One third members of the committee should be women. The powers and functions of the Mohalla Samiti were decided as:

- (a) To prepare a detailed scheme for the development of the locality at its present site or its resettlement elsewhere.
- (b) To prevent unauthorised occupation or construction in the locality and to take action to remove them, if found.
- (c) To take measures for the security of the locality.
- (d) To conduct campaigns for the prevention of child labour and consumption of liquor and other toxic substances, satta, gambling and similar unlawful activities.
- (e) To ensure peaceful public celebration on the occasion of festivals, anniversaries etc.,
- (f) To conduct local campaigns for social welfare and health care.
- (g) To collect development charge, conservancy tax, light tax, fire tax and such other taxes and fees, if authorised by the government or the urban local body as the case may be, and to credit them in the prescribed manner.

³ Rajbhogi cities are Class-I cities (Municipal Corporations). There were 5 Rajbhogi cities in undivided Madhya Pradesh namely, Gwalior, Bhopal, Jabalpur, Indore and Raipur, out of which Raipur is now in the state of Chattisgarh, Non-Rajbhogi cities are Class-II Municipal Corporations.

The 1998 amendment also did an unnecessary change into the act by prohibiting mortgaging of *Patta* lands, stopping access to credit, which was completely against all the theories related to the provision of tenure security. The amendment prescribed that leasehold right accrued shall not be transferable by sub-lease, sale, gift, mortgage or in any other manner whatsoever except by inheritance. This condition was removed by the amendment in the year 2003 which allowed *pattas* to be mortgaged for housing loans from the banks, registered housing societies and government organisations and also increased the cut-off year for getting *patta* to 2003. There are also talks of increasing the cut-off year to 2007.⁹

Although the permanence offered by the *Patta* Act to the beneficiaries can be questioned as the act also provided right to a high powered committee constituted by the state government to vacate any existing occupied land for public interest. The act specified that if it is considered necessary in the public interest to shift the permanent lease holders and settle them elsewhere, the high power committee shall give to such lease holder an opportunity of being heard and after sympathetically considering all the facts placed before it could decide on shifting the occupants elsewhere.

Andhra Pradesh¹⁰

The Andhra Pradesh Property Rights to Slum Dwellers Bill 2011 is in response to the RAY's reform agenda which has made relevant changes in the MoHUPA recommended model bill as per requirement. The property rights could be given on maximum 80 sq yard (60 sq m) of land per family in slum areas notified by the District/Greater Hyderabad Municipal Corporation (GHMC) Slum Redevelopment Authority. If any family occupies land more than 80 sq yard then they could pay three times the market price for getting tenure on the extra land. In case of vertical development a minimum carpet area of 25 sq m could be provided with undivided interest over the land. The property rights given are inalienable and shall not be transferrable for the period of 15 years from the date of assignment, but could be mortgaged to enable the slum-dweller to have access to credit facility from scheduled banks.

The property rights shall not be assigned to the slum dwellers located on any of the following kinds of lands:

- (a) Hazardous/Objectionable Government lands injurious to the slum dwellers, viz., canal bunds, tank beds, road margins, burial grounds, solid waste land fill sites or other lands as prescribed.
- (b) Lands owned by the Central Government, Central Public sector undertakings and Railway lands without their consent
- (c) Lands belonging to Defense Forces
- (d) Lands under protected monuments and restricted areas declared by the Archeological Department
- (e) Lands owned by State public sector undertakings, Statutory Boards.

- (f) Layout open spaces, parks, green belt zones, mangrove forests, national parks, sanctuaries, conservation zones, schools, play grounds, health centers and stadiums or other lands as prescribed.
- (g) Lands notified for any purpose other than residential use by the Government.

The institutional setup prescribed in the bill recommends setting up two authorities one at the district level called District Slum Redevelopment Authority/Greater Hyderabad Municipal Corporation Slum Redevelopment Authority and the other at the state level called the State Slum Redevelopment Authority.

In terms of development of slum areas, the bill recommends in-situ development keeping in view the overall public health and safety, and the minimum planning standards with regard to width of approach roads, lanes and bye-lanes; and social, economic and rehabilitation aspects as may be prescribed to facilitate the provision of basic civic services like water supply, sewerage, drainage and electricity. The bill also prescribes provision of transit accommodation for redevelopment procedure for the prescribed duration, which could also be in terms of rent paid to affected persons.

Tamil Nadu¹¹

Tamil Nadu is willing to amend its existing Tamil Nadu Slum Clearance Board (TNSCB) Act in accordance with the Model Act circulated by MoHUPA. In the changes suggested, major ones are non-formation of Slum Development Committee at each slum level, creation of district committees in place of area development committees. Tamil Nadu claims that their Slum Clearance Act will require very few amendments to follow the model act circulated by MoHUPA.

Kerala¹²

Kerala has prepared a bill called the Kerala Property Rights to Slum Dwellers Bill 2011, in which State Level Nodal Agency has recommended necessary changes and is being submitted to the legal department. The bill is under consideration of Government of Kerala. The state has also recommended few deviations from the Model Bill. The first major change is the inclusion of ‘roads’ in the definition of basic services. The second major deviation is in the definition of slum area, which as per Kerala should be a cluster of at least 10 households living within 0.25 acres of land resulting in population density of at least 200 people per acre with one or more of the following list of indicators:

- (a) Located within or in proximity to solid waste dumps, drainage ponds, open drains, streams, canals etc.
- (b) Unauthorised settlements on public land like road, railway land, canal etc.
- (c) The location is prone to water-logging, accumulation of drainage/waste-water
- (d) At least 50 per cent of the households earn their livelihoods in the unorganized sector (as defined by the NCEUS)
- (e) At least 50 per cent of the dwelling units are of semi-permanent or non-permanent nature
- (f) At least 50 per cent of the households do not have access to piped water supply
- (g) At least 50 per cent of the households do not have individual household latrines
- (h) At least 50 per cent of the households do not have access to private bathing spaces
- (i) At least 50 per cent of the households do not have at least 1-metre wide pathways leading to their dwelling units
- (j) There is no street lighting in the cluster
- (k) At least 20 per cent of the families do not have authorised electricity connection

The state also has concerns regarding the definition of ‘public interest’ which is not very clearly defined in the model bill. Another concern is selling limit of 7 years, in which the state has suggested that if the beneficiary sells the house in less than 7 years, he/she loses the right to get any government support in any other housing scheme till next 20 years. The clear definition of ‘Resettlement Site’ has been proposed as a site with basic civic and infrastructure services. A convergence of slum development programmes with state programmes has been suggested. The state has suggested retaining the 70 per cent consent of beneficiaries’ clause in the community participation section.

North-eastern States

Almost all North-eastern states have very different situation with regards to land except Assam. They also have an issue of defining slum, except in Assam again. It is often difficult to find a cluster of 20 households that can be classified as slum. Even if the definition of slum is relaxed to introduce a cluster of 10 households, it may be difficult to find slums. Most houses in these states are either katcha (as they build with local materials) or lack infrastructure. But, they may not be found in a cluster and are distributed all over the city. Hence, there does not arise issue of giving property rights to slum dwellers when settlement such as slum does not exist.

All these are also Scheduled Tribes dominated states and are covered under the Schedule 6 of the Constitution of India, under which non-tribals cannot get land rights in the state. These states are Nagaland, Meghalaya, Mizoram, Arunachal Pradesh and Manipur. In Sikkim, only those born in Sikkim have access to land property ownership. Meghalaya Land Transfer Act prohibits land transfer to non-tribals. In Assam, in the special areas Councils, the lands are

reserved for the indigenous population and the migrants cannot be given land rights. In Nagaland, the lands are communally owned even in the cities and the city or state government do not have powers to acquire them. How would the property rights reforms be relevant in such a situation? In Assam, where there are slums in the major cities such as Guwahati, a large proportion (40 per cent) (Desai et al 2012) are on railway lands wherein tenure cannot be given.

Assam has Assam Land Policy for those settled on government lands. The policy states that 1 katha 10 lecha (about 400 sq m) land to be given to the indigenous landless family who has:

- a) no land and in occupation of government land for 15 years.
- b) land in rural area but no land in city and in occupation of government land for 15 years.
- c) no land in rural area or city and staying in urban area for 15 years.
- d) land in rural area but no land in urban area and staying in urban area for 15 years.
- e) Other land less indigenous person.

West Bengal

The model bill of MoHUPA is under consideration by the state government. In 2010, a circular¹³ vide 1469-GE (M)/1L-20/10 dated 17.03.2010 was issued for long term settlement of plot having maximum area of 2 kottahs for 99 years on token salami of Re. 1/- for those urban poor who are residing over vested land in urban areas for at least 20 years, provided that the land has not been earmarked for any project purpose. This provision is presently being re-examined. According to the provision, the beneficiary household should not have a monthly income of more than Rs. 6000. The circular also mentioned that the annual land in respect of such land will be fixed as per the land revenue under the West Bengal Land Reforms Act, 1955 or Kolkata Land Revenue Act, 2003.

The state also has the Thikka Tenancy Act 1949. In many cases in West Bengal, owner of land and owner of the structure on the land are two different people. The Thikka Tenancy Act protects the interest of the owner of the structure. Currently, this act covers 100 wards out of the total 123 wards in Kolkata Municipal Corporation area. In 1981, this act was replaced and all thikka land was vested onto the State and the ownership of structures was given on a heritable basis with no transfer rights. Another important characteristic of the Thikka Act was that, a thikka tenant can raise only residential structures – but later industrial structures were also built on thikka land under the Thikka Act 1990. In 2011, KMC covers 23,000 acres and the 100 thikka wards cover about 10,000 acres. Most of the thikka land has turned to slums. Many thikka tenants have land ranging from 3 acres to 1 acre. On this land, thikka tenants have started giving units out on rent thus creating huge sub-tenant market. This legislation is not applicable in other urban areas of West Bengal. But, this legislation would not allow for giving of property rights to dwellers of slums covered by the Thikka Tenancy Act. Also, there is an issue of tenants getting property rights as the thikka tenants may not allow that.

Bihar¹⁴

The state of Bihar has released a Draft State Slum Policy Draft which has provision of extending tenure. The policy has defined certain governing principles, which include making identification and listing of slums a systematic and regular process, exploring option of in-situ upgradation before relocation of slums and delinking basic services from land tenure considering it as a 'right' (UD&HD, Government of Bihar, 2010, pp. 1-2). The policy has provision of transferring encroached government or municipal land at 33 per cent of the market value (ascertained from the stamp duty records) to the resident welfare association. The state has also been given powers to decide if the land has to be transferred free of cost (pp.7). The policy also has provisions for dealing with encroached private lands, and it recommends that Slum dwellers residing on private land for at least 10 years and wanting title to the land, can collectively buy the land through negotiated settlement with the owner at a price not exceeding 33 per cent of the market value. Such a transfer would be in the name of housing cooperative society of the slum dwellers, and contribution of each household would be decided on the basis of each square metre of land occupied by the slum dwellers after adding the proportionate cost of open land, streets (pp.8). There is also a provision of considering other forms of tenure like group tenure, collective tenure, co-operative tenure etc.

Gujarat

Gujarat state does not have interest in preparing property rights legislation. This is a migrant receiving state and hence is apprehensive of giving property rights to the migrants.

Rajasthan

The Government of Rajasthan took a policy decision to regularize "*katchi bastis*" (slum settlements) in the city of Jaipur by providing 99 year leases (*patta*). The programme started with Jaipur, and soon all 147 municipal towns were covered under the programme, in which in situ regularization was the preferred option. The lease was offered with differential rates related to income. About 7 million people in the state were included in the programme between 1982 and 1995 (Bhatnagar, 1996). *Patta* had certain conditions like, no re-sale allowed till 20 years, possibility of mortgaging it for finance and restricting the land-use to residential.

2.5 Wider Interpretation of the Reform

The reform at its base has the theory related to the shelter security. The security of tenure cannot be just assured by providing land title to each beneficiary. It has been discussed earlier, that there is a possibility of land titles creating gentrification and eviction leaving actual beneficiaries on the mercy of ruthless land markets. The interpretation of this reform

cannot be understood without understanding the concept of security of tenure, and understanding the expected impact of the reform at the ground level.

Payne (2000) argues that tenure rights have a continuum, and it is too simplistic to understand tenure in black and white terms. There is co-existence of different kind of tenure systems and sub-markets which have complex set of interrelationships. If countries increasingly adopt market-led approaches to economic development, tendency towards commoditization of urban land is intensified. The provision of full, formal tenure status to informal settlements raises their commercial value and can therefore actually reduce tenure security for the most vulnerable social groups, such as squatter tenants. A starting point may therefore be to regard every step along the continuum from complete illegality to formal tenure and full property rights as a move in the right direction, to be incrementally (Payne, 2000). Doebele (1988) supporting the rights approach to tenure security suggested certain other methods like community land trusts and cooperative tenure forms.

The first expected impact of this reform is increased confidence in slum dwellers against eviction, and generation of a sense of attaining citizenship of a city in true sense with a legal address to claim basic services and other social welfare schemes. The other one is increased investment in improvement of housing quality and power to achieve finance from any financial institution. Empirical studies suggest that both the things do not require a land title, but just an assurance of non-eviction for the slum dwellers. The steps to achieve tenure security for slum dwellers should be taken patiently, resolving slum-by-slum situation and then forming a legislative decision which fits the context as per the situation of slums in the state. A no-eviction guarantee with a moving cut-off line could be taken as a start to reach the final stage of legislative change.

3. Internal Earmarking in Municipal Budgets

3.1 Rationale behind the Reform

Unavailability of funds is always quoted one of the prime reasons of the failure to reach basic services to the slum households. The primer¹⁵ issued by MoHUPA while advocating this reform to the cities stressed that there is a need to scale-up delivery of civic amenities and services with emphasis on universal access to the urban poor. The current practice of common budget having generic items has failed to provide a proportionate share in resource allocation to the urban poor and therefore it is important to ensure equity, efficiency, transparency and accountability of the ULB budget. Separate budget head for urban poor welfare and detailed budget items under separate head and other respective service heads will improve efficiency in allocation and utilisation of resources for the urban poor. It will also facilitate performance monitoring. It will facilitate transparency, which will make it easy to ascertain that how much ULB is spending on the urban poor, and under which head. Internal

earmarking will make performance monitoring an easier task, and would also help in fixing accountability for under or non-performance.

3.2 International Examples

The idea of internal earmarking in city budgets is also rooted in creating an accounting system in the ULBs, which is sensitive enough to the needs of the urban poor, and is utilised to make them at par with the basic services provided to the rest in the city. Countries like Indonesia and Brazil have done some work on pro-poor and participatory budgeting. National Development Planning Agency (NDPA) of Indonesia in association with Asian Development Bank (ADB) issued Handbook of Pro-Poor Planning and Budgeting in the year 2008. NDPA in cooperation with 11 district and municipal governments worked together to find a mutual understanding on pro-poor planning and budgeting and to identify effective tools and guide efforts to achieve pro-poor development. The pro-poor budget according to the handbook directs to reserve budget for the urban poor according to the percentage of poor community in an area. The budget could be utilised in provision of basic services and social protection, community empowerment programmes, and provision of access to resources and training to small and micro enterprises (National Development Planning Agency, 2008).

Brautigam (2004) interrogates in detail many cases where participation and pro-poor policies in budgeting were initiated. In the case of Porto Alegre in Brazil it was seen that participation by poor residents in the budgetary decision making led to sharp increase in the reach and coverage. Participatory budgeting has now spread to 140 smaller municipalities in Brazil, but efforts to put these efforts in large cities like Brazilia, Sao-Paulo and Vitoria have failed. It does not appear to be reaching the 'poorest of the poor', whose priorities are more likely to be survival issues such as income generation and jobs, rather than sewage systems and services, and the amount of the budget that is typically available for discussion – after fixed expenses such as salaries, debt payments, and maintenance on earlier investments – may only be 5 per cent of the total. It is seen that between 1989 and 1996, the number of households with access to water services rose from 80 per cent to 98 per cent; proportion of population served by the municipal sewage system rose from 46 per cent to 85 per cent; number of children enrolled in public schools doubled; in the poorer neighbourhoods, 30 kilometres of roads were paved annually since 1989; and because of transparency affecting motivation to pay taxes, revenue increased by nearly 50 per cent. The credit of all these achievements can be given to participatory pro-poor budgeting (Wagle & Shah, 2003).

Brautigam (2004) also argued as a part of the study that 'who participates' is a critical question in these processes which is critical for forming the budget. Countries like Costa Rica, Chile and Mauritius are exemplars in their regions for their performance in the kinds of areas that are likely to reflect pro-poor spending: education, sanitation, and health infrastructure. Still, these were given least ranking in a study done by Centre on Budget and Policy Priorities based in Washington D.C. on aspects of transparency and citizen

participation in budget. This indicated that there were very few mechanisms for citizens to make an input in the budget while it is being formulated, little in a way of a reporting mechanism and little transparency regarding changes in the budget after it had been approved, or actual impact of spending decisions (Brautigam, 2004).

3.3 MoHUPA's Approach to Internal Earmarking for Urban Poor in City Budgets

Ministry's approach to reforms has always remained that of amendment in the legislations. It is also quite expectable, as legislations make abiding a compulsory affair. MoHUPA therefore also circulated a model amendment in the Municipal acts to be followed and adapted by the states. It had six sections which described the name of the fund as Basic Services to the Urban Poor fund and other sections defined the inclusions and exclusions of resources and works in the said fund. The model amendment is given in detail below.

Model Amendment proposed in the Municipal Act

Section 1: Constitution of "Basic Services to the Urban Poor" fund

1) A separate fund called the "Basic Services to the Urban Poor Fund" shall be constituted by every Municipality for delivery of basic services to the urban poor including the residents of the slum areas.

2) A minimum of twenty five percent of the funds within the municipality's budget shall be earmarked and used for providing basic services to the urban poor, including inhabitants of slum areas on a yearly basis. The allocation to the fund shall be made from the following municipal budgetary resources:

- a) Municipality's own sources of revenue e.g. taxes, fees, user charges and rents etc.
- b) Assigned Revenues;
- c) Allocations from Central/State Finance Commissions/other intergovernmental transfers.
- d) Contributions in cash/kind, gifts from individuals, organisations, donors for the services of the poor
- e) Grants from externally aided projects
- f) Sale of Municipal assets
- g) Other sources, as determined by the Municipality.

Explanation- For the purpose of this section any grant or contribution by whatever name called, received by the Municipality which is exclusively for the development of slum areas shall not be part of above earmarked funds.

Section 2: Utilisation of the Earmarked Funds

The earmarked funds under the section 1 shall be for providing basic services to the urban poor including inhabitants of the slum areas.

Explanation: For the purpose of this section, “basic services” shall include expenditure on capital and revenue account directly incurred on water supply, drainage, sewerage, construction of community toilets, Solid Waste Management, connecting roads, street lighting, public parks and playgrounds, community and livelihood centres, community health centres, pre-primary and primary education centres, affordable housing for poor, and other services as determined by the municipality but shall not include establishment expenses including salary and wages, not directly and specifically incurred for delivery of basic services to the poor.

Section 3: The allocation of the funds and its utilisation for providing basic services to the urban poor should be detailed and enclosed with the Municipal Annual Budget along with the corresponding funds for the previous year.

Section 4: The fund shall be in the nature of a non-lapsable fund. In the event of the annual allocations not fully utilised, the balance funds should not be transferred to the municipal general fund but carried forward for utilisation in the subsequent year(s). The fund allocation in the subsequent years shall be considered in addition and shall not be reduced by unspent funds of the previous year(s).

Section 5: A separate bank account shall be opened with a nationalised bank called-“Basic Services to Urban Poor Fund” account wherein funds earmarked under section 1 shall be periodically deposited ensuring that the yearly allocation is equal to the allocation as in the Municipal Budget.

Section 6: There shall be maintained separate primary books of accounts with detailed accounting heads in line with the National Municipal Accounts Manual for operation of special fund accounts.

As per the model amendment the fund should not establishment expenditure, should be non-lapsable and any other grant received by ULB for slum improvement should not be made part of this fund.

3.4 Status of Reform in Indian States

Andhra Pradesh¹⁶

The department of municipal administration and urban development, government of Andhra Pradesh issued two orders G.O.Ms No. 265, MA dated 19.07.2004 and G.O.Ms No. 397, MA, dated 25.09.2005 which directed all urban local bodies to utilise 40 per cent of the net funds available with each ULB in slum areas for improving the living standards of the urban poor by providing basic infrastructure and amenities and creating income generating opportunities and priority to be given to water supply and sanitation while utilising funds in slum areas, which seems much above the government of India norm of 20-25 per cent, but the catch lies in the definition of the net funds. The definition of net funds was defined by another order vide G.O.R No. 1048,MA, dated 23.07.2009 to open a separate account for utilising this fund. This was done to ensure the effective utilisation of the reserved fund.

The circular directed each ULB to prepare the estimate of its own revenues to be realised in the next financial year in terms of tax resources, non-tax resources, assigned revenues and non-plan grants. ULBs were directed to prepare an estimate of the amount required for maintenance of all civic services including outsourcing of services, office and contingent expenditure, deduct this amount from the total own resources and arrive at the amount of net municipal fund that would be available for undertaking development activities in the next financial year. This actually means that the circular was regarding reserving 40 per cent of the capital budget, and transferring it to a separate account to do new development. The circular directs nothing about reserving revenue expenditure for the poor which is required to carry out day to day maintenance in slum areas for already provided basic infrastructure.

This fund could be utilised for development works like water supply, drainage and sewerage, construction of community toilets, solid waste management, roads, street lights, parks, community and livelihood centres. Few interesting inclusions in the list were utilisation of this fund for funding cost escalations in expenditure in undergoing schemes of housing and infrastructure provision like IHSDP, funding ULB contributions for PPP initiatives for slum development, funding preparation of ULB level action and development plans for slum and poverty free ULB and matching ULB funds for urban poverty alleviation activities. Unutilised funds were allowed to be carried forward in the subsequent year. The circular completely missed the basic motive behind the reform which clearly talks of keeping ULB share in urban poverty alleviation schemes segregated from this budget reservation. Funding of cost overrun also seems to be a flawed addition into the list, as cost overruns are on the account of ULBs lethargy of implementing a scheme, and such inclusion can create a horrific culture of misuse of these funds.

Chattisgarh¹⁷

Chattisgarh amended the Chattisgarh Municipalities Act 1961 in 2011 to make provision of earmarking of funds for the urban poor in ULBs across Chattisgarh. The amendment added a new section 117 into the act which directed that all municipal bodies and nagar panchayats to create a segregated fund for providing basic services to the urban poor called as “Basic Services for Urban Poor Fund”. This fund would be created by rents, fees, fines collected from a person or by a property in the slum area, any other grant coming for slum development from government or funding institution, receipts under 399 (2), donations for betterment of urban poor from persons or group of persons, special grants towards this fund from any committee or other sources. This fund has to be kept in a separate saving bank account. According to this amendment, this fund could be used for providing basic services to slum residents, and 20 per cent of revenue income or 20 per cent of revenue expenditure or 25 per cent of capital expenditure, whichever is more has to be used for the purpose. The amendment act has also explained the meaning of services with respect to the urban poor as basic environment upgradation, roads, primary education and health, housing, water supply, social security or equivalent services, excluding establishment expenses which are not related to provision of providing basic services to the urban poor. The fund is deemed non-lapsable.

Gujarat

Gujarat has two different legislations guiding the Municipal Corporations and the Municipalities. The act guiding the Municipal Corporations of the state is “Bombay Provincial Municipal Corporations Act (BPMC) 1959. The state has a separate act for Municipalities called the “The Gujarat Municipalities Act 1963”. Section 63 (2) of the BPMC act reads:

“63(2) It shall also be incumbent on the Corporation to make, in its budget for every official year, provision for making expenditure to the extent of such amount, not exceeding ten per cent of its income for such year other than the income from the proceeds of the Transport Undertaking and any other specified items of income as the State Government may, from time to time, determine and notify in the Official Gazette, for the purpose of providing basic facilities, like water supply, drainage, sanitation, street lights, medical aid, slum clearance and such other matters in areas predominantly populated by members of Scheduled Castes, Scheduled Tribes and other socially and economically backward class of people, and if the expenditure so provided for is not fully incurred in the official year for which it is provided, the balance shall be carried forward in the budget of the next succeeding year.”¹⁸

The reservation of fund for the Municipal Corporations of Gujarat is just 10 per cent from the total income of the corporation excluding income from any transport undertaking or any other special grants given by the state government. Although the definition of Urban Poor is quite wide as it includes settlements with members of scheduled castes, scheduled tribes and other

socially and economically weaker sections. This budget is also deemed non-lapsable. There is no such reservation in the Gujarat Municipalities Act, and therefore the government has made 20 per cent earmarking of funds for urban poor mandatory by resolution no. GSY/102007/1199/Dh dated 30/04/2007 for all urban local bodies in the state.

Jammu and Kashmir

The Government of Jammu and Kashmir has issued Government Order No. 188-HUD of 2010 dated 23-06-2010, directing all the ULBs to earmark 20per cent of the total resources, including plan funds, financial devolution and resources raised by way of collection of taxes, fee etc. for providing infrastructure and basic amenities to the urban poor. It has further been ordered that 20 per cent funds to earmark shall be pooled into a separate budget head called “Services to the Urban Poor”. Further Finance Department vide its No. FD-VII-19(65)2007-08 dated 29-7-2010.

Karnataka

ULBs are earmarking 22.75 per cent of ULB Budget for the welfare of SC/ST vide notification No. UDD/93/CSS/2009 dates 26.8.2009. A Circular mandating ULBs to reserve an additional 7.25 per cent of their budget for the welfare of urban poor other than SC/ST has been issued wide notification no. UDD/93/CSS/2009, dated :21.07.2010.

Kerala

Kerala has a well-functioning state finance commission (SFC), and a completely different model of financial decentralisation in which a fixed percentage of state revenue directly goes to the Local Self Governments (LSG). A decision to devolve 35 to 40 per cent of the plan funds to local governments was announced in July 1996; around 90 per cent of this was devolved with the condition that at least 30 per cent should be spent on productive sectors, not more than 30 per cent should be invested on infrastructure and at least 10 per cent should be earmarked for Development programs for Women.¹⁹ The third state finance commission of Kerala recommended 25 per cent of the total tax revenue to be transferred to LSGs during the year 2006-07, and during each of the four subsequent years amounts derived by applying annual growth of 10 per cent to accommodate reasonable rates of inflation and real growth.²⁰ This fund is distributed into many components, and there is a SC/ST sub-plan within the funding proportionate to the SC/ST population in the LSG area, 10 per cent is women component plan, 5 per cent for children, 2 per cent of estimated revenue is urban poverty alleviation (UPA) fund and 10 per cent is for slum development provision. If all sub plan earmarking is totalled, it is even more than the prescribed 20-25 per cent norm as per the reform.

Madhya Pradesh

State Government has taken a policy decision to get 25 per cent of municipal budget earmarked for basic services to urban poor.

Manipur

The state government has issued a notification directing all municipal councils to internally earmarked 25 per cent of the total developmental fund for providing basic services to the urban poor vide notification No. 7/120/2008-MAHUD dated 28th June 2008.

Meghalaya

As per statement the State has earmarked 15 per cent budget of Shillong Municipal Board to service urban poor and utilised 40 per cent in FY 2011-12.

Orissa

In the annual budget of BMC, 25 per cent fund is earmarked for services to the Urban Poor & separate account is opened for BSUP projects.

Punjab

Vide State notification no. LG-3- DLG-DCFA-23 BUDGET (2008-09)-08/27622 Dated 03 09-2008. 20-25 per cent has been earmarked in Municipal Budgets w.e.f 2009-10 for which instructions has been issued at ULB level also.

Puducherry

The Puducherry Administration has issued order vide G.O. Ms. No. 8/LAS/2008 dated 10.07.2008 directing the Urban Local Bodies in the U.T. of Puducherry to earmark budgetary allocation for provision of Basic Services to the Urban Poor. (i.e) 25 per cent during 2008-09, 27 per cent during 2009-10, 28 per cent during 2010-11 and 30 per cent during 2011-2012.

Tamil Nadu

Earmarking of funds between 25 per cent to 35 per cent in Municipal budget towards development of urban poor that are non-lapsable and are being done by all the urban local

bodies of Tamil Nadu including the Mission Cities as per the Government order vide G.O.No 167.

Uttarakhand

Directions have been given to ULBs for opening a non-lapsable bank account. All the three ULBs are earmarking 25 per cent of the funds for providing the services for urban poor.

West Bengal

State Government notification for 25 per cent earmarking vide G.O. No. 1249/MA/C/10/3S-61/07 dated 26.10.07 has been issued.²¹

Assam

As per MoA in the year 2010- 2011, earmarking of 25 per cent on total revenue income is targeted to be achieved for the Basic Services to the Urban Poor Fund. Accordingly, out of Total Municipal Budget of Rs.11,384.20 lakhs an amount of Rs.2,846.00 lakhs earmarked which works out to 25 per cent as desired. This is a non-lapsable fund. If any grant is received for the urban poor by the ULB then it would not be considered as part of this fund. The allotment to the fund will be from:

- i) its own source revenue,
- ii) allocations from central and state finance commissions,
- iii) assigned revenues,
- iv) grants from externally aided projects,
- v) contributions in cash/ kind, gifts from individuals, organisations, etc.;
- vi) sale of municipal assets,
- vii) other sources as determined by municipality

Arunachal Pradesh

The Arunachal Pradesh Internal Earmarking of Budgets for Urban Poor Rules, 2011 notified vide reference no. DTP/MUN-26/2009- 10 dated 20th April. 2011.

Haryana

A notification for amendment in Haryana Municipal Corporation Act, 1994 for creation of separate Municipal Fund for services to the poor has been issued on 17.9.2009

Mizoram

The Govt. of Mizoram has taken a decision for internal earmarking of fund in the ULB in fulfilment of this item of reforms in 2010 - 11, by issuing a Govt. Notification No. B. 11030/84/2010-UD&PA/2 Dt.21.7.2010 (Copy enclosed). This Notification enjoins creation of a Basic Services to the Urban Poor fund in the Municipalities to the extent of 25 per cent of the Budget.

Nagaland

Notification no. UDD/10- JNNURM/8-RA/2008 issued on 10/06/2011 to earmarking/ reserve 25 per cent of the budget for basic services to the urban poor in all the Municipal/Town Councils in Nagaland.

Sikkim

The reform has been achieved by Government resolution and notification has been issued vide notification number GOS/UD&HD/27/JNNURM/388 dated 6th July 2011 by which atleast 25 per cent of Municipal budget including funds received from the State Government shall be earmarked for the urban poor.

Tripura

All the five towns are earmarking fund in their budget for the basic services to the urban poor.

Uttar Pradesh

The Uttar Pradesh Municipal act 1916 and Municipal Corporation act 1959 has been amended and it is made mandatory to earmark 25 per cent municipal budget for urban poor.

Mizoram

Aizawl Municipal Council has been established in 2010 and hence is a very new ULB. Department of Urban Development is the SLNA for RAY. The state government has notified in the gazette for 25% land reservation in the budget.

Table 3: Earmarking of Funds for Urban Poor Status Summary²²##

S. no.	State	Reform by	Reservation per cent from fund	Segregated fund or not	Usage Recommended for
Northern States					
1	Jammu and Kashmir	Government Order	20 per cent of total resources including plan funds.	Yes	Infrastructure and Basic Amenities for Poor
2	Punjab	State Notification	20-25 per cent In municipal budget	-	-
3	Haryana	Legislative Amendment	-	Yes	
4	Chandigarh	City initiative	-	-	-
5	Uttar Pradesh	Legislative Amendments	25 per cent Of municipal budget	-	-
6	Uttarakhand	Written Directions	25 per cent Of municipal budget	Yes	
7	Madhya Pradesh	Policy Decision	25 per cent Of municipal budget	-	
8	Chhattisgarh	Legislative Amendment	Whichever is more 20 per cent of total revenue income 20 per cent of total revenue expenditure 25 per cent of total capital expenditure	Yes	Basic environment upgradation, roads, primary education and health, housing, water supply, social security or equivalent services
Eastern States					
9	Assam	-	25 per cent of total revenue income	-	-
10	Meghalaya	Written Statement	15 per cent of Shillong Municipal Board budget	-	-
11	Manipur	State Notification	25 per cent of the total developmental fund	-	-
12	Tripura	Not Specified	Not specified	-	-
13	Mizoram	Government notification	25 per cent of the municipal Budget	-	-
14	Nagaland	State Notification	25 per cent of the municipal budget	-	-
15	Arunachal Pradesh	Budget Earmarking Rules	-	-	-
16	Sikkim	Government Notification	25 per cent of the municipal budget and other fund received by state government	-	-
17	West Bengal	State Notification	25 per cent of municipal budget	-	
18	Orissa	City initiative	25 per cent of the municipal fund	Yes	-
Western States					
19	Gujarat	Legislative Provision	10 per cent of total revenue income excluding few components	No	Water supply, drainage, sanitation, street lights, medical aid, slum clearance
20	Maharashtra*	Government Decision	25 per cent of municipal budget	-	-
Southern States					
21	Andhra Pradesh	Government Order	40 per cent of the total capital budget	Yes	Priority to Water Supply and Drainage
22	Karnataka	Government notification and circular	22.75 per cent of ULB budget for SC/ST 7.25 per cent of ULB budget for urban poor other than SC/ST	-	-
23	Tamil Nadu	Government Order	25-30 per cent in the municipal budget	-	-
24	Kerala	State Finance Commission formula	Of plan funds transferred to LSG: 2 per cent for urban poverty alleviation 10 per cent for slum upgradation 10 per cent for women	-	-
25	Puducherry	Government Order	Of Municipal Budget: 25 per cent during 2008-09 28 per cent during 2010-11 30 per cent during 2011-12	-	-

*Reform Status of Maharashtra is taken from a study by (School of Habitat Studies, TISS, 2011).

Reform Status of few states is not available with the Ministry of Housing and Urban Poverty Alleviation, and would require further enquiry.

3.5 Wider Interpretation of Reform

It is evident just by looking at the status of reforms in India that there are many interpretations possible of the reform definitions, and ways to propagate these reforms. The final mandate of the MoHUPA is to have these reforms legislated in the Municipal Corporation and Municipalities act, so that following them is bounding on states and cities. An important learning from the different forms in which reforms have been institutionalised by the states is that, one cannot dictate reforms in terms of targets but in terms of outcomes expected. State governments have issued government orders and notifications to make cities follow the reform agenda, and it has also worked. There is a mandate that legislative amendment is a lengthy and time taking process, therefore orders and notifications are just a start to internalising reforms. Reform initiatives are not always governed by states only, and many cities also take similar initiatives to follow the reforms, like Surat Municipal Corporation, which also did a standing committee resolution to internalise practice of reserving 25 per cent budget for the poor, and Bhubhneswar Municipal Corporation which has done the reform as its own initiative.

States have also altered the percentage of budget reservation according to their own budgets and financial reservations, and a major difference is seen in the type of budget reservations. States like Andhra Pradesh have proposed budget reservation of 40 per cent for urban poor which is more than the 25 per cent norm, but this reservation is only in the capital budget, that is generally utilised to create new assets and not to repair and maintain old assets. States like Kerala which have well-functioning SFCs are already providing a formula for budget reservation and hence have not adhered to 25 per cent provision. They are going on with their own flexible definition of plan budget components. States have their own ways to manage funding to the ULBs. Some cities are completely dependent on states for funds; others manage on their own sources. The difference in fund for reservation very much shows the way cities receive fund from states. If the fund is mostly for capital investment, then reservation is mandated in just capital budget. States call it development grants or plan funds. The percentage reservation also varies, Shillong Municipal Board talks of 15 per cent, Jammu and Kashmir 20 per cent, and Puducherry mandates reaching 30 per cent by 2011-12.

Other major difference is in the definition of urban poor. States like Madhya Pradesh and Chattisgarh clearly define EWS and LIG according to income groups but definition of urban poor is not clear. Many states include SC/ST budget component with the fund for urban poor, and for these states urban poor as a category becomes inclusive of households belonging to SC/ST categories too, which may not be wrong in many cases. Like in Karnataka 22.75 per cent budget goes to SC/ST category and extra 7.25 per cent of the budget goes for the welfare of urban poor, which together form 30 per cent of the municipal budget. In Gujarat also urban poor settlements include settlements housing SC/ST category households.

There are also differences among states with regards to definition of basic services. Some specify components of basic services. The amendment in Chattisgarh's Municipal Act clearly defines the word services, but others remain silent calling them as just basic services for urban poor, whose meaning may vary or they may follow model amendment guidelines by MoHUPA. Andhra Pradesh also adds livelihood centres in basic services, which is unique.

3.6 Bottlenecks

There are many states which have not transferred the functions of 74th Constitutional Amendment Act to the cities. Reservation in ULB Budgets for providing basic services to the urban poor will not make any difference in states where city's water supply and sanitation provision is undertaken by para-statals like Public Health Engineering (PHE) departments and Water Supply and Sewerage Boards. This is major bottleneck in North-eastern states in particular, where municipal councils do not carry out capital works in water supply and sewerage and it is generally done by Public Works Department (PWD). Even bigger Municipal Corporations like Chennai, Bangalore, etc. do not manage water supply and sanitation in the city and it is done by water supply and sewerage board. If reservation has to be done, then it should also be done in the budgets of these departments too.

It is important to understand that the status of reforms is at the state level and their penetration cannot be judged without a detailed enquiry into the city budgets. There is always a possibility that reforms will just remain on paper. ULBs in Andhra Pradesh in absence of any guidelines for the utilisation of earmarked funds do earmarking as just a numerical exercise at the beginning of the financial year and then adjust it to general fund towards the end of financial year. In comparison to the reform of earmarking 40 per cent, just a little more than 20 per cent budget was actually earmarked by ULBs in Andhra Pradesh and just 80 per cent of this fund was actually utilised in 2008-09. In Class II towns of Andhra Pradesh the situation was even worse, just 5-6 per cent budget was earmarked for the poor, out of which approximately 70 per cent was utilised (Centre for Good Governance, 2010, pp. 44-46).

4. Reservation of Developed Land in Housing Projects

4.1 Rationale

Slums emerge in Indian cities because of lack of affordable lands in the formal sector. Mahadevia (2009) shows that very small proportion of city's lands is required to house the slum-dwelling population. It was estimated that almost 60 per cent of the Mumbai's population is living in slums and occupies just 9 per cent of Mumbai's land.²³ In Mumbai, just 7.65 per cent of her land is required to house the entire slum population with an FSI of 2.0 and just 6.12 per cent of land if FSI of 2.5 is considered (Table 4). Even then, the cities are not making lands available for the urban poor.

Table 4 : Land Requirement of Slum Rehabilitation as Proportion of City's Total Area

City	City's area (sq.km.)	For Slum Population as per Census 2001		For Slum Population as per Cities Data			
		% required if FSI=2	area if	% required if FSI=2.5	area if	% required if FSI=2	area if FSI=2.5
Mumbai	437	7.65		6.12		8.50	6.80
Delhi	1483	0.64		0.52		0.93	0.74
Kolkata	185	4.09		3.27		-	-
Chennai	175	2.43		1.95		3.20	2.56
Bangalore	225	0.99		0.79		1.87	1.50
Hyderabad	173	1.87		1.50		4.22	3.37
Ahmedabad	198	1.24		0.99		2.37	1.89

Source: (Mahadevia, Urban Land Market and Access of the Poor, p. 202)

It is evident that the land requirement to accommodate the existing slum dwellers is not more than 8.5 per cent in the most land-locked city of Mumbai. In cities like Delhi and Kolkata the land requirement ranges from up to 0.5 per cent to 3.2 per cent. It is just 4.22 per cent in Hyderabad if city estimates of slum population are taken into consideration. An important thing to note is that, this is not a huge amount of land and can be easily achieved by making lands available for poor in the urban master-plans. It also echoes the abysmal performance of our city planning initiatives, which have completely excluded the poor from getting lands in the cities.

In many state town planning legislations/ urban development legislation, the clause for reservation of land actually exists but is hardly used. The MoHUPA has recommended 20-25 per cent of lands or FSI/FAR in the new development, it might take longer time to do so. It is of enough importance to understand the existing inequities in land distribution in our cities and act to create provisions for it.

4.2 Status of Reform in States

Andhra Pradesh²⁴

Government of Andhra Pradesh revised common building rules for all municipalities, municipal corporations and urban development authority areas in the state by issuing government orders in the year 2006, 2007, and 2008. Government also constituted a state level committee to suggest the changes required to be done to the legal framework for the implementation of Rajiv Awas Yojana (RAY). The government through the new order G.O.Ms No. 45 dated 28.01.2011 released four notifications to amend, namely, Hyderabad Revised Building Rules 2006, Vishakhapatnam Revised Building Rules 2007, Andhra Pradesh Revised Building Rules 2008 and Andhra Pradesh Municipalities Development

Control Rules 2008. As per the amendment in rule 10.3, developer shall provide at least 20 per cent of the developed land to the EWS and LIG housing. Section 10 of the rules²⁵ pertains to construction of group housing/ cluster housing/residential enclaves/row housing projects in the city. The definition of such housing schemes as per rule 10.1 is that the site should be developed together with buildings and all amenities and facilities and not disposed as open plots. The rule 10.5 is about the minimum plot size for such schemes which is recommended as minimum 3,000 square feet and minimum abutting road of 12 meters wide.

Arunachal Pradesh

The state of Arunachal Pradesh has notified the creation of Arunachal Pradesh Reservation Land for Housing of Urban Poor rules 2011, following the recommendations of RAY reforms.

Assam

Government of Assam modified the building byelaws for Guwahati Municipal Corporation and Guwahati Development Authority creating mandatory reservation of 10 per cent land for EWS and LIG.

Chandigarh

The Secretary (Finance) Chandigarh Administration has issued written directives to the Chandigarh Housing Board for reserving 40 per cent houses in all the projects and 15 per cent houses for EWS in all new projects. The reservation criterion is just for public housing projects. No directions have been issued to the private developers for reserving land in the private housing projects.

Chattisgarh

Section 292-B of Chattisgarh Municipal Corporation Amendment Act 2011 and section 339-B of Chattisgarh Municipalities Amendment Act 2011 was passed by the legislative assembly in March 2011 in which a provision of keeping land reservation of 15 per cent for EWS housing and 10 per cent for LIG housing is kept. As per the provisions of the act, the colonizer will have to transfer at least 15 per cent land for EWS housing has to be transferred to Municipal Corporation/Municipality as per conditions decided by the municipal corporation/municipality. Section 339-C prescribes that if the size of the land to be taken for development is less than 1 acre (4046.87 square meters), then the developer has a choice of not transferring the 15 per cent land to the authority on payment of a prescribed amount in the basic services to the urban poor fund. The colonizer has to also reserve minimum 10 per cent

land for LIG. The selection of beneficiaries would be done as per norms of the state government.

Haryana

The department of Urban Local Bodies has taken a decision to earmark 25 per cent of all plots for EWS category in all town planning schemes floated by municipalities and improvement trusts. On the level of municipal corporations the state government has released an order LC-147-7/16/2006-2TCP dated 03.03.2010.

Meghalaya

Meghalaya formulated Meghalaya Building Bye-Laws 2011, in which sections 54.4 and 67.1 stipulate 25 per cent of land and buildings for EWS/LIG section.

Manipur

The state government states that there is no land problem in the city of Imphal and hence there is no need of this reform.

Madhya Pradesh

Under the Development rules in Madhya Pradesh, 15 per cent of developed plots have to be reserved for EWS, in all plotting schemes, government or private.

Orissa

In January 2011 Director, Town and Country Planning department, Government of Orissa issued an order to all Development Authorities, Regional Improvement Trusts & Special Planning Authorities to earmark at least 10 per cent developed land in all housing projects constructed by both public and private agencies for EWS/LIG category.

Punjab

The state of Punjab issued notification no. CTP (LG)-2008-175-185 dated 20th January 2008 for reserving 20 per cent land for EWS/LIG group.

Puducherry

It is being proposed by the Puducherry administration that 10-15 per cent of the land in new housing layouts and 20-25 per cent floor area ratio (FAR) has to be reserved in housing projects for the urban poor. The housing board of Puducherry and housing cooperative societies are already earmarking 20-25 per cent of developed land for EWS/LIG category.

Tamil Nadu

As per the Development control rules 10 per cent of land has to be reserved in all new projects coming up in the Chennai Metropolitan Authority (CMA) area, similar regulations have been extended to other corporations vide Ms. no. 130 dated 14.06.2010. Tamil Nadu Housing Board already earmarks 40 per cent of the developed plots for EWS/LIG.

Uttarakhand

Uttarakhand government's Housing department issued a government order to earmark 8 per cent of built up area which is approximately 25 per cent of developed land in all housing projects for EWS.

West Bengal

Government of West Bengal has issued a notification vide no. 1448/T&CP/C-2/3A/2011 dated 20.07.2011 for earmarking of developed land in housing projects. This will be applicable as follows:

- (a) 25 % in case of housing projects of size more than 5000 sq. m.
- (b) For EWS, minimum area 20 sq. m. (apartment), 30 sq. m. (land)
- (c) For LIG, minimum area 35 sq. m. (apartment), 35 sq. m. to 65 sq. m. (land)

Mizoram

Government of Mizoram has issued a notification vide No. B.11030/84/2010-UD&PA/1 dated 21.07.2010 for earmarking at least 20-25 per cent developed land in housing projects for EWS/LIG category.

Sikkim

Government of Sikkim has issued a resolution and notification vide GOS/UD&HD/27/JNNURM/387 dated 6th July 2011 by which at least 25 per cent of

developed land in all public and private housing projects has to be reserved for EWS/LIG and will be allotted as prescribed by the state government. The state has also formed a Housing Board under the urban development and housing department, which shall be the nodal agency for housing projects.

Tripura

The state government has instructed the urban local bodies to keep 25 per cent of the developed land in all housing projects for the EWS/LIG categories of population.

Uttar Pradesh

Government of Uttar Pradesh released a government order for reserving 10 per cent of land in urban master-plans, of which 10 per cent would be for EWS and 10 per cent would be for LIG.

Gujarat

The town planning exercise in Gujarat happens through a mechanism called town planning (T.P.) scheme which is a kind of land sharing and readjustment mechanism. There is a provision of reserving 10 per cent area of a T.P. scheme for SEWS as per Gujarat Town Planning Act 1976.

Maharashtra

State government of Maharashtra has issued a state government directive to modify development control regulations. These are:

- (a) 10 per cent area in the form of 30-50 sq.m. plots to be reserved for EWS/LIG in plotting schemes having area more than 2,000 sq.m.
- (b) 10 per cent tenements of size 30-40 sq.m. to be reserved for EWS/LIG in tenement schemes having land area more than 4000 sq.m.
- (c) 10 per cent reservation for Middle Income Group (MIG)

Karnataka

Karnataka government has proposed amendment in zonal plan rules, and has proposed 20 per cent land and built up area reservation for EWS/LIG. The final notification is yet to be issued.

Table 5 : Land/ FSI/ FAR Reservation Reform Status Summary²⁶##

S. no.	State	Reform by	Reservation per cent from component	Remarks
Northern States				
1	Chandigarh	Written Directives to Chandigarh Housing Board	40 % for EWS and LIG and 15 % for EWS in all future projects	Only applicable to Public housing projects.
2	Chattisgarh	Legislative Amendment	15 % for EWS and 10 % for LIG in all projects.	If land less than 1 Acre, Colonizer can choose not to provide after paying dues in the BSUP fund.
3	Haryana	Policy Decision and Government Order	25 % for EWS	
4	Jammu and Kashmir	Government Order	25 % of the developable land in EWS/LIG	Legislative amendments have been proposed to Jammu and Kashmir Municipal law.
5	Madhya Pradesh	Development Rules	15 % developed plots for EWS	-
6	Punjab	Governmental Notification	20 % land for EWS/LIG	-
7	Uttarakhand	Government Order	8 % built up area in all housing projects to be reserved for EWS.	8 per cent built up area is taken to be equal to 25 per cent land area.
8	Uttar Pradesh	Government Order	10 % for EWS and 10 % for LIG	-
Eastern States				
9	Arunachal Pradesh	Government Notification creating The Arunachal Pradesh Reservation Land for Housing of Urban Poor Rules 2011	-	-
10	Manipur	Notification	20-25 % developed land in both government and private projects for EWS and LIG.	-
11	Assam	Modified Byelaws for Guwahati Municipal Corporation and Guwahati Urban Development Area	10 % for EWS and LIG	-
12	Meghalaya	Modified building bye-laws	25 % of land and buildings for EWS/LIG	-
13	Mizoram	Government Notification	20-25 % developed land in housing projects for EWS/LIG	-
14	Nagaland	Not enacted	-	-
15	Tripura	Written instruction	25 % for EWS/LIG in all housing projects	ULBs have to abide by this provision in keeping this reservation in the housing schemes
16	Sikkim	Government resolution	25 % of developed land in all housing projects (both public and private) for EWS/LIG	Will be allotted as prescribed by the state government.
17	Orissa	Order by Director of Town and Country Planning department	10 % of all housing projects (public and private) for EWS/LIG.	-
18	West Bengal	Government Notification	25 % of developed land in housing projects	-
Southern States				
19	Andhra Pradesh	Government Order for changing Development Rules	20 % land reservation for EWS and LIG group.	The reservation only applies to new group housing schemes of size more than 3000 square feet.
20	Karnataka	Amendment in Zonal Rules	Proposed to be 20 % for EWS/LIG for both land and built up space.	Final Notification is yet to be issued.
21	Kerala	Draft note for Legislation	-	-
22	Puducherry	Proposed change	10-15 % of land in new housing layouts and 20-25	-

			% floor area ratio (FAR) in housing projects for urban poor	
23	Tamil Nadu	Development Control rules and regulations	10 % of land for EWS/LIG in Chennai Metropolitan area in new housing projects	Tamil Nadu housing board already earmarks 40 per cent of the development plots for EWS/LIG.
	Western States			
24	Gujarat	Legislative Provision	10 % of the area of Town Planning scheme	Reserved for Socially Economically Weaker Sections (SEWS). Also included SC/ST Category.
25	Maharashtra*	State Government directive to modify development control regulations	10 % area 30-50 sq.m. plots for EWS/LIG 10 % tenements 30-40 sq.m. for EWS/LIG	For land reservation minimum plot size of 2000 sq.m. For tenement reservation 4000 sq.m. 10 per cent for MIG is also recommended.

*Reform Status of Maharashtra is taken from a study by (School of Habitat Studies, TISS, 2011)

Reform Status of few states is not available with the Ministry of Housing and Urban Poverty Alleviation, and would require further enquiry.

4.3 Wider Interpretation and Bottlenecks

The basic motive behind this reform is to make lands/built-up space available for the poor in the city at any point of time, and it has to be mandated in town planning practice. This reform comes with its own complexity of multiple-institutions tackling land in a city. Land and functions related to it are mostly seen by Department of Revenue, which works under the state government and only the planning functions are being transferred to the cities in few states. Cities also have multiple institutions engaged with planning in their jurisdiction; for example, development plans for the ULB and urban development authority areas are made separately. In many states city planning functions are vested in Town and Country Planning (T&CP) departments, which means that all plans have to be approved by the state government to take up further implementation.

Joshi and Sanga (2009) did an interesting research on land reservation for the poor in town planning schemes of Ahmedabad and concluded that just reservation of the land is not important, it is more important to utilize these reserved lands. Although enough land is reserved, no one is accountable if the reserved lands are not used for the purpose. Lands reserved for urban poor generally do not get enough attention from urban planners. Such plots are awkwardly shaped, lie at distant places and are not easily accessible. (Joshi & Sanga, 2009). Hence, the proof of pudding is in its eating.

5. Pro-Poor Reforms-The Way Ahead

The first reform of creating a legislation to provide property rights to the urban poor seems to be the toughest decision which states will have to make, as ministry is asking for an outright legislation even before starting the funding for RAY. Property right is a complex issue on one hand and there is no clarity on whether outright property rights are to be given or just use

rights. The states have reservation on this from many angles. They think that giving away property rights to squatters would encourage more squatting. Some even fear that this would attract migrants to the cities. Some states do not want to give property rights to those who are not domicile of the state. Others think that property rights giving would bring lands in the formal marked and that would lead to gentrification and speculation. Some are also arguing for more flexible interpretation and just extension of tenure security in the form of 'no eviction guarantee' rather than a full title. The states have to understand, that security of tenure is important for slum-dwellers and should make relevant legislations for ensuring them by talking the rights approach rather than the titling approach. There are various options like no-eviction guarantees and community ownership of the land, by creation of cooperative societies to ensure security of tenure.

The central government should understand that every state has different methods of devolving finance to the cities. Certain states are more decentralised while others have more centralised ways of funding and governance. Cities in many states have limited powers to take decisions, and many also do not perform many functions related to basic services. States will follow the reform agenda by different ways, by making legislations, rules and regulations, passing resolutions and issuing notifications. The importance is of the end-result as desired by the reforms and not the ways by which reforms are done, as there are many different ways in a state by which a reform could be mandated. This stands truer for states under Schedule VI of the constitution, which have tribal lands and practices of customary land tenure.

Pro-poor reforms should be seen as an intention of bringing positive change in a system to inculcate inclusiveness, rather than conditionality created to harass states. In the end, outcomes are more important than the ways by which reforms are mandated. Measurement of outcomes will help in assessing if RAY reforms agenda has penetrated to urban land and financial planning, in which cities have a major role to play. If, affordable lands are available for the poor in the city, coverage of basic services improves and city governments take decisions by a pro-poor attitude, one would presume that reforms have worked, and then the possibility of slum free cities would be much more believable.

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Notes:

- ¹ The URIF details from http://www.niua.org/Publications/newsletter/urb_fin_dec04.pdf (accessed on Feb 5, 2009)
- ² Funds approved and released from http://www.niua.org/Publications/newsletter/Urb_fin_mar_04.pdf (accessed on Feb 5, 2009).
- ³ See Pavithra s. Rangan's article in the newspaper "The Hindu" dated 31st December 2011. <http://www.thehindu.com/news/cities/Hyderabad/article2763288.ece> accessed on 12.07.2012
- ⁴ See, Desai Renu.(2012),"Governing the Urban Poor: Riverfront Development, Slum Resettlement and the Politics of Inclusion in Ahmedabad", Economic and Political Weekly, XLVII(2),pp 49-56
- ⁵ The Details of Land Titling Programmes in Peru are taken from <http://www.cofopri.gob.pe/> accessed on 12.01.2010
- ⁶ The Details of Land Titling Programmes in Mexico are taken from <http://www.corett.gob.mx/> accessed on 12.01.2010.
- ⁷ The copy of the draft bill is available on the CREDAI website on the following link accessed on 08.05.2012 http://www.credai.org/circular%20pdf/MHUPA_MODEL_PROPERTY_RIGHTS_TO_SLUM_DWELLER_S
- ⁸ It is popularly known as the Patta Act of 1984, and is actually called "*Madhya Pradesh ke Nagariya Kshetron ke Bhoomiheen Vyakti -Pattadhruti Adhikaaron ka Pradaan Kiya Jaana Adhiniyam 1984*", which translates into "Landless People of Urban Madhya Pradesh- Granting of Leasehold Rights Act 1984".
- ⁹ Madhya Pradesh government recently took a decision to award land pattas to all slumdweller staying there from before December 31, 2007, See http://www.karmayog.org/slumsnews/slumsnews_14477.htm as on 31st March 2010. The amendment for the same is not available for comment.
- ¹⁰ The final draft copy of the Andhra Pradesh Property Rights to Slum Dwellers Act 2011 is available at the MEPMA website http://apmaud.gov.in/index.php?option=com_content&view=article&id=110&Itemid=164 accessed on 09.05.2012.
- ¹¹ This is on the basis of presentation done by the state representatives in the workshop on RAY Reforms Agenda: Drawing and Implementing of Action plan at the state and city level on 23-24th January 2012 organized by CUE and MoHUPA at MCRHRDI Hyderabad.
- ¹² The changes are based of the presentation done by the state representatives from Kerala in the workshop on RAY Reforms Agenda: Drawing and Implementing of Action plan at the state and city level on 23-24th January 2012 organized by CUE and MoHUPA at MCRHRDI Hyderabad.
- ¹³ The copy of the circular is available from the website of the official website of the department of Municipal Affairs at http://www.wbdma.gov.in/circulars/circular_longterm_lease170310.PDF accessed on 01.02.2012.
- ¹⁴ The Draft of Bihar slum policy is available on the Urban Development Department website of the Bihar state government . <http://urban.bih.nic.in/Docs/Draft-of-Bihar-State-Slum-Policy.pdf> accessed on 05.05.2012.
- ¹⁵ National Institute of Urban Affairs (NIUA) did primers for all reforms under JnNURM. The copy of the primer could be found at http://www.indiaurbanportal.in/reforms/local/Internalearmarking_funds_poor.pdf accessed on 01.02.2012.
- ¹⁶ The government orders referred in the section could be found on department of municipal administration and urban development website. The link is <http://apmaud.gov.in/downloads/GOs/1048.PDF> accessed on 15.03.2012.
- ¹⁷ Chattisgarh's Municipality Act 1961's 2011 amendment act is available at <http://cg.nic.in/urbandevelopment/PDF/CG%20R-85.pdf> accessed on 24-02-2012
- ¹⁸ Chapter 6 of the BPMC Act is called Duties and Powers of the Municipal Authorities and Officers. The act can be found on the link <http://www.suratmunicipal.gov.in/content/downloads/acts/bpmcact/bpmcact6.pdf> accessed on 01.02.2012.
- ¹⁹ The National Planning Commission undertook a research study on Decentralized Planning experience in Kerala. http://planningcommission.nic.in/reports/peoreport/peoevalu/peo_kerla.pdf accessed on 25.04.2012.

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- ²⁰ The reports of Kerala's state finance commission is available on http://www.finance.kerala.gov.in/index.php?option=com_content&view=article&id=177&Itemid=59. The excerpts are from the report of the 3rd State Finance Commission, Section 6.14, pp 36-37
- ²¹ http://www.jnnurmwestbengal.gov.in/Others/uig_qpr_dec10/State_level_reform.pdf
- ²² Summary statement is a compilation of both, and CUE's independent study of government orders and amended legislations and data from Ministry of Housing and Urban Poverty alleviation from 119th Central Sanctioning and Monitoring Committee Meeting of BSUP Programme's Minutes dated 29th November 2011. The minutes can be found on <https://jnnurmmis.nic.in/writereaddata/Sanctions/BSUP/2011-2012/BSUP-119.pdf> accessed on 26.04.2012 .
- ²³ Details are available on the link <http://www.pkdas.com/ppts/action%20aid.%20delhi.%20july%202011.pdf> accessed on 28.12.2011
- ²⁴ The copy of the Government Order no 45 can be found on this link on the MEPMA website http://apmaud.gov.in/downloads/GOs/2011MAUD_MS45.PDF accessed on 28.05.2012
- ²⁵ A copy of the The Andhra Pradesh Revised Common Building Rules 2008 is available on the link, http://www.tuda.in/G_O.pdf accessed on 25.08.2012.
- ²⁶ Summary statement is a compilation of both, and CUE's independent study of government orders and amended legislations and data from Ministry of Housing and Urban Poverty alleviation from 119th Central Sanctioning and Monitoring Committee Meeting of BSUP Programme's Minutes dated 29th November 2011. The minutes can be found on <https://jnnurmmis.nic.in/writereaddata/Sanctions/BSUP/2011-2012/BSUP-119.pdf> accessed on 26.04.2012 .

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