The background image shows a narrow, cluttered interior of a slum dwelling. A television set is placed on a table, displaying a blue screen. To the right, a poster is visible with the text 'For Metro Buses with cameras at Front view, 50 hours recording.' The room is filled with various items, including a blue container, a white cloth hanging on the left, and a woven bamboo structure on the right. A green diagonal banner is overlaid on the top right corner.

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INDIAN INSTITUTE FOR  
HUMAN SETTLEMENTS

**Policy approaches to**

# AFFORDABLE HOUSING

**in urban India | Problems and Possibilities**

**IIHS-Rockefeller Urban Policy Partnership**

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*Cover Photo:* Priya Sen. 2013.

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## INTRODUCTION

This paper has three foci.

The first is housing policy. By this we mean that we are concerned with particular forms of public action, the specific instruments used in order to carry them out, and the actors and institutions tasked with doing so. Such a focus does not imply that we believe that policy actions more powerfully control or direct housing as opposed to, for example, the market or self-built housing by communities. It implies only that our focus is on how and to what ends policy makers and public institutions must act precisely given that they are just one part of the various dynamics influencing urban housing.

Our focus is on urban areas in which we include peri-urban growth. We look at policy across scale of action – local, city, regional, state and central – as well as domains of practice. We consider a range of approaches and interventions from regulations to incentives, rights and entitlement frameworks to missions, projects and plans. We consciously remain quite closely tethered to current frameworks of urban policy in India – actually existing practices, policies and paradigms. This limits our room for maneuver. While it implies that many of our suggested policy responses and interventions are feasible without radical changes to the existing policy and political landscape, it also means that we are unable to propose certain systemic and far-reaching changes as powerfully as we'd like. We have attempted to balance the need for pragmatic and immediate action with slow, medium- to long-term structural change as far as possible throughout. In this paper, however, we have chosen to emphasize the former. This is a paper then that takes seriously the imperative to act amidst uncertainty and imperfect policy paradigms.

The second focus of this paper is to think about a particular object—“affordable housing”—that is an emergent and critical policy terrain. The term has gained increasing attention in recent years within policy circles. States from Rajasthan to Karnataka are passing what are called “Affordable Housing Policies;” the Reserve Bank of India has declared priority sector status to “affordable housing;” the erstwhile JNNURM made it a focal goal through the Rajiv Awaas Yojana (RAY), and the proposed Affordable Housing programme in the Modi-led BJP government implies that policy attention and resource allocations will, in fact, deepen in the near future. Indeed, the current government’s commitment to “Housing for All by 2020” will inevitably require a successful tackling of widely acknowledged inequities in access to decent housing in Indian cities.

Again, this does not imply that “affordable housing” represents an isolated, coherent object within housing that can be targeted separated from the rest of the sector. Yet the claim of this paper is that both the particular nature of challenges in reducing inequities in access to affordable housing as well as the existence of a policy track that seeks a set of directed interventions, make a focus on affordable housing relevant, important and necessary. It does mean, however, that the discussions that follow cannot be read in isolation as a set of “best practices” or “toolkits” that will “fix” an affordable housing problem. That is not our intention.

Third, we have chosen to address policy questions through responses to a set of “dynamics” that we believe are particularly relevant to thinking about affordable housing in Indian cities. We address these generally, laying out the debates within each and then suggesting approaches, responses and interventions. We do not focus on particular cities, regions or states. We are aware that contexts vary quite extensively across cities and therefore our discussion of different dynamics will not have the same relevance, effectiveness or salience across city-regions. Our hope is that these sets of dynamics will offer a set of relevant questions that must be asked from within different cities and states, adapted to their contexts, evaluated anew and then applied. We propose, in forthcoming work, to illustrate such an application of our approaches to particular cities.

The paper is organized as follows. The next part lays down what we understand as “affordable housing”— a term that can mean many things to many people— and presents a set of empirics to locate our understanding of affordability. Following that, we set out ten dynamics that are often seen to be at the root of why extreme housing inequalities persist in Indian cities. For each, we outline existing debates, suggest policy responses and interventions and, at times, mark the medium- and long-term structural changes required. The last section of the paper summarizes by a necessary partial translation into action and locates our suggested interventions with particular institutions and different scales of government.

## WHAT IS AFFORDABLE HOUSING?

A common refrain heard across most Indian cities by income-rich and income-poor residents alike is the impossibility of home-ownership. Affordability is certainly relative. How then must one understand “affordability” and “affordable housing,” especially as it should be construed to be a focus of public policy? In this section, we present three contours to outline how we argue policy must view the question of affordability.

### *One: Affordability as Housing Shortage*

One measure of affordable housing is through reading its absence. The Kundu Committee report (Kundu, 2012) estimates overall housing shortage in India to be at 18.78 million units (see Table 1). The committee’s definition of housing included both homelessness as well as housing poverty. They defined the latter to include households living either in unacceptable dwelling units, or in what the authors call “unacceptable physical and social conditions.” In their report, these represent obsolescent or congested houses. The former refers to material dilapidation while the latter to multiple families who live in a single dwelling unit out of compulsion.

Table 1 Estimates of Housing Shortage

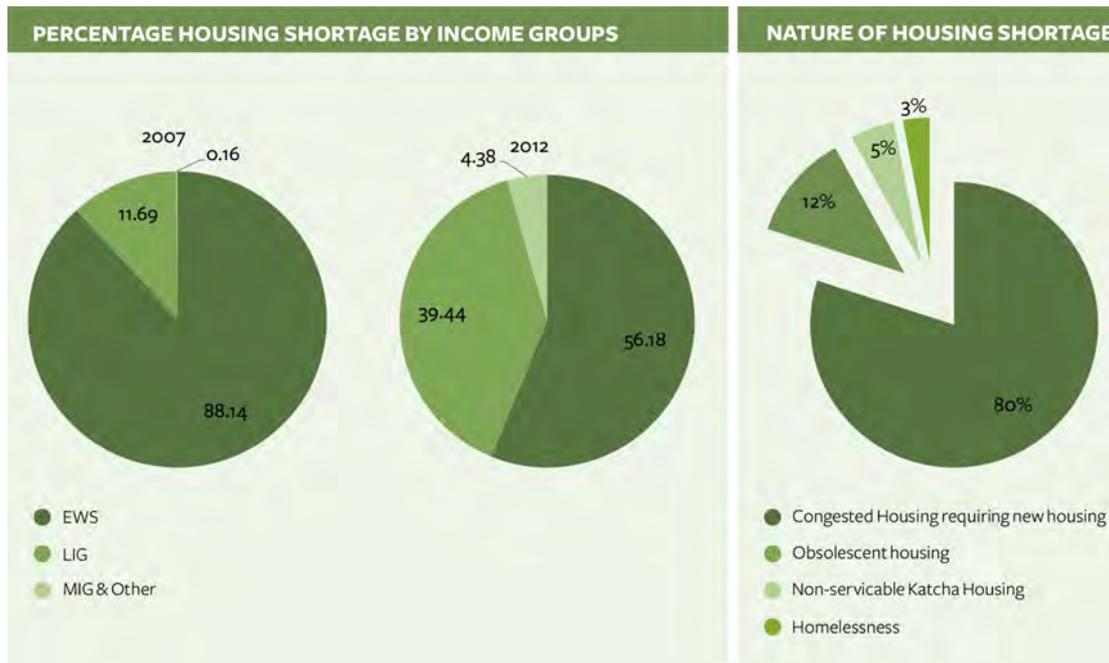
HOUSING DEFICIT	2001	2007	2012
Total Number of Households (HH)	55.83	66.30	81.35
Total Housing Stock (HS)	50.95	58.83	78.48
Housing Deficit (HH - HS)	4.88	7.47	2.87
HOUSEHOLDS REQUIRING NEW HOUSING			
Upgradation of Katcha Housing	1.70	<b>Not Included</b>	
1. Living in non - serviceable Katcha Housing	-	2.18	0.99
2. Living in obsolescent housing	2.01	2.39	2.27
3. Living in congested housing	1.97	12.67	14.99
4. Homeless	<b>Not Included</b>		0.53
<b>Sub Total (1+2+3+4)</b>	<b>5.68</b>	<b>17.24</b>	<b>18.78</b>
Housing Deficit (HH - HS)	4.88	7.47	<b>Not Included</b>
<b>Total Housing Shortage</b>	<b>10.56</b>	<b>24.71</b>	<b>18.78</b>

The table above reminds us that the majority of existing housing shortage (14.99mn) comes from housing poverty rather than the absence of homes entirely. How does this relate to “affordable housing”? Housing poverty reminds us that affordable housing cannot be read outside some measure of adequacy. In the report, it is assumed that households live in inadequate housing because they cannot afford anything else. Hence the report’s pithy description of the problem at hand: “affordable housing is inadequate; adequate housing is unaffordable.”

This is, of course, an assumption – households may have greater means to invest in more adequate housing (i.e. they may be able to afford more) but may choose to invest their resources elsewhere, for example, in expensive private education for their children. A normative judgment on whether or not they should do so is beside the point.

A second finding in the report lends support, however, to the committee’s implied belief that families live in housing poverty at least partly because they cannot afford other options. This finding is represented in Figure 1. As the figure shows, nearly 95% of housing shortage occurs for households in the Economically Weaker Sections (EWS) or Low-Income Group (LIG).

Figure 1 Where is the unmet demand?



The Kundu committee report gives us insight into the adequacy of what people can afford currently; reminds us that Indian cities are marked not by homelessness but by existing, self-built and inadequate housing; and suggests a strong association that the largest unmet demand is in households with the lowest incomes. What it cannot tell us how much these households can, in fact, afford to spend. Our second set of empirics addresses this challenge.

#### *Two: Affordability as Ratio of Household Income*

Two reports – the Deepak Parekh Committee Report (2008) and the annual report of the Ministry of Housing and Urban Poverty Alleviation (2011)– define affordability not through reading shortage but as a ratio of annual household income. The Deepak Parekh Committee suggested that affordability be capped at 4 times the annual income of EWS and LIG households. Independent assessments by firms such as KPMG suggest a slightly higher ratio of 5:1. The 2011 MoHUPA report suggested that monthly EMI or rent not exceed 30% of household monthly income.

If we accept a ratio of 5:1, what does the affordable house price for urban Indian households look like? Table 2 uses IHDS data<sup>1</sup> from 2004-05 to assess reported household income. The median income in 2004-05 for urban households was Rs 51,600. The median urban household, in other words

<sup>1</sup> The India Human Development Survey (IHDS) is a nationally representative, multi-topic survey of 41,554 households in 1503 villages and 971 urban neighborhoods across India. The first round of interviews were completed in 2004-5; data are [publicly available through ICPSR](#). A second round of IHDS is re-interviewing these households in 2011-12 to examine changes in an era of rapid economic growth. The second round also adds interviews with young people aged 15-18 to examine the process of transition to adulthood. IHDS has been jointly organized by researchers from [the University of Maryland](#) and [the National Council of Applied Economic Research \(NCAER\)](#), New Delhi. See [ihds.umd.edu](http://ihds.umd.edu). Accessed September 25<sup>th</sup>, 2014.

would be able to afford a house worth Rs 2.58 lacs. In 2011-12, this figure rose to Rs 60, 817; the affordable house would be Rs 3.04 lacs.

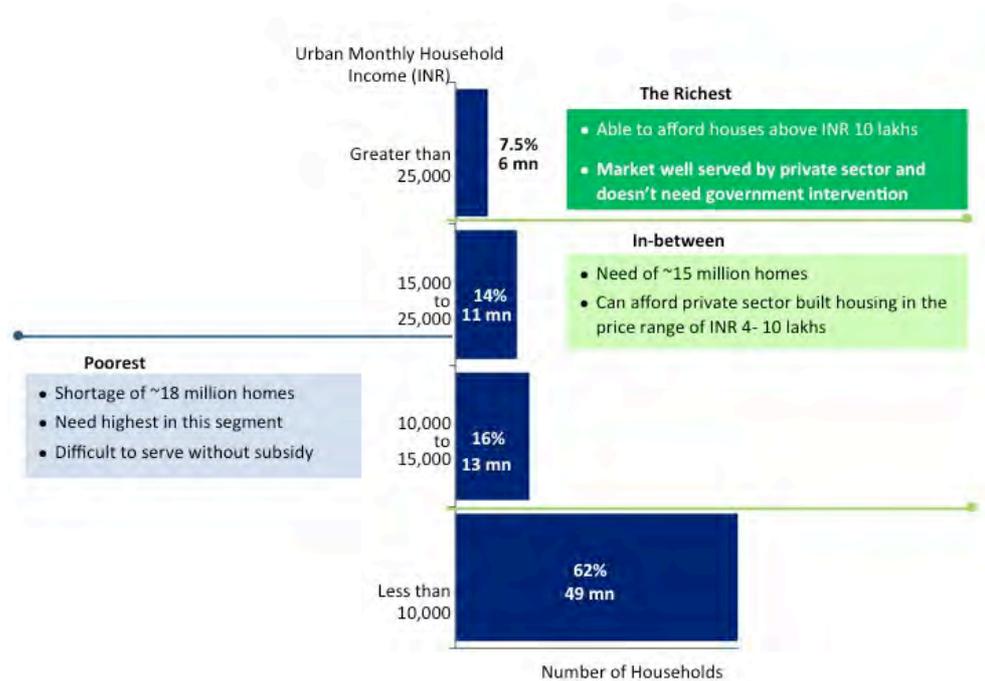
Yet it is the distribution of the household income that is more telling. In 2004-05, the 95<sup>th</sup> percentile of urban household income stood at Rs 2,10,000. This implies that a house worth more than Rs 10.5lacs is affordable for only 5% of all urban households. It also reminds us that a significant majority of urban households who are demanding housing earn less than Rs 2lacs a year. Whether by need or by the sheer demography of demand, therefore, any understanding of affordable housing must be skewed to the unmet demand of these households. This skew could be, but need not be, normative – it is also empirically appropriate. This paper therefore focuses on this segment of households.

Table 2 Household Income (INR) Distribution

	Rural	Urban	Total	U/R Ratio
<b>1<sup>st</sup> Percentile</b>	-2,338	1,200	-1,229	-
<b>5<sup>th</sup> Percentile</b>	3,300	11,500	4,400	3.48
<b>10<sup>th</sup> Percentile</b>	6,580	17,000	8,000	2.58
<b>25<sup>th</sup> Percentile</b>	12,845	28,873	15,034	2.25
<b>Median</b>	22,400	51,200	27,857	2.29
<b>75<sup>th</sup> Percentile</b>	41,027	94,800	56,400	2.31
<b>90<sup>th</sup> Percentile</b>	76,581	152,000	103,775	1.98
<b>95<sup>th</sup> Percentile</b>	110,633	210,000	149,000	1.90
<b>99<sup>th</sup> Percentile</b>	235,144	396,000	300,000	1.68
<b>Mean</b>	36,755	75,266	47,804	2.05
<b>No. of Households</b>	26,734	14,820	41,554	
<b>Source:</b> IHDS 2004-5 data.				

Other independent analyses confirm the general trends of these findings. Studies by private consultancy firm Monitor Inclusive Markets, for example, indicate that 62% of urban households make less than Rs 1.2lacs a year (affordable house: under Rs 6lacs) and only 7.5% made more than Rs 3lacs (affordable house: Rs 15lacs). Monitor creates three categories of households and their demand (Aggarwal, Jain, & Karamchandani, 2014). The first is households who can afford houses under Rs 4lacs (62% of all households), those who can afford houses between Rs 4-10lacs (30% of households) and those that can afford houses of over Rs 10lacs (7.5% of households). Figure 2 visualizes this data.

Figure 2 The Private Affordable Housing Market



Source: (Aggarwal et al., 2014)

### Three: Current Criteria in defining Affordability

A third way of seeing how affordable housing is defined is to take existing definitions in state policy. This is particularly relevant for a paper like ours that seeks to locate itself firmly both the imperatives and constraints of existing policy frameworks. We take two emblematic policies: Rajiv Awaas Yojana (RAY) and the Reserve Bank of India's (RBI) priority sector lending policy for Affordable Housing.

The RAY had both size as well as total cost constraints for low-income housing that it felt as appropriate and affordable for low-income households who, as we showed above, represent a majority of urban Indian households. Table 3 summarizes.

Table 3 Affordable Housing and RAY

New Housing	21 -27 sqm	Upper Limit: Rs 5 lacs for cities with population over 5lacs; Rs 4 lacs for others
Incremental Housing	21 -27 sqm	
Rental Housing	16 -19sqm	

It is important to note that a minimum beneficiary contribution (10%) was mandated in the programme. This was not "free" housing though it was heavily subsidized. Unit sizes ranged from 16 to 25 sq m, and costs were capped at 5 or 4lacs depending on the size of the city though, in practice, state governments often added marginally to these from their own budgets and

built units upto 8lacs. RAY, however, targeted the Rs 4-6 lac house, supplementing the affordability gap with subsidies. In doing so, it was, in fact, in line with the largest segment facing housing shortage.

The RBI approaches affordable housing in a different context. Declaring the sector to be central to the “social objective of reaching out to large masses of economically vulnerable sections of population,” the bank gave priority lending status for loans to developers building what it termed “affordable housing.” Their definition, however, was pegged at houses under Rs 25lacs. This significantly expands the definition of “affordability” placing it in the category of the 1% of urban households the IHDS data suggests can afford housing over Rs 12lacs. It is important to note that even within priority lending, a sub-limit of Rs 10lacs applies for lending to public sector institutions tasked with addressing housing demand by EWS and LIG categories. We shall debate the differences in these measures of affordability vis-à-vis the bank later in this essay.

### *In summary*

Affordable housing must face certain empirical realities of urban India: a vast majority of households make incomes sufficient only to afford houses that cost under Rs 10lacs. Among these, however, a dominant majority cluster at the 2-6lac range, and a significant number can barely afford Rs 2lacs. Most of these households are currently living in housing poverty, i.e. inadequate and vulnerable housing, or are homeless. Creating housing either through the public or private sector to cater to these households is the mandate of affordable housing and the problem-space of this paper. On the way to Housing for All in 2020, there are several challenges. We turn to these next.

## DYNAMICS

When we speak of “dynamics,” we mean particular political, legal, economic, spatial, or ecological aspects of thinking about housing generally and affordable housing in particular. We use the term dynamics because it is a useful reminder that the phenomena we study below are constantly changing and can only be read relative to other macro- and micro-structural forces within the housing sector. The latter are not explicitly part of this paper, as we have argued in the introduction. Our choice of dynamics is obviously particular and necessarily partial yet we believe that the ten that follow represent the most often articulated challenges and concerns facing policymakers tasked with delivering affordable housing for our cities.

Within each dynamic, we offer a framing of the debate and then a possible set of approaches, responses and interventions. As far as possible, we attempt to outline the different consequences that will undoubtedly result from any suggested intervention. These consequences have to be weighed politically and determined by both normative and strategic ends. As we argued in the introduction, these are not meant to be uncritically applied or equally effective in different contexts. They are instead suggestions of a possible set of actions that must be evaluated within particular contexts as well as in light of desired

ends – some will become more relevant, and others found to not be applicable – and treated as approaches rather than prescriptions or best practices.

## The Ten Dynamics

- 01 No one is entitled to housing
- 02 Neither the state nor the market can build affordable housing at scale
- 03 Titles could gentrify, but restrictions distort
- 04 There is no land.
- 05 Can we rely on rental housing?
- 06 Households do not want what is being made for them
- 07 Planning has failed.
- 08 Communities can participate, not lead
- 09 New urban forms are uncharted territory
- 10 You can't just fix one end of the housing market.

### *Dynamic 1: No one has an entitlement to affordable housing.*

Does one need a right in order to secure entitlements? There is no single answer. Rights arguably make entitlements justiciable, accountable and enable those entitled to demand their due even if deep inequities remain in their provision. Yet others point precisely to these inequities and argue that in the context of failed implementation another unfulfilled textual right means little. The better battlegrounds, they say, are appropriate policies and everyday governance. Still others draw an important distinction between rights-based approaches, which they say are essential, and constitutionally or legally enshrined rights, which are important but not ends unto themselves.

Indian citizens do not enjoy a constitutional right to housing as they do to information, food and education, or even a substantive entitlement as they do to rural work. The judicial record on derived rights to housing read into existing fundamental rights is mixed. Rights-based thinking has informed some housing policies more than others and a lot of thinking on housing policy remains mired in language of need, welfare and charity rather than rights. The result, many argue, is that there are no consequences for the failure to provide affordable housing – neither the state nor the market can be held adequately accountable.

How important are rights and rights-based approaches to affordable housing? In many ways, they are critical. Our reading of affordability above and our discussion elsewhere in this paper (see Dynamic 2) makes it clear that public action will need to play a central role in meeting unmet need for affordable housing. Rights and rights-based approaches have often been the most effective ways in order to mobilize and direct such public action. They may not be able to guarantee outcomes but they can insist on effort and resources being brought to the table. They also play a crucial part in creating a social agreement on entitlements needed to create a political consensus around delivery.

Questions remain: what forms of rights or rights-based approaches are more or less relevant for affordable housing? Who should right-claims be addressed to? What should they ask for? This section proposes four possible ways in which to strengthen rights-based approaches to housing: (a) a constitutional right to adequate housing; (b) universal access to basic services; (c) strengthening work-based entitlements to housing; and (d) more expansive anti-discrimination protections in law.

### *A Right to Adequate Housing*

The first approach is to seek the instantiation of a legal and textual right to adequate housing. Briefly, such right would have to encompass access to adequate housing, universal access to basic services and secure tenure. Annexure 1 details how these terms could be legally defined and what obligations would fall upon the state. It is important to note that this right need not be constitutionally enshrined. That is certainly one way but even without a constitutional amendment, a right to adequate housing could be put in place through a parliamentary enactment under the “Economic and Social Planning” entry in the concurrent list; or through amending state legislation either through the entry on rights in and over land in the state list, or through the Economic and Social Planning entry in the Concurrent list.

The will to pass such legislation, however, will have to be built. Social movements will have to be the key drivers in mobilizing and projecting a broad-based and focused demand for such a right. Several other actors can and must play key roles to ensure an effective translation into the political process of drafting and passing a bill through state or national legislatures. Particularly important is the mobilization of political parties and members of parliament to introduce and shepherd the bill into law. There is recent precedence for such a move – the Right to Information was similarly passed. However, there are also examples of previous failed attempts – the unsuccessful National Campaign for Housing Rights in the late 1980s – that must be studied closely for the lessons they offer.

The moment for such a campaign may be opportune. At the time of writing, the Law Commission of India had just called for initial consultations on drafting a suitable legislative framing for a right to housing. Several national political parties have placed a Right to Housing in their manifesto for the 2014 national elections. India's commitments to international covenants and

treaties could be further points of pressure. Most importantly, however, a growing set of social security entitlements for urban residents could provide an opportune convergence. As other entitlements for urban residents like education, food, health, basic services and work progress, housing will become increasingly difficult to deny as part of an urban social security framework.

### *Universal Access to Basic Services*

Ensuring access to basic environmental services and infrastructure (water, sanitation, sewage, electricity) improves access to affordable housing by making existing, inadequate housing liveable, less vulnerable and therefore not part of housing shortage. As the Kundu committee reminds us, unmet need for affordable housing is largely composed of those currently living in affordable but inadequate housing.

Here, policy directions are already headed in the right way. The first move has been to remove restrictions on access to services because of spatial illegality of households or settlements. Until even a decade ago, municipalities and utilities were, in fact, prohibited to provide services to either “slums” or the many variants of “unauthorized colonies.” Elsewhere, one of the authors has detailed precisely how housing illegality prevents access to urban social security, environmental services as well as urban infrastructure (Bhan, Goswami, & Revi, 2014). Table 4 below looks at the kinds of restrictions in place currently in Delhi, Mumbai and Bangalore to give an indication of how equitable access to basic services is prevented due to insecurity of tenure.

Table 4 Insecure tenure and access to environmental services

Insecure tenure can lead to both de jure and de facto exclusions from basic environmental services like water, sanitation, drainage and solid waste management. In cities like Delhi, the exclusion is clear. The Delhi Jal Board is not obligated to “provide water supply to any premises which have been constructed in contravention of any law” (Ch. 3, Section 9.1a of the Delhi Jal Board Act<sup>2</sup>).

In Mumbai, under the Municipal Corporation of Greater Mumbai Water Rules, 2002, water connections can only be given “to a group of hutment dwellers with not less than 15 members,” failing which an exceptional case has to be argued for. But more importantly, “such connections can be granted to only such hutments which were constructed though without proper permission, prior to 1-1-1995.” The exclusion therefore works through a cut-off date. A recent judicial challenge to this exclusion in the Bombay High Court has resulted in its reinforcement. Denying the petition filed by the *Pani Haq Samiti*, the Bombay High Court articulated a common fear underlying the denial of water to slum residents – that services would make residents feel entitled to tenure security: “you would not want to move away from that place if you have water.”<sup>3</sup>

Yet insecurity of tenure can also result in de facto exclusions through the requirements of process. Even if the Bangalore Water Supply and Sewerage Board (BWSSB) does not have de jure exclusions for households without tenure, applying for a water connection requires an application along with “sanctioned plan or Tax

<sup>2</sup> See here: [http://www.delhijalboard.nic.in/djbdocs/about\\_us/act.htm](http://www.delhijalboard.nic.in/djbdocs/about_us/act.htm). Accessed June 20th, 2014.

<sup>3</sup> *Pani Haq Samiti vs Bombay Municipal Corporation*. CWP 10 of 2012

Paid Receipt” – a requirement certain to exclude many households particular poor households without tenure.

Inclusion may also be differentiated with a distinction between what level of amenities can be provided to communities with or without security of tenure. As the BWSSP outlines, it offers “ individual household connections for those with land tenure” and “community-level services such as shared metered connections” for “communities without security of tenure.”<sup>4</sup>

This has begun to change. The Jawaharal Nehru Urban Renewal Mission (JNNURM), India’s largest urban programme, frames its policies on the Basic Services to the Urban Poor (BSUP) as following. The BSUP seeks “to ensure universal and equitable access to basic services for all urban dwellers, *including slum residents who may be living in non-notified, irregular or illegal settlements*, by connecting these areas to municipal services, i.e., water supply, toilets, waste water disposal, solid waste disposal, roads, power, etc.” (Ministry of Urban Development, undated: 5-6) [Italics added]. This process, ideally, the Ministry argues, should work through granting of tenure and titles. In other words, “slums” must be given some form of legal tenure and then services can follow. However, critically, “since the process of granting land tenure will take time, notification can help to include currently excluded/non-notified settlements for provision of services.”

What this leaves unsaid is that until such “notification,” large numbers of residents remain outside access to services in non-notified JJ Clusters. The Census 2011 data is a timely reminder of the fact that the category of “identified” slums that have no notification or recognition by a public authority are 37% of all slums in the country, and are the largest of the three categories of slums (Registrar General, 2011b). This gap will hopefully, reduce over time. Yet there is no way of knowing how long this time frame is.

There are stronger formulations. The National Urban Sanitation Policy (NUSP) is much more explicit:

“Every urban dweller should be provided with minimum levels of sanitation, *irrespective of the legal status* of the land in which he/she is dwelling, possession of identity proof or status of migration. However, the provision of basic services would not entitle the dweller to any legal right to the land on which he/she is residing” (Annexure I, p. 13; Italics added ).

RAY is similarly explicit. Aimed at “those who are forced to live in extra-formal spaces and in denial of right to services and amenities available to those with legal title to city spaces,” it makes it clear that the programme will “bring all existing slums, *notified or non-notified*” into its fold. In principle, then, RAY becomes the first and closest policy articulation to a Right to Shelter that we have (Ministry of Housing and Urban Poverty Alleviation, undated: 2).

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<sup>4</sup> From “Services to the Urban Poor” on the BWSSB website. Available here: <http://bwssb.org/services/>. Accessed May 12<sup>th</sup>, 2014.

Yet these are programmes, policies and missions – each could pass with changing governments with no guarantee that their commitment to providing services regardless of tenure will endure. Entitlement frameworks must be located more firmly to survive different governments and their policy frames. The principle of universal access must therefore be enshrined in the rules, acts and provisions. Whether this occurs as an end unto itself or as part of a broader constitution right to services is secondary. As the acts, rules and procedures for municipalities, planning authorities, para-statal such as slum development boards and housing boards, and, critically, public utilities, alter, an entitlement regime for this aspect of adequate housing builds itself even in the absence of a larger right to adequate housing.

### *Work-based Entitlements to Adequate Housing*

Decent work, argues the National Commission on Employment in the Unorganised Sector (NCEUS),<sup>5</sup> is inseparable from “public interventions foremost in health, education and housing” (NCEUS, 2007: 173). The links between worker productivity, mobility and development and adequate housing are well- established. However, across the formal and informal sectors, connections between the critical role housing plays in decent work and workplace-based entitlements (Srinivas, 2010) to provide that housing remain elusive. How can this disjunct be bridged? In other words: what part of entitlements to adequate housing can derive to urban residents from their work status and/or through their workplace?

There are three main approaches to linking housing entitlements and work that we briefly lay out in this section since they are discussed in more detail in other parts of this essay. The first approach is a familiar one: to relate housing entitlements to work-status. Within it this includes two distinct sets of entitlements: for formal workers, including contract workers (who have been described as “deemed workers” by the Supreme Court); and for workers in the unorganised sector, for whom we use the definitions and categories of the NCEUS. Here, employers share financial as well as operational responsibility for delivering housing entitlements with public agencies tasked with addressing housing shortage.

The second approach is to include housing entitlements in the formation of National Investment and Manufacturing Zones that seek to build industrial and manufacturing townships populated by workers (see Dynamic 9). Given the scale of these proposed townships as well as the extent of public resources and land being allocated to them in the name of boosting livelihoods and employment, these are critical sites of intervention for housing entitlements. The third approach is to link housing entitlements to skill development and certification, thereby integrating approaches to reduce housing shortage with the need for skill upgradation and livelihood promotion.

In each of these cases, claims to housing are made on the basis of worker identities to employers or to welfare boards that represent the sector. These are distinct from claims made under the right to adequate housing as citizens

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<sup>5</sup> <http://nceuis.nic.in/>

and urban residents to the state. Both are possibly complementary – the distinctions, however, offer two different means to operationalize the delivery of entitlements to adequate housing. In different contexts, it is likely that one be more effective than the other.

### *Anti-Discrimination Protections*

The final legal protection could appear, at first, disconnected to rights to housing. However, there is ample evidence to suggest that housing inequality is inseparable from social stratification. Discrimination in access to rental and ownership-based housing markets, as well within housing programmes, is deeply impacted by existing inequities in gender, caste, religion, ability, language and region.

The absence of any anti-discrimination legislation that prevents discrimination between citizens (for example, a landlord and a tenant) shapes the ability of many to access housing. Legal protection against discrimination exists only vis-à-vis the state currently, marking a significant gap in rights, protections and entitlements that are not particular to housing but certainly impact it.

#### Dynamic 1: In Summary

- While rights and right-based approaches cannot guarantee outcomes, they are a key force to direct public action and resources towards public action on affordable housing
- Claims can be made as urban citizens and residents to either adequate housing or to universal access to basic services
- Claims can be made as workers to housing entitlements from workplaces or third party representatives like welfare boards
- Anti-discrimination protections that prevent discrimination on the basis of social identities must be part of rights-based approaches to housing

#### *Dynamic 2: Neither the state nor the market can deliver affordable housing stock at scale.*

Let us diagnose from the symptoms we see. Private developers – unaided by subsidy – are building more affordable housing. In an optimistic report, Monitor Deloitte estimates that a market of 15mn households could exist for units between Rs 4-10lacs (Aggarwal et al., 2014). Yet this market remains nascent and faces considerable challenges in being developed, not the least of which is credit and finance flows to buyers and developers alike (see Dynamic 10) and difficulty in securing appropriately located land. Yet let us assume, for a moment, that this market reaches its potential. Even then, its lowest entry point would exclude a majority of urban Indian households – remember that a median household income in 2011 of Rs 60,817 means an affordable housing ceiling of Rs 3.06lacs. The Monitor Deloitte report is quite frank about housing under Rs 4lacs: “this segment is difficult, if not impossible, to serve

without subsidy or government support.” Their findings bear this out: less than 1% of the affordable housing units they surveyed being built by private developers between 2007-2013 were less than Rs 4lacs.

If the market can reach only a segment of those who need affordable housing then what role can the state play? The inadequacies of state and central housing policies are well documented. From consistently inadequate scales of housing construction that has created and reproduced widening shortfalls to periodic giveaways of free housing or loan waivers that have distorted credit cultures, it is clear that direct provision of housing by the state has been inadequate in the last three decades in most Indian cities. Data on housing shortage bears witness to this.

Recent housing policy – be it central initiatives like JNNURM and RAY, or state programmes like Maharashtra’s Slum Rehabilitation Scheme or Rajasthan’s Affordable Housing Policy – seems to signal a renewed emphasis on attempting to construct enough new housing units for all households in need. This time the units are tied to some proportion of beneficiary contribution. They are to be delivered not just through state agencies but also in the form of public-private-partnerships with developers. Yet the scale and quantum of units being built remain, as they have historically,<sup>6</sup> inadequate to the scale of the problem (though it bears mentioning that the gap is narrower in smaller towns and urban centres).

In Mumbai, despite building of nearly 100,000 housing units under the Slum Rehabilitation Scheme, the percentage of Mumbai’s residents who live in “slums” refuses to fall despite decelerating migration. Across redevelopment projects under JNNURM, occupancy rates of newly built subsidized units remains low, barely reaching 30-45% across projects. Occupied houses, officials complain, are often not lived in by the low-income families and the combination of units to make bigger, pricier units bears evidence to this. The new housing stock, in other words, is not reducing unmet demand for affordable housing.

What we see then is the limits of private or public action to address the scale of unmet demand for affordable housing, either alone or together. Who then must be added to the mix? The answer is households themselves. Indian cities are marked, as the Kundu committee remarked, not by widespread homelessness but by self-built, auto-constructed, and affordable if inadequate housing. Particularly in larger cities, it is what could be called the *non-corporate private sector* (Chatterjee, 2008) – households, communities, local contractors – that has built the largest housing stock, especially in the sub-Rs 4lac category. These settlements are admittedly often – though not always – inadequate, under-serviced, and marked by insecurity or illegality of tenure. Yet they also represent housing in locations that fulfill mobility and accessibility needs, provide proximity to employment; reflect housing stock that households can afford to live in and maintain at their incomes; and allow an incremental expansion and improvement that is appropriate to irregular resource flows.

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<sup>6</sup> See, for example, Bhan (2013) on the inadequacy of housing construction in Delhi since 1947.

The in-situ upgradation of existing housing stock that can address its physical and legal vulnerabilities must thus remain a key part of housing policy, if not be a central feature. Neither private developers nor the state can construct new housing stock at the scale required. Any effective approach to affordable housing policy in Indian cities therefore must centrally include on a large-scale in-situ upgradation programme.

### *Upgrade, don't build*

It is important for us to be specific here. In-situ upgradation can take two forms. The first is an upgradation of infrastructure and environmental services (roads, pathways, drainage, electricity, toilets) as well as incremental improvements to existing housing units in order to, for example, add indoor toilets or improve structural conditions. Such improvements focus on upgrading settlements and hope to leverage personal household investments over time to see the improvement of individual housing units. They do not, in other words, build new housing units. The second form of upgrading is when new housing units are constructed on the same site. This is often referred to as *in-situ* redevelopment. Redevelopment may sound more appealing – do we not want to give people new houses? – yet it falls into precisely the same challenges as policies centered on housing construction.

While the vulnerability faced by households living in inadequate but affordable housing cannot be denied, it must also be acknowledged that such housing represents a level of investment and affordability that is most aligned to current incomes and aspirations of those households. Put simply: households living in what we consider inadequate conditions are also, at times, living in the kind of housing that they can afford and making tradeoffs that we may or may not agree with. It is not uncommon that a poor household will continue to live in a temporary shelter while investing income into better health or education outcomes rather than improvements in housing. The fact that, in the Census 2011, nearly 41% of households rated their housing as “liveable” and only 5% of housing stock as “non-serviceable” testifies to this (Registrar General of India, 2011).

Rapid transformations in such housing stock— like the rebuilding of low-income housing into multi-story buildings represented by redevelopment— break the incremental nature by which many poor households improve inadequate housing stock. The result is that poor households often cannot afford maintenance; cannot combine work, life and other uses in a high-rise building they way they do in organically built settlements (see Dynamic 6); cannot recreate the densities those settlements accommodated, or simply cannot afford to refuse offers to sell allocated flats. This, some scholars have argued, is *market-induced displacement* that uses redevelopment to peripheralize the poor. It is important to note that such displacement, often understood in Euro-american cities as “gentrification” plays out differently in Indian urban housing markets where the minimum entry for legal housing (even rental) is far removed from the income reach of most income-poor urban residents. If those offered a redevelopment flat refuse to occupy it or

sell it, they do not enter into legal rental or owned housing elsewhere— they most often re-occupy the “slum,” beginning the cycle all over again.

In-situ upgradation that focuses on upgrading the settlement rather than on creating a new housing unit represents a policy intervention that can create adequate, affordable housing stock at scale. There are both domestic and international examples that evidence this. Annexure 2 offers two such examples – the Slum Networking Programme in Ahmedabad and Baan Mankong, Thailand’s national upgradation scheme. In its later phase, the RAY recognized this. Low occupancy rates in built housing and the inadequate pace of housing construction meant that the revised guidelines issued in 2013 for RAY allows both incremental upgradation as well as rental housing – a key shift that must be retained in housing policies that follow.

Yet up-gradation requires a different approach to housing policy – one that moves away from housing construction to focus on secure tenure, the provision of universal access to basic services, and regulations that enable income-poor households to buy “development time” and what some scholars have termed “the right to stay put” (Weinstein, 2014). These, in turn, present their own challenges, not least of which is what form this secure tenure should take. We turn to this next.

#### Dynamic 2: In Summary

- Neither the state nor private developers – alone or together – can build enough *new* affordable housing stock at the scale required to address unmet demand and need.
- The only actors that have built affordable housing at scale are what could be called the *non-corporate private market*: households, communities and local contractors.
- *In-situ upgrading* that reduces the physical and legal vulnerability of self-built housing must be part – if not the core – of any affordable housing policy
- In-situ upgradation must be focused on *the incremental improvement of settlement*, not become redevelopment that returns the focus to construction of new housing units
- Domestic and international cases – *Ahmedabad, Bangkok, Venezuela, Sao Paulo* – point to the possibilities of large impacts through large-scale in-situ upgrading. See Case Study 1, Annexure 2.

#### Dynamic 3: Titles could gentrify, but restrictions may distort

Affordable housing in Indian cities is faced with a third challenge in addition to affordability and adequacy. Elsewhere, one of the authors of this report has termed this challenge as “legitimacy” (Bhan, 2013)— the multiple means by which settlements and households gain what UN-Habitat has called “effective protection” from forced eviction, on the one end, and long-term security of tenure, on the other. Any affordable housing stock – whether built new by public or private actors, or through upgradation of existing stock – must

therefore grapple with how to secure what are often referred to as “property rights.” This challenge is particularly salient for settlements that explicitly lack legal claims to houses built by occupying public or private lands that are not owned in title.

Often debates on property rights are reduced simply to discussions of “title,” and within it, of titles for individual households. This is particularly true in recent years due to the influence of theorists like Hernando de Soto who have argued that the poor are sitting on “dead capital,” which if unlocked through individual, private titling would unleash trapped economic potential (De Soto, 2000). We argue instead that appropriate regimes of property rights must be evaluated against three criteria: (a) terms of exchange, i.e. rights to buy and sell; (b) effective protection from forced eviction, i.e. secure tenure; and (c) effective protection from market-induced displacement. Different forms of property rights approach these in different ways. Table 5 summarizes.

Table 5 Evaluating Property Right Regimes

Form of Property Right	Terms of Market Exchange	Protection against Forced Eviction	Protection against Market -Induced Displacement
Freehold Title for Individual Households	High	High	Low
Leasehold Title for Individual Titles	Low	High	Medium
Freehold Titles for Communities or Co-operative	Medium	High	Medium
Leasehold Titles for Communities or Co-operative	Low	High	High
No - Eviction Guarantees	Low	Medium	High
Licenses (5 -10yrs)	Low	Low	Medium

What the table shows us is that different property regimes enable us to reach different desired ends. Each regime bears its own risks. Individual titles are the most effective in creating markets of exchange, allowing households to not just have secure tenure but to leverage housing as an asset. However, it puts them at the greatest risk of market-induced displacement especially at the lower end of the housing market where the sale of a unit just as often represents distress rather than economic mobility, and where, importantly, re-entry into a legal housing market is not certain.

In highly skewed housing, labour and wage markets, the fear of crowding out low-income residents from housing that newly circulates in the market is real whether through rising rents or house values. From the perspective of housing policy, the question is not whether households should or should not sell but

whether they are able to re-enter a legal housing market once they do. In the presence of adequate, affordable and legal housing stock to buy or rent, individual household titling is an effective strategy. In their absence, it is limited, ineffective and possibly deeply exclusionary.

On the other hand, no-eviction guarantees and individual/community titles with strong restrictions on sale and exchange generate secure tenure with reduced risk of market-induced displacement. However, these property regimes are difficult to implement and often lead to artificial distortions in the market that create their own consequences. In Mysore, for example, BSUP flats allocated with 15-year restrictions on sale are often sold or illegally modified within months. In Mumbai, flats allotted under Slum Rehabilitation Schemes are similarly exchanged with owners returning to occupy “slums.” In the “slum” housing market, these distortions then lead to inflated prices even for inadequate housing units and the city gains no revenue.

There are, in other words, choices to be made – trade-off’s between the different functions of property rights that can only be made in particular contexts where regional market structures are evaluated. For metropolitan Indian cities, for example, skewed housing markets suggest caution in using individual titling but this may not hold true for smaller towns or even for particular, well-established settlements within larger cities. Broadly, however, we suggest two property rights regimes that have benefits that reflect the current housing context in urban India more closely.

### *Community Titling: A Middle Ground?*

Community or co-operative titling perhaps represents a middle ground, whether structured as a free-hold or lease-hold. This is particularly true in the context of in-situ upgrading of low-income settlements. Co-operative titling not only has the potential to allow exchange that is more appropriately regulated – restricting sale to other households of similar socio-economic status, for example – but also, if scaled correctly, the ability to better monitor the implementation of such restrictions.

The intention behind community titling is not to trap households to be eternal “owner-occupiers” in the houses they have been allotted through housing programmes. It is instead to regulate exchange to lower risks of market-induced displacement. It also allows housing policy to be less concerned with whether the same households live in allocated flats and instead focus on whether the housing stock remains accessible and affordable for the purchasing power of low-income urban households. In other words: are the units built through policy affordable for low-income residents? If yes, which particular low-income residents live in them should not matter.

Community titling represents a possible scale where monitoring can be effective. There are still many factors at play – does one form a co-operative or community at the scale of a building, a colony or an entire settlement? Yet the fundamental principle is not dissimilar to the co-operative housing that represents much of the built stock of housing in cities like Mumbai. Communities together can prevent or delay market-induced displacement if

their own security of tenure is also tied up to such monitoring. If in a building on a redevelopment or up-gradation site, for example, flats are found to be modified, combined and sold to higher income buyers [as opposed to simply sold or rented to other low-income buyers] then the community title is at risk, not just the title of one household.

Such practices require empowered communities that are seen as partners rather than participants in housing policy and practice (see Dynamic 8). There are strong examples of success to draw upon, most notably the Baan Mankong scheme in Thailand, discussed in Annexure 2. It is worth noting that the majority of upgrading undertaken in Baan Mankong is structured around community leaseholds precisely to prevent market-based displacement while providing secure tenure.

### *Buying Development Time*

A second part of housing policy, however, could be more immediate in its outcomes by privileging secure tenure over effective market exchange. Interventions that secure tenure without securing exchange could be thought of as attempts to buy what we are calling “development time.” By development time, we mean any extension in the security of tenure of settlements facing eviction regardless of whether it results in ownership or not. The No-Eviction Guarantee attempted in Indore and Ahmedabad, for example, is an example of an intervention that seeks to gain development time (in this case, ten years) without any guarantee of title or final ownership at the end. Such practices are often seen as incomplete but we argue that the response to Ahmedabad’s Slum Networking Programme shows their value, however provisional they may appear (see Annexure 2).

There are two arguments that favour attempting provisional measures like no-eviction guarantees. One, ten years is a significant amount of time for families: a generation can pass through school, infrastructure can be substantially upgraded, health outcomes can improve. This is why we call such extensions “development time” – they make possible real and substantive gains in human development even if incomes do not increase substantially. If livelihoods improve, then the ability to move into a legal house even if the no-eviction guarantee expires increase. Further, as happened in Ahmedabad, legitimacy increases even if legality does not (Bhan, 2013). In actual practice, it is difficult to demolish a settlement that has shown substantial improvement over the last decade. “Effective protection,” therefore, can endure past formal guarantees.

No-eviction guarantees use existing land that settlements are already built on and do not require land-owners to give up ownership though they must give up rights to use and exchange for a period of time. With public landowners, this is especially possible to negotiate. These are low-cost interventions (though politically more difficult to negotiate than titles) and represent actions that can be replicated at scale. Yet they are and can only be transitional measures even if they can significantly impact inequity in the time they are effective. At scale, such guarantees can only be effective if after a period of development time, households are able to bear more risk and transition to a

period of community or individual titling. For this, other economic development pathways must also hold, wages increase, and human development outcomes rise.

### Dynamic 3: In Summary

- Different regimes of property rights must be evaluated against multiple ends: (a) enabling market exchange, (b) securing tenure, and (c) protecting against market-induced displacement.
- Community or co-operative titling with possibilities of market exchange could represent a desirable middle ground between these three ends
- Interventions that seek to buy “development time” through innovations such as No-Eviction Guarantees are critical transitional interventions that can create more equitable housing markets in the medium-term

### *Dynamic 4: There is no land.*

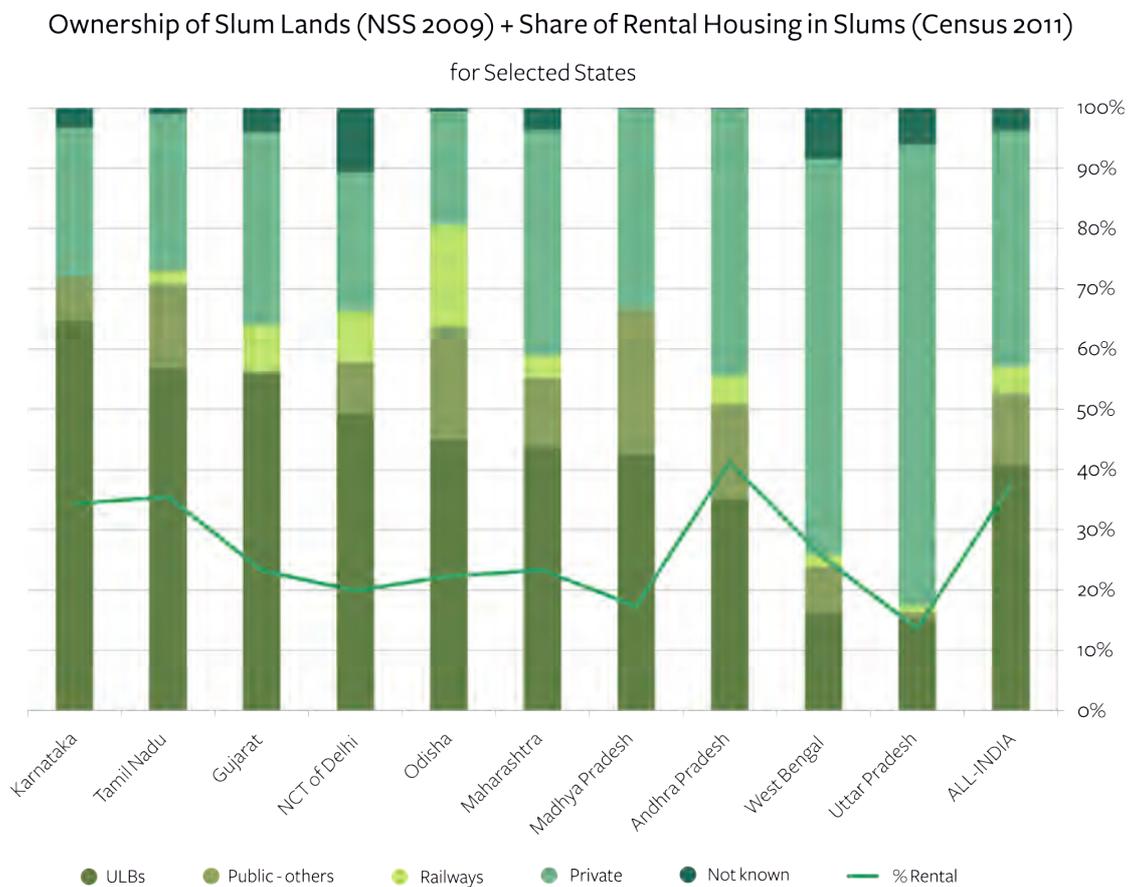
One of the key dynamics that both state and market actors claim prevents them from effectively providing affordable housing at scale is the scarcity of reasonably priced land. This section is far from adequate in thinking about how to address the complexity of the land question in our cities with respect to housing. We focus, therefore, on a set of particular contexts about the “scarcity of land” that are critical to affordable housing in particular. These are outlined below. We return to other concerns regarding land in Dynamic 7 where we address the role of planning in more medium- and long-term strategies to make land available for affordable housing.

Three contexts are immediately relevant. One, scarcity is a far more significant concern in metropolitan regions with very dynamic land markets than in smaller urban centres. Equally, it is felt differently across states. The head of the Chattisgarh Housing Board recently addressed a meeting of bankers on affordable housing saying simply: “land is not a problem.” A glimpse at proposed and approved housing projects under RAY confirms that as settlement sizes decrease, in-situ upgradation goes up and even relocation becomes significantly more proximate. It is important for a policy debate to not generalize Mumbai, Delhi, Bangalore and Hyderabad to understand Nanded, Lucknow, Mysore and Nellore.

Two, “scarcity” arises as a particular problem when new housing units are to be constructed. Land that is occupied by existing informal settlements is “scarce” only in so far that its exchange value is compared unfavourably with use values generated by housing, or in the sense that it is unable to be used legally for housing. Put simply: income-poor settlements have found, inhabited and occupied land in large numbers across Indian cities – that land is not “scarce,” it just has to be made available for use.

Three, “scarcity” has to be evaluated in the context of large publicly held urban land. Again, the debate is on how to value public land and direct its use, not whether adequate supply exists. A majority of land occupied by “slums” or low-income settlements is, in fact, not just public but owned by urban local bodies (see Figure 3). For urban India on average, 40% of land where slums are located are owned by urban local bodies, a further 10% by other public agencies and about 3% by the Railways. There are regional variations – the numbers are high for Karnataka (nearly 60%), Tamil Nadu, Gujarat, and Delhi while they are lower for Uttar Pradesh and West Bengal (about 10%). The varied scale of impacts aside, it is fairly clear that leveraging publicly owned land appropriately could make significant gains in addressing unmet need for affordable housing.

Figure 3 Who owns the land underneath slums?



How could this be done? We suggest four possible short-term interventions, leaving questions of long-term supply of land to the discussion on planning in Dynamic 7. These are: (a) using Transfer Development Rights (TDRs) for public land; (b) converting occupied land into social rentals; (c) enabling buyback on occupied, private land; and (d) bringing back vacant land into the market.

### *Using TDRs for public land*

We have argued in this paper that in-situ upgrading – as opposed to large scale housing construction programmes – are the only way to address the scale of unmet demand for affordable housing. Above, we showed that a significant proportion of settlements needing upgrading are on land that is publicly owned. Yet municipal housing policies and RAY alike have struggled to operationalize in-situ upgrading as a priority intervention, especially in bigger cities. There are many complex reasons for this failure but we focus here on one: the pressure on urban local bodies to monetize their land holdings for infrastructure – a strong feature of contemporary policy approaches to urban development (see HPEC, 2011). Urban local bodies are notoriously and chronically financially dependent on a complex system of grants and transfers from the state and the centre alike. Pressures to be financially sustainable therefore significantly influence developmental choices.

In this context, how can public landowners be empowered and encouraged to allow in-situ upgradation for settlements on their land? We have already spoken about techniques such as no-eviction guarantees that buy communities what we have called development time (see Dynamic 3). A further option exists. Could policy use an instrument frequently used for privately-owned land: Transfer Development Rights (TDRs)?

TDRs allow landowners to give up claims to particular sites of land in exchange for development rights elsewhere. While used frequently in cities like Mumbai with privately owned land, TDRs are rarely (if ever) used for publicly owned land. While in some cases, ULBs may not be willing to accept alternate development rights, one can imagine many scenarios where they would. Accepting land that is peripheral, for example, may not be particularly difficult for a railway yard but proves impossible for households that cannot manage transitions in mobility and livelihood when removed from central city sites. Such a strategy could also allow ULBs as well as other public authorities to monetize land they own by acquiring FSI or FAR development rights in prime locations similar to private landowners.

Public land-owning agencies do not have the same relationship with the land they own as private owners. TDRs could allow ULBs to accommodate the increasing pressures to generate revenue while still being able to accommodate in-situ upgradation. Cities that have made Slum-free City Plans of Action under RAY will be able to see the amount of public land occupied by slums. It is most likely to remain in single digit percentages of total land area if estimates of cities like Mumbai are anything to go by, indicating that TDRs would have to occur on relatively small land pockets.

### *Occupied lands as social rentals*

A second intervention that enables the ULBs to address concerns for revenue generation from land holdings, buy “development time” for households, as well as address housing shortage is the possibility of converting occupied lands into what we are calling “social rentals.” Such a model proceeds as

follows. Two physical asset classes make up a slum – first, the ULB’s land; and second, the housing unit, which is clearly an investment made by the household. In the proposed model, the ULB can give security of tenure to the occupying household by giving it a 'no-eviction guarantee' in return for a nominal rent on the occupied land.

The ULB could charge rent on the area of land used and subsidize based on income levels. Depending on planned land-use and socio-economic factors, options for rent-to-own or community-managed leases could be offered. Government scheme funds could be used to upgrade housing units and provide infrastructure and services, on which additional rent/user fee could be charged. Back of the envelope calculations show that in a typical mid-size town, this revenue could be in the range of 10 percent of current ULB revenue (see Table 6). Since these households would remain 'owners' of the housing unit and become 'renters' of the land, they would be free to retain their own tenants, who would become 'sub-tenants'. This allows vibrant, dynamic communities that can also act as a source of affordable housing for seasonal and new migrants.

Table 6 Financial Implications of ULB Social Rentals

A town near Bangalore, Karnataka has a population of about 3 Lakhs. Of this, about 50,000, or about a sixth, live in 37 slums. Land ownership of these slums is as following:

Ownership of Slum Land	No. of Slums
City Municipal Council (CMC)	21
Private	14
Railways	2
TOTAL	37

The City Municipal Council (CMC) of the town has reported its income in FY 2012-13 thus (Rs Lakhs):

TOTAL REVENUE (Rs Lakhs)	4363	100%
Tax Revenue (own revenue)	968	22.2%
Non-tax Revenue (own revenue)	1044	23.9%
<i>Sub-total Own Revenue</i>	2012	46%
Grants and Loans	2351	54%

The CMC also claims an existing land bank valued at about Rs 5.74 Crores. However, as of now, it is gaining no revenue from this land bank at all. Recently, a RAY DPR for the up-gradation of 6 slums with about 3,300 households has been approved for the town. The total project cost is expected to be about Rs 68 Cr., with the housing component itself amounting to almost Rs 52 Cr. Each of the beneficiary households is expected to contribute about Rs 33,000/- towards the construction of the housing unit. What would be the financial implications of applying the Social Rental model to these 6 slums?

The following table summarizes some of the key assumptions and calculations:

Rental Model (6 slums only)	
No. of households	3324
Annual average rent / household	Rs 6,000/- (Rs 500 per month)
Annual rental revenue	Rs 1.99 Cr.
Percentage of total CMC revenue	~ 4.6%
Percentage of CMC's own revenue	~ 10%

Thus, it can be seen that the rental revenue from just 6 slums could amount to 5 per cent of the CMC's total revenue and 10 per cent of its self-generated revenue. If the rental model is applied to all 21 of the slums on the CMC's land, the subsequent revenue could form a significant proportion of the enterprise based revenue of the CMC. This revenue could also help reducing the CMC's dependence on external grants and loans in the long run. Further, the CMC will be able to consolidate its 'lost' land asset. In the case of these 6 slums, it would amount to nearly 40 hectares of occupied land.

The CMC can provide infrastructure, and upgrade some housing units with RAY funds as this is well within the scope of the RAY scheme. The expenditure in this model will in fact be fractional compared to the proposed redevelopment. Over a period of about 10 years, the beneficiary household would have spent about Rs 60,000/- as rent, but would have continued their life and livelihood pursuits with nearly zero interference.

### *Facilitate buyback for Occupied Private Lands*

It is not unusual for low-income settlements to have a mix of land ownership. Some land may actually belong to the occupier, some portion might belong to the government, and yet some land in the very same settlement may belong to an individual or private entity that is being squatted upon. While the interventions suggested above would cover households that are on ULB or government lands, is it possible to bring land that belongs to private individuals and entities into the fold while addressing tenure insecurity of income-poor settlements?

There could be two distinct ways of doing this - one would be to allow adverse possession and encourage an agreement between the private owner and the occupying household to transfer the property to the occupier's name for a monetary consideration. The other would be to allow government funds for slum redevelopment to be used for the ULB to purchase such private land pockets. So far, government schemes such as the RAY do not allow land to be bought with central government funds. However, if these funds allow ULBs to purchase only occupied private land pockets together with resident households, it could lead to several strategic advantages.

One, the ULB land assets would increase and get more consolidated; secondly, the ULB could then cycle this land back into the rental scheme proposed above and gain revenue. If possible, such an intervention would allow the slum household to continue residing and working from the same location, thus ensuring its security of tenure and access to livelihoods and the

urban economy. Thus central government funds would be used to achieve much more than the simple creation of a housing unit. It is possible, even likely, that many private owners of such pockets would be conducive to this idea as it would enable them to monetize their asset and remove themselves from a complicated land situation. The only change that central level policy would have to make is to allow use of its funds for the purchase of land, with certain restrictions on use. It would be important, however, to ensure that this purchase is restricted to low-income settlements and seen as an exemption to the land-acquisition powers and processes of public bodies more generally.

Combined with the possibility of social rentals, purchased land could then remain in public ownership and create long-term leaseholds with secure tenure for households.

### *Vacant Land*

The final intervention that is key to addressing “scarcity” is to have a significantly more transparent measure and understanding of it. City-level spatial maps have only recently begun to circulate more freely in the public domain with satellite imagery becoming publicly available at dynamic time intervals. Anecdotal experience of the existence of non-trivial amounts of vacant land have begun to be empirically verified though data still remains fragmented or not available to public scrutiny at useful scales such as the ward or zone.

Vacant land can be publicly or privately-owned. Indeed, studies in Delhi have shown that land taken for “urgent public purpose” through evictions has often remained unused for over ten years (Bhan & Shivanand, 2013; Dupont, 2008). Privately held vacancies are more likely to present either contested properties under litigation or speculative holdings. It is imperative that vacant land be brought back into circulation into the housing market using a mix of taxes and appropriate legal and financial penalties. A parallel is useful to see the kinds of impact this could have. The Kundu Committee suggested that alongside a housing shortage of 18.78mn units, there are also over 9mn vacant houses across the country. If the proportions for land are even slightly similar, a significant supply gap could be bridged.

For publicly held land, vacancy could be defined as long-periods of being unused or under-used. If land is found to be “vacant” by this definition, it could be compelled into use as supply for affordable housing.

#### Dynamic 4: In Summary

- Claims of land “scarcity” must be countered by the high rates of public ownership that house a significant proportion of low-income households
- Interventions such as using Transfer Development Rights for ULB-owned land or converting occupied public land into social rentals augments land supply for affordable housing and strengthen’s ULB revenue
- The state should facilitate purchase of occupied private land together with resident households
- Vacant land must be identified and brought back into the land market, and be defined appropriate for public and private land-holdings

#### *Dynamic 5: Can we rely on rental housing?*

Housing policy in India has traditionally focused strongly on individual titling and ownership as the preferred mode of increasing access to housing in the country. In this section, we suggest a second way to secure tenure without going through ownership: rental housing. We argue that – with appropriate regulatory frameworks – rental housing can represent a valuable and secure tenure option for all urban residents and that it is especially relevant for lower-income tenants as well as landlords. Rental housing adds to the forms of tenure security residents can choose from, is particularly well suited to new migrants and represents a critical lever for both new and old urban residents to access the urban economy.

The recent report of the Ministry of Housing and Urban Poverty Alleviation acknowledges this. The report argues that rental housing not only “suits the needs of a migrant population” that comes to cities for “employment or education” but also “is the only sustainable option for housing for LIG/EWS households” (MHUPA: 7). It further argues that rental housing can improve the mobility and economic productivity of workers by allowing them flexibility of location. Other scholars working on rental housing have echoed these sentiments and pointed out that rental housing has particular significance for residents who are migrating for work or education, and new households with not enough savings to be able to purchase a home. Sunil Kumar argues that in low-income communities, landlords are often as or more vulnerable than their tenants and tend to depend on rental income as the only stable source of household income. Popular notions of landlords being harsh and exploitative towards their tenants may abound but it is often the case that landlords and tenants share a mutually beneficial relationship based on market-driven checks and balances (Kumar, 2001).

Rental – whether legal or illegal – already plays a significant role in addressing demand for affordable housing. It is estimated that about 27.5 per cent of urban households live in rented accommodation and in “slums,” this rises to 37.5 per cent (Census of India, 2013). The absence of legal reconignon

often, however, makes such rentals insecure and short-term. There are other dynamics that are important to note: (a) only one in six rented accommodations have any written records (MoSPI 2010); (b) the rental market is almost exclusively a private market of small landlords; and (c) unlike many other countries with similar socio-economic contexts, the public sector has kept out of the rental market except for the captive market of a portion of its employees.

We have argued for ways to strengthen housing in different places in this report. In discussing Dynamic 4, we suggest the possibility of converting occupied ULB-land in cities into “social rentals.” In Dynamic 7, we incorporate rental housing into imaginations of more inclusive planning processes. In Dynamic 1, we suggest rentals as a key way of expanding work and workplace-based entitlements to housing. In this section, we focus on recent trends in housing policy that seek to expand the public sector’s role in using rental housing.

This trend is gaining momentum. The recommendations of the 2013 MoHUPA committee cited above led to amended guidelines in the Rajiv Awaas Yojana to encourage publicly built rental housing. Urban local bodies in Mumbai and Kota have built pilot public rental housing units. What can we learn from these two initial projects?

Launched in 2009, the Mumbai Metropolitan Regional Development Authority’s (MMRDA) rental housing scheme is a cautionary tale. The scheme aimed to ‘prevent slums’ by enabling the creation of lakhs of rental tenements across Mumbai by private developers who were incentivized using FSI adjustments and TDRs. The first few thousand units under the scheme were delivered in mid-2013. Yet, by the end of 2013, the scheme changed character and was declared an ‘Affordable Housing’ scheme wherein the units would either be sold off or used by various public agencies as they wished or required.

The scheme was beset by several problems from conception to the implementation. First, the land came from the private developer which ensured the locations were not suitable for public transport dependent low-income families. Second, the allowed FSIs were grossly out of sync with the surrounding areas (if not for human habitation) as noted by another Govt of Maharashtra committee. Third, and perhaps most importantly for future policy, MMRDA had little knowledge or experience in managing rental housing. Management of public rental housing is a professional field in many countries around the world. The MMRDA rental scheme did not even have a dedicated rent collection system in place.

At the same time, the Urban Improvement Trust (UIT) in Kota, Rajasthan, launched a scheme called ‘Rent-to-own’ under the RAY. The context for the scheme was the finding that significant populations in slums were renters and would not normally get addressed in any slum development programme. The UIT, which was to finance 20 per cent of the housing cost of the project, aimed to recover its cost via the rent-to-own model, while at the same time allowing the beneficiary household the option of owning the house they would live in

over a period of 5 years. At the time of writing, the pilot seems fairly successful though the transition to ownership remains untested. The table below illustrates the financial model.

Table 7 Kota Rent-to-Own Model

<b>Rent per month</b>	<b>₹ 525.00</b>	
Annual increase in rent	5.00%	Cumulative rent
Rent - Year 1	₹6,300.00	₹6,300.00
Rent - Year 2	₹6,615.00	₹12,915.00
Rent - Year 3	₹6,945.75	₹19,860.00
Rent - Year 4	₹7,293.04	₹27,153.79
Rent - Year 5	₹7,657.69	₹34,811.48
10 percent of unit cost collected at year 5	10.00%	₹33,983.10
<b>Total paid by tenant-owner</b>		<b>₹68,794.58</b>

<b>Cost of unit</b>	<b>₹3,39,831.00</b>	
Share of Gol	₹1,69,915.50	50%
Share of GoR	₹1,01,949.30	30%
Share of UIT Kota	₹67,966.20	20%
<b>UIT P/L if sale</b>	<b>₹828.38</b>	<b>- ₹ 0</b>

Public rental housing outside the captive market of housing by PSUs for their own employees is emerging in India. The market for such housing appears robust, not least for for renters within slums ineligible for redevelopment benefits. Yet the public sector currently lacks both the mindset as well as capacity to manage the financial and operational aspects of rental housing. Rental housing has to be seen in the context of sound politico-economic decisions based on sustainable financial models. These models will need detailed management structures at institutional levels, fair processes of allocation, rent-setting and eviction, as well as an a growth trajectory to cater to future demand. If invested in seriously, it could prove to be a significant step in moving towards addressing unmet demand for affordable housing.

#### Dynamic 5: In Summary

- Rental housing already represents a significant proportion of low-income housing practice and must be acknowledged and encouraged by policies
- Public policy will have to innovate with process and policy design to learn how to deliver and manage rental housing
- Converting occupied public land into social rentals could be one way to expand rental housing at scale

## THE BIG PICTURE

### **1: No one has an entitlement to housing.**

- While rights and right-based approaches cannot guarantee outcomes, they are a key force to direct public action and resources towards public action on affordable housing
- Claims can be made as urban citizens and residents to either adequate housing or to universal access to basic services
- Claims can be made as workers to housing entitlements from workplaces or third party representatives like welfare boards
- Anti-discrimination protections that prevent discrimination on the basis of social identities must be part of rights-based approaches to housing

### **2: Neither the state nor the market can build affordable housing at scale**

- Neither the state nor private developers – alone or together – can build enough new affordable housing stock at the scale required to address unmet demand and need.
- The only actors that have built affordable housing at scale are what could be called the non-corporate private actors: households, communities and local contractors.
- In-situ upgrading that reduces the physical and legal vulnerability of self-built housing must be part – if not the core – of any affordable housing policy. Such upgradation should focus on settlement upgradation rather than redevelopment and the construction of new units.

### **3: Titles could gentrify, but restrictions distort**

- Different regimes of property rights must be evaluated against multiple ends— (a) enabling market exchange, (b) securing tenure, and (c) protecting against market-induced displacement—and in light of particular city dynamics
- Community or co-operative titling with possibilities of market exchange could represent a desirable middle ground between these three ends
- Interventions that seek to buy “development time” through innovations such as No-Eviction Guarantees are critical transitional interventions that can create more equitable housing markets in the medium-term

#### **4: There is no land.**

- Claims of land “scarcity” must be read against the high rates of public ownership that house a significant proportion of low-income housing
- Interventions such as using Transfer Development Rights for ULB-owned land or converting occupied public land into social rentals could augment both land supply for affordable housing and strengthen ULB revenue
- The state could also facilitate purchase of occupied private land together with resident households
- Vacant land must be identified and brought back into the land market

#### **5: Can we rely on rental housing?**

- Rental housing already represents a significant proportion of low-income housing practice and must be acknowledged and encouraged by policies
- Public policy will have to innovate with process and policy design to learn how to deliver and manage rental housing
- Converting occupied public land into social rentals could expand rental housing at scale

#### **6: Households do not want what is being made for them**

- The current G+3 vertical model is unable to allow incremental growth and expansion as well as make space for work
- Low-rise, high-density forms have been successfully piloted before and could be applied at scale within new policy paradigms
- Imperative to move beyond the family-based housing unit towards communal and flexible modes suited to, for example, migrant workers

#### **7: Planning has failed.**

- Affordable Housing Policies could re-vitalize mandatory reservations for land, especially if land is reserved at ward-level
- Inclusive planning practices centered on zoning and flexible regulations could improve outcomes even within existing planning processes
- New instruments and policy paradigms could enable planning processes to change and re-imagine themselves
- Planning processes must democratize, decentralize and dynamize

- Communities must be allowed to lead the processes of their own development, even if they build their capacities on the way
- Community-led Detailed Project Reports (DPRs) represent the ideal scale of intervention in the short-term
- City-wide federations could sustain community agency in the medium- to long-term, especially at ward-level planning and action

**8: Communities can participate but not lead.**

**9: New urban forms are unchartered territory**

- Emergent urban forms like greenfield cities built as special economic zones, smart cities or investment regions represent an important challenge and opportunity for affordable housing
- Current articulations in the National Manufacturing Policy or the draft notes for the Smart Cities Mission do not seem to take this opportunity seriously
- Particularly in the context of worker housing within the National Manufacturing Policy, timely interventions to emphasize and put real safeguards to ensure delivery could ensure significant medium-term gains

**10: You can't just fix one end of the housing market.**

- Lending to income-poor households requires innovations in process, technical corrections to ease known roadblocks, as well as changes in perspective
- RBI's notification of priority sector lending for affordable housing is set far too high at Rs 25lacs. Sub-limit of Rs 10lacs should be expanded under priority sector lending norms.
- Policy must enable the unaided private developer to build at scale at least between Rs 4-10lacs
- Viability gap funding and smoother approval processes are the key areas that cut costs and make small ticket projects viable

*Dynamic 6: Households do not want what is being built for them.*

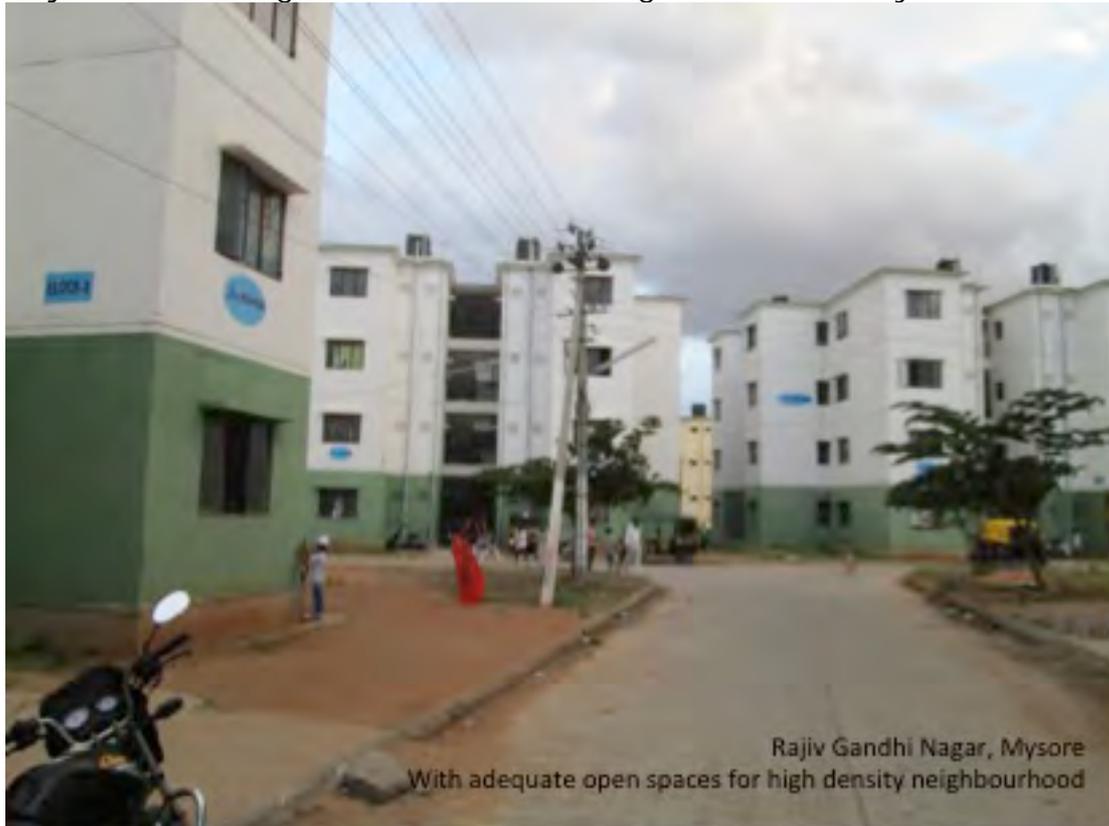
Could the current poor levels of occupancy of newly built housing under affordable housing programmes be partly attributed to design? Housing stock built under current housing policies is dominated by a standardized Ground + 3-9 floors (G+3-9) model of vertical re-housing. Such monolithic construction is seen as both more aspirational as well as easier to contract, build and standardize. In this section, we reflect on three key elements for appropriate design for housing for low-income households and ask whether the G+3, individual flat-based model is the most effective response. These are: (a) the need for incremental expansion; (b) seeing housing a site of work; and (c) exploring forms outside the family-based unit.

### *Low-rise, High-Density*

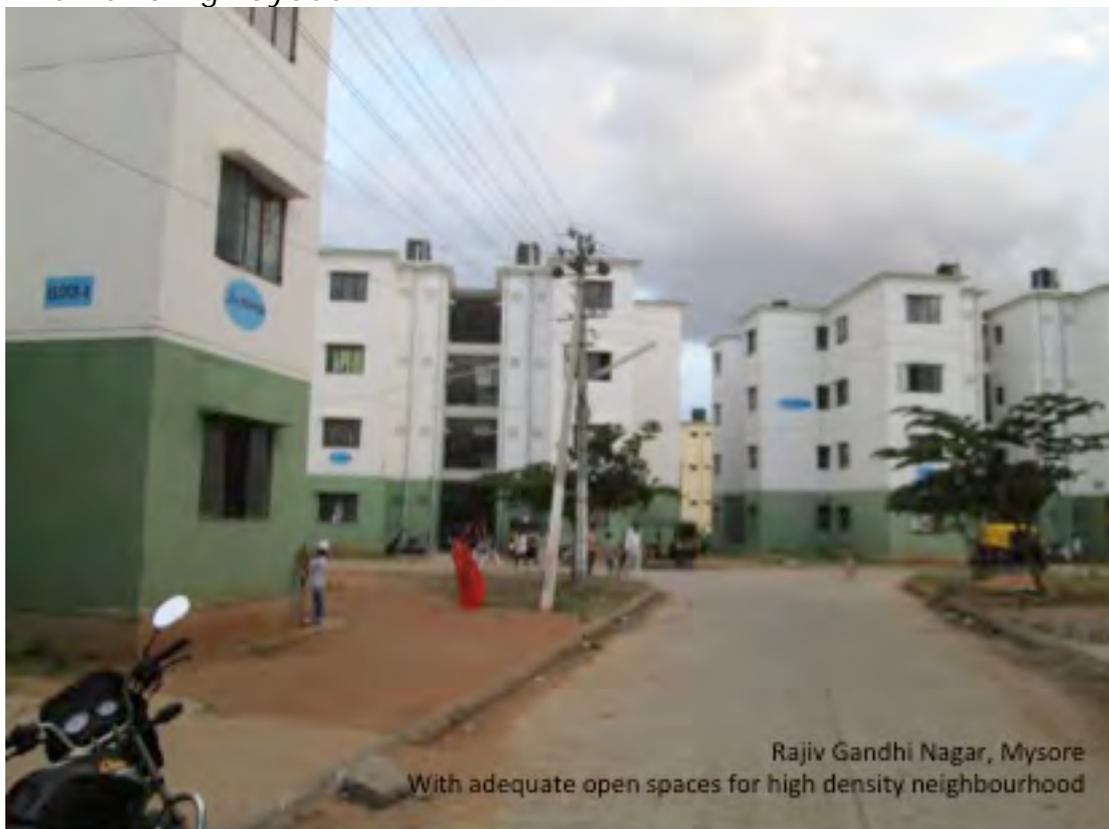
Low-income households are usually built incrementally. One wall, one floor at a time, sometimes over decades. This incremental growth is, in one sense, the slow shift of a household from *kuccha* to *pucca*, a developmental trajectory etched out painfully over time. Yet it is also an important economic strategy in different ways. Initial incremental building may be to strengthen a housing unit and make it livable, but most often, later increments are directed towards income generation – workshops, workspaces, rental units, or storage units are built out – or to accommodate increasing family sizes as children are married. The option for incremental expansion is therefore critical, particularly if household incomes don't increase quickly enough to allow a move into better quality housing.

In the G+3-9 model, a complete housing unit with no room for incremental growth is built. There is an irony here: the verticality that is justified as being more aspirational and more efficient (read: highly dense) on a fixed plot of "scarce" land is unable to either allow families to grow or match the densities offered by sites and services based incremental housing. Alternative designs that can allow for incremental housing but retain the densities achieved by verticality are possible. We offer one illustration. Let us take an example of an existing G + 3 housing relocation in Mysore built under JNNURM.

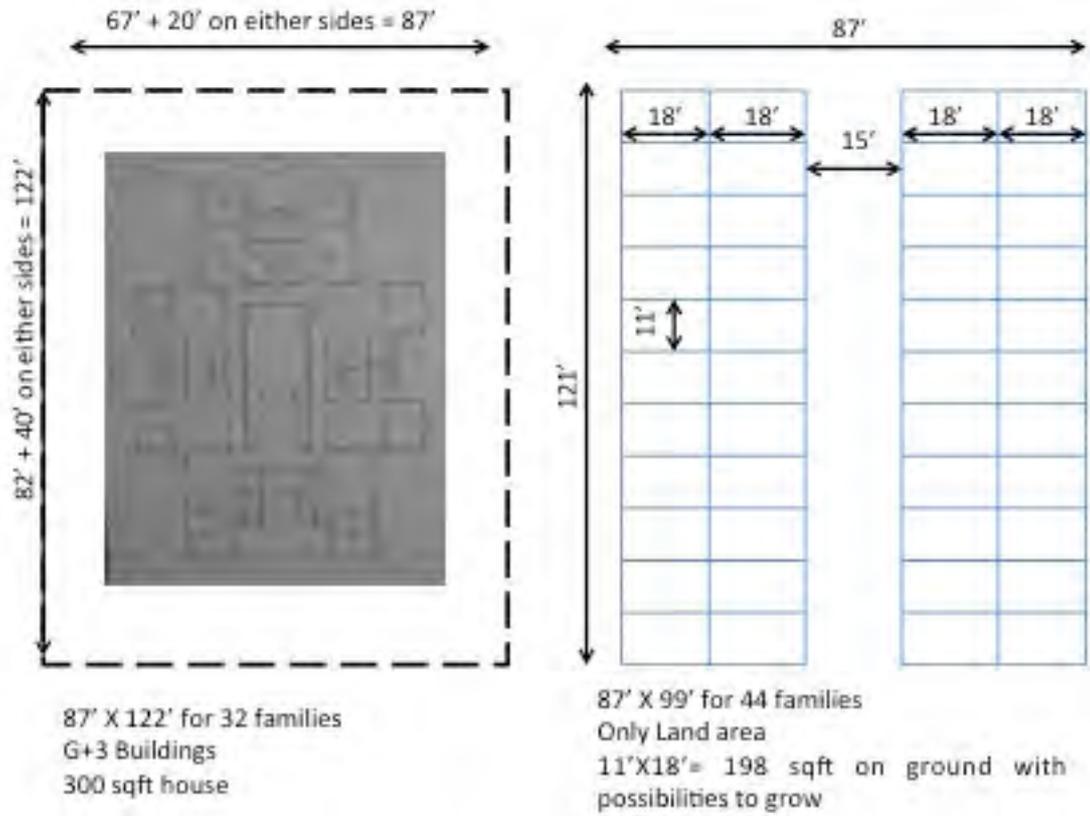
## Rajiv Gandhi Nagar, JNNURM Housing Relocation, Mysore 2014



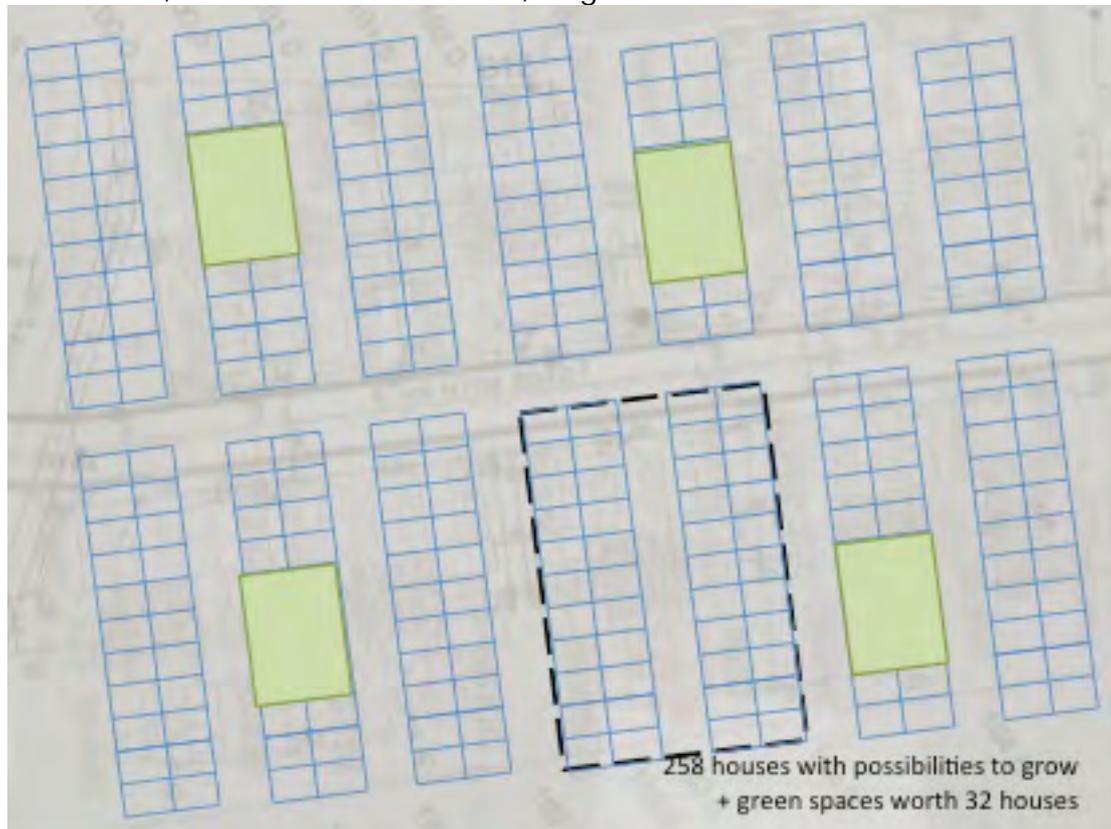
### The Building Layout



## Re-distributing the same households into Plots instead of Flats



## Low-Rise, Incremental Growth, Higher Densities



Giving slightly smaller plot sizes to households allows the same number of families to be settled in the same land parcel with more open spaces and green areas and, critically, the ability to build a second floor as and when families decide that they can use for rental income (thereby also creating more housing stock) or for livelihood and income-generating opportunities. Site and service based incremental housing also allows the personalization of housing stock, the choice of design, colour and aesthetic that may seem superficial but, in fact, is often critical for public, subsidized housing to not be marked by different and second-class status and to instill a sense of ownership and investment in residents.

These models are not new. In Mysore itself, incremental housing built by the City Improvement Trust in the 1970s is still an excellent example of the long-term benefits of incremental housing design. Yet those models were unable to scale at the time they were introduced. While it is beyond the scope of this section to assess all the reasons why this is so, one of them is clearly the context. Large scale housing programmes like JNNURM and RAY imagine housing construction at a scale that has not existed before. Earlier sites-and-services programmes acted as pilots that had no avenue through which to scale. Today, the scale is not the challenge. It is imperative that previous models of incremental design, therefore, not be treated as strategies that “failed” or “had their moment.” They are, in fact, even more relevant at this time when monolithic, G+3-9, pre-fabricated house construction is hegemonic.

Yet we must also face the fact that breaking the hegemony of this model will not be an easy task because the model’s success lies in the fact that it is easy to outsource and contract for public officers. Alternate imaginations will require both a discursive and process-shift within housing policies.

### *Housing as Workplace*

Low-income households, in particular, use both settlements and their own individual housing units not just for shelter but also for work. The home then is as much enterprise, factory, warehouse, and leisure space as it is shelter. That work and enterprise are near universal in poor urban settlements is evident both empirically as well as anecdotally. Whether at the scale of organized industrial production in large settlements such as Dharavi in Mumbai, or even in a set of dwellings along a railway line, work and workplaces are integrated into the housing unit. These workspaces range from mini poultries to small manufacturing or reprocessing units, and include both self-employed and sub-contracted workers.

Seeing homes as place of both enterprise and labour implies that upgrading and redevelopment designs must take into account space for work. From a design perspective, three important elements emerge: (a) infrastructure, (b) house type, and (c) outdoor space.

Work based settlements usually have special infrastructure requirements – for example a fishing settlement requires cold storages, auction houses, boat repairing yards, drying yards, etc; a potters’ settlement require kilns, shaded

areas for drying, wet areas for clay, shop-fronts, etc; a settlement specializing in textiles and garments have needs of large warehouses with less humidity, dormitories for specialized workers, natural light conditions for display, etc; a plastic recycling settlement requires large spaces for storage of raw plastic, yards to sort different types of plastic, smaller units to convert plastics into pellets, living places for labour, etc.

Sometimes a cluster consists of many different products and services. For example a printing and binding cluster has many components – paper storage, paper resizing, designing, printing, binding, etc. Each of these are handled by independent enterprises but may share common facilities like storage areas, etc. Every cluster of enterprises have their own special requirements in terms of infrastructure – warehouses, wet areas, dry yards, storage places, dormitories, cooperative offices, higher volumes of water, access to special disposal systems, etc. Creation of such specific infrastructure is significant to protect and promote enterprises. Moreover, further facilities like spaces for training, advertisement, etc. can be provided to enhance the entrepreneurial capacities.

The form and type of the house unit also plays a significant role in protection and promotion of work. Multistoried apartments provide poor affordance to work as the movement of raw materials and finished goods get restricted. However, a multi-storied single house on ground is workable. A 14 feet height within a small house (at least in some part) helps in doubling space for storage. While an occupant family working with cane may leave it open to store long pieces of cane; a family making soft toys may create a loft to store fur, cloth and fiber. Also there is opportunity to articulate partitions, skins and roofs to accommodate storage units and other kinds of furniture requirements. It is also useful to simply provide a chassis instead of a complete house. The family then uses its resources to build the rest of the house around (or within) the chassis depending upon the needs of its enterprise.

When houses are small, the outdoor space becomes significant. Much of the life is lived in such outdoor space. In the case of work-based settlements, the outdoor space becomes even more critical as it is where the house extends to become a work place. There are many ways in which such outdoor space could be maximized. Stilts, terraces, open spaces at different floors in multistoried apartments, wide corridors and lobbies, wide sidewalks, courtyards between a clusters of houses etc can be provided as outdoor spaces. All these shared outdoor spaces are crucial to sustain not only enterprise and work, but also strengthen cultural ties in communities.

### *Beyond the Family Unit*

An often unrecognized aspect of the unmet demand for affordable housing is that it comes not just from households organized as “families.” Currently, it is only in thinking of homeless shelters that non-family based housing units are imagined. The new guidelines of JNNURM and the Rajiv Awaas Yojana now explicitly allow funds to be used for the construction of shelters. This is a welcome move. However, it is not enough. Housing policy must also expand

non-family unit based housing forms to include communal housing, dormitory housing as well as worker housing. Such housing would cater to rising demand for flexible, affordable and temporary housing, and could be linked to sectors that are dominated by this kind of labour such as construction.

The responsibility of building this housing could be shared across employers and public agencies already tasked to build affordable housing stock under central and state policies (see Dynamic 1). Land acquisition or allocation, financing, operations and management could equally be contracted and shared as long as the resultant housing reached low-income workers. Such integration could also allow multiple policy locations for building housing and integrate policies such as the National Urban Livelihoods Mission, the Unorganised Workers Social Security Act, or the National Manufacturing Policy (NMP) with the production of housing linked to work and for workers. We discuss the possibility of such integration in new cities built under the NMP in Dynamic 9.

#### Dynamic 6: In Summary

- The current G+3 vertical model is unable to allow incremental growth and expansion as well as make space for work
- Low-rise, high-density forms that have been successfully implemented before must be applied at scale within the new policy paradigm.
- Imperative to move beyond the family-based housing unit towards communal and flexible modes suited to, for example, migrant workers

#### *Dynamic 7: Planning has failed so how do we regulate?*

Urban planning in India is often said to have “failed.” The gap between the real city and the city imagined by the plan is pointed to as insurmountable evidence of this failure. Yet how do we read this failure? One of the authors of this essay has argued elsewhere that while the Indian city may not be planned, it is certainly an outcome of planning (Bhan, 2013). Put simply: while plans may not control exactly what happens “on the ground,” they shape, impact, regulate and determine this “gap.” What the plan says matters even as it is undone. The corollary argument, therefore, is that a different set of planning regulations could lead to stronger, more equitable contexts of action and practice, in both intended and unintended ways.

A second argument is vital in understanding why Master Plans are crucial to more inclusive cities and tackling housing shortages in Indian cities. With the advent with what is variously called “judicial governance” or “judicial activism,” urban governance decisions of all kinds are increasingly decided within courts (Rajamani, 2007; Sathe, 2002). Let us take a particular example relevant to affordable housing. The increased cycles of eviction and resettlement that have come to define most Indian cities have been crucially

determined by the judiciary through either ordering (Bhan, 2009; Ghertner, 2008) or refusing to “stay” or prevent these evictions (Bhushan, 2004). In doing so, scholars have argued that the Courts used the mandates of the Master Plan as a basis of their rulings (Bhan, forthcoming, 2015). Importantly, the courts treat Master Plans as binding and statutory documents relatively more consistently than they do government policies which are often dismissed juridically. The instrument of the Master Plan, therefore, has been giving – fortunately or unfortunately – an elevated and important status at a time of increased judicial interventions into urban governance.

If we are to continue to engage with planning, what should this engagement look like? There are many places to start— planning has failed the poor in Indian cities in many ways. In this section, we focus on three possible entry-points through which to engage with planning: (a) planning and regulating land; (b) inclusive planning practices; and (c) re-thinking the scale and structure of the planning process.

### *Affordable Housing Policies: New Paradigm for Mandatory Reservations?*

There is a fair amount of agreement today that despite the high growth rates of the last two decades, effective demand for housing will not rise adequately for a majority of urban households. In part, this is because incomes are not rising equally within our economic growth paradigm, but it also reflects the uneven development that marks the skewed land and housing markets of our cities. Therefore public policy must aim to increase the supply of available and appropriately located land for affordable housing. In Dynamic 4, we spoke about how to leverage occupied public and private land. In this section, we focus on supply can be sustained over the medium-term.

Augmenting supply of land for low-income housing is a strategy to capture future, increasing demand. Planning – flawed as it is – has a critical role in regulating the land market through its mechanism of allocating and directing use. Our focus must therefore be on using instruments to direct urban land towards low-income housing. This is no means a simple task. Previous attempts at doing so have been plagued by the inability to protect such land from encroachment by other uses or arbitrary changes in zoning. Removal of enabling legislations like the Urban Land Ceiling Act make this task even more difficult. However, one possible new paradigm may prove to still be effective. The establishment in several states – Rajasthan and Karnataka among them – of Affordable Housing policies has sought to create institutions with a much wider authority and mandates to reserve land to be used for affordable housing.

Mandatory reservation has been in place in individual city plans and in project-level reservations under JNNURM as well. What then should be different? First, locating mandatory reservation in a state policy empowers state-level authorities and ULBs—on whose lands 40% of slums, on average, sit— far more directly than national policies. Second, reservations have to seek to control land rather than reserve housing units as done under JNNURM. Rajasthan, for example, mandates that “not less than 10% of gross land area” under each scheme be mandated for affordable housing. This extends to “not

less than 20% of developed land” for plotted development schemes (see Table 7). Odisha, however, goes further in its policy and specifies this reservation at the ward-level within the plan thereby making possible a decentralized and democratic accountability to specific land allocations within a ward.

The enforcement and protection of such reservation is by no means an easy task. Here again, an entitlement framework as well as empowered community participation becomes critical. However, with other states expanding their mandatory reservation policies and the possibility of articulations at ward-level, the scope of these policies expand. Judicial enforcement becomes a possibility with explicit inclusion of reservation not within policy documents but within Master Plans that the courts recognize as statutory and binding. Mandatory reservation policies can also expand, over time and with the right political support, into the kind of land banking schemes imagined by the Rajiv Awaas Yojana. Such a transition would be a significant step forward into regulating the use of public land and directing it towards affordable housing. If such policies can also leverage existing land pooling schemes (such as those in Gujarat), they could become significant game-changers.

It is important to note here the dismissal of mandatory reservation due to difficulties in enforcing such reservation is often a tale of megacities where land values are high and developer pressure intense. Mid-tier and small towns, however, maybe in a much better position to create land banks through mandatory reservation before they expand. Again, it bears repeating that it is important to not dismiss the possibilities of mandatory reservation from the experience of cities like Mumbai, Delhi and Bangalore alone.

Two notes of caution. The first is that mandatory reservation must extend to private developments. In JNNURM, this was an optional reform and thus rendered ineffective. In Rajasthan’s Affordable Housing Policy, its inclusion thus is welcome. Second is that affordable housing stock built under this scheme must return to ULB-ownership and enter into social rentals as imagined in the discussion on Dynamic 5. International experience of using reservations – Spain has been very successful – has shown that transferring ownership of mandated low-income housing units to the state is an effective measure to both ensure targeting transfers to legitimate beneficiaries as well as enforcing quality especially on private builders.

#### Table 8 Rajasthan's Affordable Housing Ecosystem

Rajasthan notified its Affordable Housing Policy in 2009. In subsequent years, the government formulated and notified several other policies to support this policy - the Township Policy with mandatory reservation for affordable housing, the TDR policy which helped operationalize the TDR generated through the private development of affordable housing, and the Slum Development Policy based on Mumbai SRA models. The Affordable Housing Policy 'ecosystem' of Rajasthan details mandatory reservations for affordable housing in many ways.

Firstly, there is a strong encouragement for planning agencies to include affordable housing zones in their master plans. Since much of the

planning in the cities of Rajasthan is done via development authorities (sometimes known as Urban Improvement Trusts) which report directly to the Department of Urban Development and Housing in Jaipur, this can prove to be an effective way to ensure reservation of land for affordable housing. However, this happens at the cost of disempowerment of the corporation/municipalities which also exist in many Rajasthani towns.

The AH policy mandates that 70 percent of plots/houses/flats made by the Rajasthan Housing Board, and about 45 percent of plots/houses/flats made by ULBs/UITs/DAs be reserved for allocation to EWS/LIG and MIG-A sections of the population. Some UITs such as in Kota, have taken this ahead and have made entire group housing schemes only for EWS/LIG. This rule is also applicable to private developers developing sites in townships or group housing, where the expectation is to the tune of 15 percent of the number of plots or 5 percent of the built area. Despite incentives such as extra FSI/FAR and a pre-determined buy-back rate, there is resistance to the provision.

Several private developers have argued for the removal of such reservation, or for their relaxation in projects up to a certain size. They claim that this provision either reduces the open spaces in the project, or makes the project difficult to sell due to 'societal issues', or both. There is now within the government, a move towards realizing this provision by allowing the developer to transfer this reservation to other locations where affordable housing units are coming up - called a 'split-location'. In effect, developers who are unable to make these reservations in their own projects can now 'buy' affordable housing units in other developments which are producing only affordable housing units.

This combination of mandatory provisioning across public and private projects for affordable housing has proved quite successful in Rajasthan. More than 17,000 units have been sanctioned for development by the private sector and at least another 8-10,000 units by the public sector under this model, since the inception of the scheme in 2009.

The other model of the Rajasthan AH Policy that has seen some success is the development of cross-subsidized EWS/LIG and MIG-A units by private developers based on FAR or TDR incentives. Under this model, private developers develop affordable housing units on approximately half of a parcel of land owned by them. They transfer these to the ULB at a pre-determined rate, and are free to develop other residential or commercial buildings on the rest. While they are assured a buy-back rate from the government (which is somewhat lower than market rates) on the affordable housing segments, they are allowed double the normal FAR in the rest of the plot. Under certain circumstances, they are allowed to transfer the unbuildable FAR under a TDR regime to other locations as well. While final rules regarding the use of this TDR are being formulated as this is being written, the government is gaining more than 14,000 units in the affordable segment through this model.

One of the recent variations the AH Policy of Rajasthan has been operationalized in Udaipur and Jodhpur. In this model, developers are given 25 percent of an identified ULB land parcel free of cost to develop as they wish

(within local DCRs), if they develop affordable housing units on the remaining 75 percent of the land and transfer them to the ULB at a pre-determined rate. 5,000 units are coming up in these two cities under this scheme. Thus the proactive measures of the government of Rajasthan have led to the sanctioning of close to 45,000 units in the EWS/LIG size segment in the past 4 years. This is as much a result of an original vision and purpose as it is of the continuous consultations with various stakeholders leading to an evolution of the ecosystem of policies that are required to deliver affordable units at scale.

### *Institutionalising Inclusive Planning*

Even within its existing compromised forms, certain innovations that use planning practices to regulate use and set development norms could aid the expansion of affordable housing. We suggest two here: inclusionary zoning and flexible development control rules.

One of the fundamental ways in which spatial plans operate is to dictate the use of space in urban areas by demarcating zones. Two critical innovations in zoning could make the practice of zoning more inclusive and particularly apt to tackling housing shortage in the Indian context. The first seeks to create the equivalent of the “Special Zone of Social Interest” (ZEIS, in Portuguese) used in Brazil (see Table 9, below). The ZEIS is one example of a broader principle: to create a zoning category to mark land that is being used for optimal social and public interest if not to its maximum exchange or market value. In Brazil, ZEIS zoning has been used to mark occupied by urban poor settlements and has been “the most effective tool against forced evictions” (Junior, 2002) and towards regularization (Hirata & Samora, 2012).

The contextual equivalent of a ZEIS in India could take multiple forms. Mandatory reservation of land at the city, region, ward or even project level as mandated by affordable housing policies as well as the National Housing and Habitat Policy, could effectively be made more secure if backed by special zoning allocations in project, ward and city-level plans. They could well be the legal mechanism to concretize our suggestion of turning occupied ULB land into social rentals (see Dynamic 4), or the establishment of community-titled in-situ upgrading projects (see Dynamic 3). Such zoning practices would allow, importantly, judges to enforce then statutory inclusionary zoning norms in favour of urban poor residents rather than strictly follow land ownership as has been the case in Brazil.

Inclusionary zoning could also incorporate livelihood to create integrative, dynamic mixed-use spaces. We argued above the settlement transformation must integrate livelihood and shelter if they are to be successful (see Dynamic 6). This requires inclusionary zoning practices that recognize the density and necessity of work and commerce in “residential” settlements and that see homes as spaces of work just as much as it requires the re-design of upgrading and redevelopment projects to include space for work.

Mono-functional zoning that strictly separates spaces of “work” and “residence” does not take into account the blurred lines between these two categories especially for the poor and in contexts of housing poverty. For example, many home-based workers work in poor and cramped conditions, with bad lighting and seating (Jhabvala & Tate, 1996). The needs most often articulated by them are, in fact, the lack of adequate housing, lack of electricity and storage space (Sudarshan and Sinha, 2011).

A significant part of these conditions result not just from income poverty but the fact that most home-based enterprises in Indian cities are not permitted by current zoning regulations. Resettlement colonies, for example, do not permit any form of work within what are seen to be entirely residential spaces. Creating integrated mixed-use zones that see home and street as spaces of work as well as residence, therefore, would greatly increase access and mobility for low-income residents as well as bring their work into legality, allowing both access to finance as well as the possibilities of expansion and infrastructural improvement.

Table 9 Special Zones of Social Interest

The City Statute in Brazil is a federal law passed in 2002 that is widely seen as one of the most landmark urban legislations that explicitly seeks the “right to the city” for all urban residents. There are several significant lessons one can draw from the City Statute for inclusive planning instruments in particular. In this case study, we focus on one: Special Zones of Social Interest.

Part of the innovations in spatial planning laws necessitated to implement the spirit of the City Statute was the establishment of a new zoning category, abbreviated in Portuguese as ZEIS. The ZEIS is a “zoning concept created to expand the right to housing either in informal or consolidated areas.” The ZEIS sought to: “to combine urban development with the inclusion of low-income groups into the formal city with three main objectives: (1) promote urban and land regularization in informal settlements; (2) enforce the mandatory development of idle or underused buildings, including potential expropriations; and (3) require real estate owners to produce a certain proportion of social housing units in developments located within ZEIS perimeters.” (Hirata & Samora, 2012).

Within ZEIS, special plans were required that had to emerge from a managing board that included local government, formal and informal residents, as well as developers. The mechanism, therefore, worked both through a spatial zoning as well as the establishment of a new participatory planning mechanism. Two types of ZEIS dealt exclusively with “regularization of informal settlements,” while a third dealt with consolidated districts where which had both slum as well as non-slum housing.

The ZEIS worked as an effective guarantor against forced evictions, committing the government to up-gradation but also enabling the judiciary to “judge the requests for evictions and removal of families who occupy public or private land in favour of social groups,” as well as “mandate a process of

negotiation between the owner, residents and the government.” They are, Junior argues, “the most effective tool against forced eviction” (Junior, 2002: 147)

### *Flexible Development Controls and Building Bye-Laws*

The rigidity of developmental controls and the inadequacy of the one-size-fits-all approach that marks planning in Indian cities has been widely critiqued. There are two concerns here. One is the appropriateness of development controls in specific contexts, and the other is the time by which households must meet these standards. In the first debate, there is little consensus on whether minimum standards (such as the 25 sq m house) should be used, or whether in practice these can prove either exclusionary to those that cannot meet them, or conversely, become a maximum ceiling instead of a minimum floor.

Could we imagine flexible as well as incremental developmental controls? The former would find agreement with a chorus of opinion that development controls on setbacks, layout, parking norms, and others, must be specific to different scales of settlements and to different uses within them. We argue further that, especially in the context of redevelopment or in-situ upgradation, these flexible standards should allow for households to reach them incrementally rather than at a single point in time.

Low-income households build dwellings and settlements over time. Often, in-situ upgradation is rejected by public authorities arguing that the community is “untenable” not because of any hazard but because it stands at a great distance from minimum development control norms or service level benchmarks. Incremental development controls can overcome this issue, acting as a milestone that communities must reach post gaining security of tenure in a specified period of time. In the Baan Mankong programme in Thailand (see Annexure 2) this period was fifteen years.

In this context, minimum standards and service-level benchmarks become aspirations that can be met and exceeded, rather than swords hanging over the heads of already impoverished households. While we agree that minimum standards are necessary, we are also aware that such standards come with associated costs that can become exclusionary for many households. If making a 25 sq m house necessitates a cost that households cannot afford, can a 21 sq m house with a ten-year period for expansion not be considered? Combining incremental and flexible controls with Zones of Special Social Interest as well as community titling rather than individual titles (see Dynamic 3) would open up the possibility of a new developmental paradigm that begins from how the poor actually settle the city (Junior, 2002).

### *Re-thinking Planning*

Medium-term thinking on planning, however, cannot escape a fairly obvious and desperate need to re-thinking planning structures and processes in Indian cities. The imagination of 10 to 20-year spatial planning has few defenders. For housing, suggestions on re-thinking planning tend to focus on three

dynamics read together: democratize, decentralize, and dynamise. In other words: make planning more open and participatory; bring it to smaller scales like wards and zones; and create 5-year plans with appropriate and dynamic systems or review, iteration and change.

Some movement towards ward-level planning as imagined in the 74<sup>th</sup> amendment has begun. Greater transparency with data, a slowly growing emphasis on civic participation and the emergence of new planning instruments such as city-level sanitation, development and transport plans, possibly together represent a moment where broader structure change is possible. Key issues remain. Integration across the various plans and the institutions that produce them remains elusive; enforcement concerns are high; and all planning in India must deal with how to act “post-facto.” These are not easy obstacles to overcome. However, bringing plans down to more local scales while integrating infrastructure planning at the metropolitan level could suggest a way forward.

Planning’s institutional landscape will have to be unsettled for any change to be effective. It will also require a new set of metrics by which to judge itself and be judged publicly. Such new metrics could centrally feature both land and housing stock available for affordable housing in addition to accessibility and service metrics that seek to measure outcomes rather than allocations. Such change is difficult to control and enable. Yet a chorus of voices demanding change has begun to rise and perhaps our attentions should focus on framing the principles of this change and the directions we seek even a the exact political and institutional trajectory to realize it remains beyond the control of any single actor.

#### Dynamic 7: In Summary

- Affordable Housing Policies could re-vitalize mandatory reservations for land, especially if land is reserved at ward-level
- Inclusive planning practices centered on zoning and flexible regulations could improve outcomes even within existing planning processes
- New instruments and policy paradigms could enable planning processes to change and re-imagine themselves
- Planning processes must democratize, decentralize and dynamize

#### *Dynamic 8: Communities can participate but not lead.*

Housing policy has seen a growing acknowledgment of the role of communities in tackling housing shortage. This acknowledgment comes from very different points of origin – a recognition of rights and vulnerabilities on one end, and a fear of blockaded and stalled projects on another. Regardless, for our concern in this essay, housing policy now explicitly acknowledges and includes community participation in guidelines, requirements, toolkits, modules and workshops at several stages in any significant housing policy. The challenge facing effective participation and the ever-present dangers of

reducing community participation to “rubber-stamping” now plays out in a different form – not through absence but institutionalized presence. A wealth of literature has recently shown how participation is often thinly veiled “co-optation” (Coelho, Kamath, & Vijayabaskar, 2013) and there is strong reason to be suspicious. Yet the existence of institutionalized structures always offers the possibility of a reclaiming of more effective participation – at times to move projects forward or even, at times, to at least be able to stall those with significant exclusionary consequences.

Community participation guidelines such as those present in JNNURM and RAY, among others, offer an institutional opportunity to engage with public policy even as a more powerful foot-in-the-door than anything else. Even if this engagement is offered without genuine intent, it could represent a window for communities to demand accountability and shape the actual process of participation. On the other hand, often the presence of such guidelines is seen as an end unto itself and can make both community mobilization beyond the performance of mandated and often ritualized participation difficult. Cases where participation was effective and others where it was merely performatory are likely to stand side by side for some time to come.

In this section, we do not engage with the specifics of community participation guidelines, and how they can be adjusted or amended to function better. We argue instead that the surest way to ensure effective and impactful community involvement within the implementation of housing policies is to shift from a notion of “participation” to one of “agency.” Community agency implies involvement through sustained and significant responsibility rather than “participation” that lies – both in principle and in practice – separated from actual decision-making. Communities that can exercise agency to shape decisions are not then not just participants but implementers of an agreed and collective decision that it is in their interest to enforce, monitor and protect. We propose both a short- and medium-term approach to building community agency. The first, resting within a project frame of urban development, imagines communities as project designers and implementers rather than simply subjects and participants. The second, moving from project to policy-based approaches, suggests a particular form of community mobilization: the framing of city-wide networks as an appropriate and effective scale of mobilization.

### *Community-led DPRs*

One immediate way in which such agency could be institutionalized is to allow communities to develop Detailed Project Reports (DPRs) that are the foundation of approved projects under most housing policies, including JNNURM and RAY. Whether these specific policies remain or transform, the DPR is likely to remain the basic unit of function and implementation for housing policy for some time to come. The DPR is particularly suited as a site for instantiations of community agency for two key reasons. First, the DPR is scaled appropriately for intensive community involvement. It is made for a particular “slum,” for a set of proximate, inter-connected settlements, or for a single resettlement site. Second, it involves a decision on the development

pathway for the project – upgrade, relocate or resettle – and therefore it holds within it the most crucial decision that affects a community's fate.

Much is often made by practitioners, consultants, and public officials about the technical complexities of DPRs and how communities will be unable to produce them so they meet the lengthy specifications of chapters, inputs, surveys, writing, and production. This objection is often dismissed by many large, federated community organizations who argue that they have the capacity to undertake and manage such projects that is at least equivalent to those of urban local bodies. The counter-argument that is made in return often points to settlements where associations don't exist and, in fact, are often "created" for the first time due to the need for DPRs to attain consent. How does one read this debate on "capacity"? It is undeniable that there are cities and settlements in which community agency is (as yet) not possible, yet there are also undeniably many where such associations are amply evident. Two possibilities are immediately available for increasing community agency and involvement in the preparation of DPRs. The first is to broaden the notion of the "consultant" usually hired by state nodal agencies to prepare DPRs. Even if communities want to bid for open tenders to prepare DPRs, few will have the institutional legibility to be able to qualify, let alone succeed, in such bids. Community actors bidding for DPR preparation must be given a separate set of eligibility criteria. Second, such actors must then be given a set of supports through the building, for example, of a coalition or through directed technical and academic expertise.

The second possibility is to require all consultants preparing DPRs to do so in partnership with a representative federation of community residents and associations. This will, no doubt, require a different form of investment in both time and resources by both the consultant and the community but it represents an institutional process necessary for effective community involvement and, could, as argued earlier, overall represent significant gains for both time and cost savings as well as the sustainability and effectiveness of the project itself. It is important to recognize that this is participation in the preparation of a project – not a consultation on an already prepared idea that is the norm.

There are mechanisms in current policies that can both incentivize and mandate a range of new actors into DPR preparations. DPRs technically require community consent before they can be approved. This consent, in real terms, is possible to manufacture as well as obfuscate. Yet within a framework where communities play either leadership or partnership roles in DPR formulation, the spirit of this clause that already exists in housing policies can be realized.

### *Federated and City-wide Networks*

In the medium-term, however, merely fixing a project cycle cannot systematically address housing shortage. As distant and idealistic as it may seem at this moment, long-term change that builds and uses community agency must take the form of local-level, decentralized and participatory planning processes. The 74<sup>th</sup> Amendment to the Indian constitution

attempted to activate ward and area *sabhas* as the relevant scale of planning in Indian cities. With almost no exceptions, it has failed. Yet institutional change often comes in cycles – succeeding in the third or fourth pass through a window of opportunity that didn't present itself in the first or the second. There are examples of attempts to bring planning down to the level of the ward. Pilot ward-level plans are being made in eight wards in Delhi, Hyderabad has attempted to bring sanitation and solid-waste management into ward committees, and municipal corporation in Mumbai piloted a localized planning process in M-East ward in the city. Ward-level planning enables a structural avenue for community participation in governance that is essential not just directly to establishing zoning that can allocate land to low-income housing but also in order to create the possibility of finding local solutions to housing illegality.

Within a framework of prioritizing in-situ upgradation, the ward becomes an important scale at negotiating the presence of “slums” in their immediate geographic contexts. Often, poor informal settlements are pitted against the relatively less vulnerable settlements that they are built next to. Yet, particularly for settlements that have existed for a long period of time, such co-existence is the result of negotiation, one that can take the form of active co-operation, tacit but silent accommodation, or even hostility. Ward-level planning allows such negotiation to enter into the planning process and allows local solutions and accommodations to gain *de jure* protection. Let us not romanticize this – it could equally be a place where more powerful actors use the planning process to exclude actors. This is why the call for more participatory planning can be made only in conjunction with greater rights-based protections.

One proposition that could strengthen the negotiating power of communities, however, borrows from what many social movements have been doing for some time across India and globally: federating. The building of city-wide federations or networks – while a difficult task – creates a governance space that is markedly different from individual committees seeking to negotiate with the state. Baan Mankong is an example of successful city-wide networks where (at least aggregated to the ward) priorities in upgrading, surveying and recognition of settlements were done by federations of communities.

The question remains though: is an institutional role for such federated networks (such as an expansion in current JNNURM projects) in the planning process itself necessary and/or sufficient? In fact, is it even helpful? There is no simple answer to this question. There is no doubt that the opening of a policy space alone cannot create sustainable community networks – these have to emerge to their own ends within communities themselves. Yet, such an instantiation in policy could provide both an impetus and a window to direct existing community action towards this form of organizing, and also provide opportunity and resources to get there. The danger of co-option remains yet that alone does not invalidate the importance of housing policy signaling an emphasis on the role of the community and mobilizing it through at least meso-scale federations of communities.

### Dynamic 8: In Summary

- Communities must be allowed to lead the processes of their own development, even if they build their capacities on the way
- Community-led Detailed Project Reports (DPRs) represent the ideal scale of intervention in the short-term
- City-wide federations could sustain community agency in the medium- to long-term, especially at ward-level planning and action

### *Dynamic 9: New urban forms are unchartered territory*

Could the housing inequalities that mark Indian cities be avoided in new urban settlements? Urbanisation patterns in the last decade have seen a surfeit of new and emergent forms. Cities are being born as special economic zones, special investment regions, smart cities, industrial smart cities, as well as integrated townships along corridors as well as a satellite cities to existing urban agglomerations and metropolitan regions.

These new forms are impossible to categorize simply – some are simply production-centered townships while others are entire greenfield cities. Yet they undoubtedly represent a pattern of urbanization at scale and therefore must be investigated as to their consequences for affordable housing. In one sense, these emerging urban settlements are opportunities. Governed typically by authorities with some sense of autonomy (special purpose vehicles or new development authorities) or by older institutions but with exemptions from norms and rules, they could correct many of mistakes made by planners in other cities. Housing, specifically, could be built more equitably into the planning and governance of these cities with the needs of different segments understood, imagined and catered to.

For the investment regions and industrial areas planned under the National Manufacturing Policy (NMP), a neat alignment thus emerges. The NMP focuses on small and medium industries that are employment-intensive, indicating an imagination of workers across skill and income. If, we suggested in one of the approaches in Dynamic 7, worker housing forms an integrated part of urban planning, both an entitlements framework as well as a more equitable housing market could emerge.

There are significant international benchmarks that could suggest how to integrate a national manufacturing agenda with increasing access to housing for workers. Nathan argues that the task before the policy in order to achieve both objectives is to reduce the effective price of labour. His provocation, as of many others, is to focus not just on wage but on other factors that comprise the real wage of workers. Subsidised and cheap housing is one such factor that increases real rather than nominal wages (Nathan, 2013).

Nathan (2013) and Mahadevia et al (2010) both argue that Chinese manufacturing policies, in addition to Singapore and Hong Kong, have effectively used workplace entitlements to housing to achieve this end

(Mahadevia, Liu, & Yuan, 2010). This is aided by state action -- migrant factory workers in China were housed in large numbers in dormitories built by employers on "often on land provided for free by local governments" (Nathan 2013: 14).

The NMP does set up this mandate for itself but its articulation remains weak. Worker housing finds only one mention in the entire policy where it says that such housing is to "be provided at reasonable rates with cross subsidization from high end residential/commercial areas, if necessary" (Ministry of Commerce and Industry, 2011). Yet there are no thresholds, measures or metrics to enforce this vision. There seem to also be no consequences for non-provision. Building housing is neither part of terms by which industries bid for land and locations within different investment regions or industrial areas, for example. Including such criteria within the tendering process could be used as significant leverage to ensure worker housing as per the intentions of the policy.

There is no escaping that little political will seems to exist to add such conditions into negotiations to set up investment zones. However, some argue that employers recognise the impact of inadequate housing on worker productivity and, in fact, the logic of competing for investment could be reversed by state governments to use the availability of "good and subsidized housing for workers in addition to SEZ facilities of infrastructure and electricity" as a positive "factor in interstate competition to attract investment" (ibid: 14). There are already examples of employers recognising the benefits of investing in employer housing –the Tiruppur garment exporters' association, for example, that has sought to co-operate with local government to provide subsidized housing for workers (IDS, 2011). Such thinking, however, requires a re-framing of the issues of worker housing which will require pressure both from employers as well as worker's advocates and unions.

The first draft articulations of the current government's Smart Cities programme likewise speak only once of housing when they say that "20% of all residential units to be occupied by EWS" that are to be in close proximity to transit.<sup>7</sup> The current formulation also speaks of universal access to environmental services and basic infrastructure for all households. These reservations have histories in Indian urban planning. None of the safeguards to prevent their mis-use or lack of implementation that this history suggests currently seem to have been applied to thinking about Smart Cities. To take just one example: reserving housing units instead of land already misses an opportunity to create more equitable cities at their moment of origin (see Dynamic 7).

The autonomy and self-governing nature of some of the new emerging forms and the emerging trend of concentrating high-end, high-skill industries in many of these enclaves mark a note of caution that they will be unable to welcome and house lower-income households who would need affordable housing. Yet this is an engagement that cannot be avoided, especially as new

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<sup>7</sup> As per publicly available draft notes on the mission available on smartcities.in.

forms of governance and planning take root in what could be defining trends in shaping macro-urbanisation patterns in India over the medium- to long-term.

#### Dynamic 9: In Summary

- Emergent urban forms like greenfield cities built as special economic zones, smart cities or investment regions represent an important challenge and opportunity for affordable housing
- Current articulations in the National Manufacturing Policy or the draft notes for the Smart Cities Mission do not seem to take the opportunity to ensure affordable housing seriously
- Particularity in the context of worker housing within the National Manufacturing Policy, timely interventions to emphasize and put real safeguards to ensure delivery could ensure significant medium-term gains

#### *Dynamic 10: You can't fix just one end of the housing market.*

In the medium-term, a functional housing market will be able to provide secure, legal, and affordable housing to different types of urban households with public support required only at its margins. Creating and sustaining such a market is not possible by just looking at one segment of it, i.e. at affordable housing. It has been the argument of this paper that such a focus, however, is still valuable in directing attention and interventions towards the need for affordable housing while recognizing that it is linked to a broader housing market that itself must come under scrutiny.

While that macro-level scrutiny is beyond the scope of this paper, there are regulatory actions vis-à-vis the housing market that are directly relevant to affordable housing. This section focuses on two of these: (a) enabling private developers to reach—unaided—further into the affordable housing market and build at scale; and (b) deepening the reach of housing finance.

#### *Housing Finance*

Is demand for existing affordable housing further hindered by the inability of households to raise adequate finance? Difficulties in access to credit for low-income households are well known: the absence of bank accounts; the lack of formal records of employment, income, identification and residence or simply the absence of one or all of the above; the inability to navigate written and complex procedures; irregular even if adequate income flows and the procedural innovations required on the part of lending institutions.

Aggregated data makes this amply clear. The National Housing Bank records that of the 53 housing finance companies (HFCs) registered with them in 2011, 76% of the loans were above Rs 10lacs; a further 19% were between Rs 3 and 10 lacs; and only 3.2% were below Rs 1 lac. The loans are similarly long term – 87% had term periods of over 7 years. Scheduled commercial banks (SCBs) fare a little better: 46% of loans were below 10lacs, but only 24% below

Rs 5lacs. In other words, the formal banking sector – whether through HFCs or SCBs – isn't reaching our median urban household earning Rs 60,817 annually. The NHB targets these households through what is ironically its smallest programme – the Housing Microfinance that lends to Community-based Financial Institutions (CBFIs). The total portfolio was a mere Rs 92.7 crores in 2011 as opposed to Rs 55,200 crores for HFCs (National Housing Bank, 2011). HUDCO reports similar data: only 2.8% of HFC lending goes to “small-ticket” loans, and only 5.8% to of lending portfolio of HFCs goes to EWS households.<sup>8</sup> There is, quite unambiguously, almost a complete absence of credit for very households who are unable to afford adequate housing.

The Reserve Bank of India sought to direct lending to the affordable housing by declaring it a priority-lending sector. However, the limit for the cost of the housing unit was set at Rs 25 lacs. Loan disbursements clearly indicate that lending under the sector is clustering as close to what is intended to act as a maximum limit but is in fact functioning as a minimum norm. The RBI's sub-limits within the sector does include within it public sector agencies building housing units up to a ceiling of Rs 10 lac per unit; loans by banks for housing projects solely targeting EWS households; as well as loans to housing finance companies (HFCs) approved by the National Housing Bank for EWS or slum rehabilitation schemes. However, banks lending to HFCs must restrict such lending to no more than 5% of their priority portfolio rendering it relatively ineffective.<sup>9</sup>

There are some technical and operational concerns that need addressing before HFCs can begin to lend lower amounts to more impoverished households. For example, a challenge faced by HFCs in the low-income housing segments is of keeping their Non-performing Assets (NPAs) under the figures as stipulated by the NHB. Since a majority of low-income households that are availing housing loans are in the informal sector, they face challenges in ensuring fixed amounts of repayment at regular intervals. Low-income households have fluctuating incomes – this implies that they may not be able to make regular fixed payments, despite the actual ability to pay off any housing loan in the long run. HFCs are forced to write off these loans as NPAs, which if beyond a certain proportion of their loan portfolio, would amount to a violation of the regulations laid down by NHB. In this light, some HFCs have suggested that affordable housing loans should be treated on a separate 'Loan Book' that should be de-linked from the NPA regulations on other types of loans.

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<sup>8</sup> Personal communication with Chief Managing Director, Housing and Urban Development Corporation (HUDCO). Ministry of Housing and Urban Poverty Alleviation meeting on Inclusive Housing Finance held at the India Habitat Centre, New Delhi, August 25<sup>th</sup>, 2014.

<sup>9</sup> Reserve Bank of India Master Circular “Priority Sector Lending- Targets and Clarifications.” RPCD.CO.Plan.BC 9 /04.09.01/2013-14, Dated July 1, 2013: New Delhi.

Table 10 Credit Risk Guarantee Fund Trust for Low Income Housing

In 2012, the Ministry of Housing and Urban Poverty Alleviation and the National Housing Bank established the Credit Risk Guarantee Fund Trust for Low Income Housing. The initial corpus fund of Rs 1000 crores targets a range of financial institutions – public and private banks, housing finance companies, non-banking financial corporations as well as micro-finance institutions – that lend for the construction of low income housing. The fund represents a deepening of the National Housing Bank's efforts to focus on the low income housing sector following the declaration of affordable housing as a priority lending focus by the Reserve Bank of India.

The Fund proposes to guarantee lending agencies for all loans upto Rs 5 lacs given to EWS and LIG households without any third party guarantee or collateral security. This is a significant move towards enabling access to credit for the excluded at subsidized rates through it will not, as argued earlier in this section, address procedural and documentary constraints faced by beneficiaries who most likely both work and live informally in the city. The success of this progressive public sector initiative remains to be seen but thirty-nine institutions have responded to take it on which, if nothing else, will provide a welcome expansion of formal credit and finance options for low income housing buyers.

Bankers, however, confess that it is the high-touch nature of this segment that deters them. At a recent conference hosted to encourage HFCs and public and private SCBs to deepen "financial inclusion," bankers spoke of the effort in addressing a different kind of customer, viewed as "different" and not wholly desirable. Representatives from state organisations such as Chattisgarh Housing Board attested that only 20% of occupants for nearly 85,000 housing units built by the board could get loans for a small down payment of Rs 40,000 which was further reduced to Rs 20,000. "These are not people who will come to banks," he argued, "the bankers have to go to them."<sup>10</sup>

Policy interventions ranging from AADHAR cards to universal banking efforts such as the Jan Dhan Yojana could make a dent in this gap. Table 9 above also outlines the Ministry of Housing and Urban Poverty Alleviation's Credit Risk Guarantee Fund Trust for Low Income Housing. However, in 2014, the National Housing Bank reported that only three banks had applied to risk coverage under the programme.

### *Enabling the Private Sector*

While we stand by our earlier analysis that the market can currently not penetrate below Rs 4 lacs, if its capacity to build at scale within Rs 4 to 10lacs increases, it will certainly ease some of the demand within the affordable

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<sup>10</sup> Personal communication with Director, Chattisgarh Housing Board. Ministry of Housing and Urban Poverty Alleviation meeting on Inclusive Housing Finance held at the India Habitat Centre, New Delhi, August 25<sup>th</sup>, 2014.

housing space. What role do policy interventions have in allowing private developers to build significant housing stock for low-income households? Policy-makers have to acknowledge the particular needs of this market and create enabling conditions to accelerate the supply of this segment of housing. Three key areas of intervention emerge:

- *Addressing land prices vis-a-vis technology options for construction:* Land is one of the largest components of the cost of developing affordable housing projects. Land costs could vary from 20–25 per cent of the project cost in the periphery of cities to almost 80 per cent in the centre (Agarwal, Jain, & Karamchandani, 2013; Revi & Mehta, 2008). Availability of well-located and serviced land therefore becomes critical to ensure a steady supply of affordable housing. However, many government interventions, especially in public sector projects tend to focus on alternative technology options that are low-cost. Construction, especially in core areas of city, may not amount to more than 30–40 per cent of the cost of the project. By saving 10 or even 20 per cent on construction, the overall saving in the project might not be more than 5 per cent – an insignificant saving that comes at the risk of low acceptance by potential buyers and beneficiaries (Agarwal et al., 2013).
- *Long approval times that significantly dent project feasibility:* In fact, approval timings alone have been linked to a trend of developing smaller projects to circumvent certain required approvals and save time. It is critical for governments to enable actually working and efficient single-window clearance systems for affordable housing projects. The recent recommendation of a committee formed by MoHUPA to enable a Single Window Approval System (SWAS) with a special provision for Affordable Housing projects is a welcome step in this direction (MoHUPA, 2013). However, implementation will depend on the States and the technology platform options.
- *Viability Gap Funding (VGF or project finance)* is critical for small/fresh developers to enter the affordable housing market. Governments would do well to encourage small and fresh developers to enter the affordable housing market by providing such funding at subsidized interest rates. Rajasthan has taken the first steps in this direction by instituting a corpus of Rs 100 Cr. (to be increased to Rs 500 Cr.) with support from the National Housing Bank.

The Reserve Bank of India has declared affordable housing as an area for priority-sector lending. Priority sector recognition is a welcome step. Yet, as argued above, the definition of the sector is inappropriate with finance clustering towards Rs 25lac houses and unable to reach further. Developers seeking to enter the affordable housing market have argued that these are not enough to enable private developers to independently enter the market without going via a public policy or PPP scheme. They have asked instead that affordable housing be given “infrastructure” status to avail of tax and other incentives. Yet such status will allow developers to reach the Rs 4-10lac

segment only if the sub-limits on affordable housing, or the priority lending ceiling itself, are fixed closer to Rs 10lacs than the current Rs25lacs.

#### Dynamic 10: In Summary

- Lending to income-poor households requires innovations in process, technical corrections to ease known roadblocks as well as changes in perspective
- RBI's notification of priority sector lending for affordable housing is set far too high at Rs 25lacs. Sub-limit of Rs 10lacs should be expanded under priority sector lending norms.
- Policy must enable the unaided private developer to build at scale at least between Rs 4-10lacs
- Viability gap funding and smoother approval processes are the key areas that cut costs and make small ticket projects viable

## SCALES OF ACTION

It is uncontested that lasting solutions to housing shortage and the unmet demand for affordable housing cannot be solved without changing the pattern of uneven urban development. Contesting uneven development will need, at the very least, a strong regulatory approach that re-structures land and housing markets through an effective and democratic system of planning as well as effective market regulations; the emergence of cohesive entitlement frameworks that make rights-claims possible; a paradigm of urban economic development that raises the access to and quality of employment in order to see effective demand rise for income-poor households, as well as steady erosion of structures of social stratification that will enable individuals and communities to take these new development pathways.

In this paper, we have focused our attention on policy action that could occur *before* such structural change can occur. We are aware of the limitations that this has placed on our arguments but believe that such an exercise is still strategically useful given the imperatives to act and the urgency of the need. This set of policy recommendations thus cannot and do not stand alone but they represent a key element often under-looked in policy debates: the importance of muddling through incrementally and imperfectly given all the constraints of existing paradigms even as one searches ways to shift them. Incremental policy action, in a sense, learns from the way income-poor households build their own lives in the city – taking development time, snatching resources, always moving, slowly securing a foothold to get past the next challenge.

In closing, then, we return to action. The final table below summarizes what these actions would look like if undertaken and which actions should be undertaken by which scale of government.

## Central Level Governments

Provide Constitutional Guarantee or Legislation for Adequate Housing	Provide directions for community led DPRs in central programmes	Allow incremental and rental housing in centrally-funded housing projects, mandate worker housing to be built	Extend secure tenure on occupied Central Government public lands	Demonstrate inclusive planning in Union Territories	Promote Loans instead of grants, work with RBI to target priority sector lending more accurately
Frame central urban policies towards Universal Access to Services	Strengthen and enforce rules requiring community consent on DPRs in JNNURM and RAY projects	Mandate In-situ upgrading unless site is irredeemably untenable	Convert occupied centrally owned public land into social rentals	Amend laws creating SEZs, SIRs and NIMZs to disallow exemptions from inclusive planning requirements and mandates	Create mechanisms for financial inclusion, for e.g. expand priority lending to NBFCs lending to poor
Create comprehensive anti-discrimination legislation covering private parties					
Create policy for comprehensive resettlement and rehabilitation of project affected people	Extend opportunity as well as support to Community-led DPRs	Prioritise incremental design in housing programmes	Use TDRs for publicly owned land to enable in-situ upgradation		Review regulations around NPAs and banking processes for low-income, irregularly waged households
Amend labour laws to include and expand work-based entitlements	Create capacity for Community-led Design through national capacity building programmes	Integrate mandatory ward-level reservation of land in SEZs, SIRs, Smart Cities and Manufacturing zones	Fund land purchase in slums by ULBs		

State Level Governments/Urban Local Bodies

Pass bills in state legislatures declaring adequate housing as a right	Enable and mandate a certain proportion of community led DPRs	Mandate In-situ upgrading unless site is irredeemably untenable; prioritise incremental and integrated design	Extend secure tenure on occupied state and ULB owned public lands	Create new inclusionary zoning practices bringing together Mixed-use and Rental Housing	Create mechanisms for repair & retrofit finance
Amend acts, rules and procedures of municipalities, utilities, relevant parastatals and others to mandate universal provision of basic services	Operationalise decentralised planning processes	Promote low-rise, high-density incremental settlement design	Convert occupied state and ULB-owned public land into social rentals	Frame flexible development controls and building bye-laws for incremental growth	Enable rental housing by reducing municipal tax and utility fee on hostels, PGs, rented homes etc.
Amend labour, industry and work laws to include work-based entitlements	Implement Ward-level land reservations under Master Plans and Affordable Housing Policies	Adopt design for work and shelter	Enable occupier purchase of occupied private land and/or allow ULB to buy occupied land with central/state funding	Create Mandatory reservation of housing stock for the poor and mechanism for state allocation of the same	Make Viability Gap Funding available to small/new developers
Expand construction of non-family unit based housing	Implement ward-level planning	Use community and co-operative titling at building level in new housing			

## ANNEXURES

### Annexure 1: The Right to Adequate Housing

A right to adequate housing must contain the following key elements:

- Access to adequate housing
- Universal access to basic services
- Secure tenure

*Adequate housing* is understood as secure tenure and a set of minimum thresholds for the materiality of dwelling units, access to physical and social infrastructure as well as environmental services. Importantly, these thresholds are to be achieved either at the time of settlement, or in a time-bound manner of no more than ten years. *Secure tenure* is defined as a legal and formal guarantee against forced eviction or involuntary dispossession either for a fixed period of time or in perpetuity, irrespective of the availability or adequacy of legal title on such land and irrespective of the legal status of the land on which the dwelling exists.

Within a Right to Adequate Housing, therefore, we argue that three core provisions must exist:

- The state shall ensure, through direct provision and/or legislation, as an entitlement, the availability of sufficient adequate housing (as dwelling units or equivalent portion of land) as measured by periodic estimates so as to prevent homelessness, or congested, overcrowded, inadequate, insecure or dilapidated housing.
- The State shall ensure, through direct provision and/or legislation, as an entitlement, that all residents must have a minimum threshold of access to basic services including but not limited to water, sanitation, solid waste management, drainage, and electricity, irrespective of the legal status of the land on which s/he is dwelling and irrespective of the availability or adequacy of legal title on such land.
- All residents must be guaranteed protection against forced eviction and involuntary dispossession from their space of shelter, irrespective of the availability or adequacy of legal title on such land and irrespective of the legal status of the land on which s/he is dwelling.

How can such a right be legally constituted? There are several ways:

- (a) *Constitutional Amendment*: An amendment to the Constitution to include a Right to Housing as a Fundamental Right could then include all the various components outlined above.
- (b) *Parliamentary Enactment*: Parliament could pass a Right to Adequate Housing Bill deriving their competence to do so from the "Economic and Social Planning" entry in the Concurrent List.
- (c) *State Legislation*: State legislatures can also pass a Right to Adequate Housing Bill deriving their competence from either the entry on rights

in and over land in the State list, or from the entry on “Economic and Social Planning” in the Concurrent List as described above.

*Amendments to acts, rules and procedures of ULBs and Para-statal:* For specific components on the provision of basic services, or the extension of secure tenure on ULB or state-owned land, amendments to acts, rules and procedures of urban local bodies, utilities and para-statal could go some way in furthering entitlements to adequate housing though they are not sufficient to constitute a right to adequate housing unto themselves.

## Annexure 2: In-Situ Upgrading in Ahmedabad and Bangkok

### *Ahmedabad*

Adopted after an innovation in Indore, the Ahmedabad Slum Networking programme, known as Parivartan, used ten year No-Eviction guarantees given by the Ahmedabad Municipal Council to settlements based on land it owned. These guarantees acted as an instrument to buy what we have been calling “development time.” The guarantee came with support for settlement-level service upgradation, including work on roads and footpaths, household water connections, sewerage, solid waste management, household latrines, street lighting, landscaping, and garbage collection. It is important to note that, beyond these, individual upgradation of houses was left to the households to take on themselves over time.

Parivartan also piloted a unique institutional model, partnering in the first phase between the municipality, a corporate donor as well as non-governmental and community-based organizations. Costs were shared by AMC (72.5%), households (12.8%), donors (12.8%) and NGOs (1.8%) and the programme was managed by a separate SNP cell in the municipality. Initially, responsibility for physical infrastructure upgrading rested with municipal engineers, but they gradually moved to only a supervisory role with the Self-Employed Women’s Association (SEWA) taking on even the infrastructural role rather than remaining confined to community mobilization.

By 2006, Parivartan had reached 44 slum communities and 9,000 households. The programme represents an approach to tenure that we outline above, where non-title based approaches that can buy significant development time for communities can have considerable impact. Infrastructure services in Parivartan slum communities are transformed. The programme also showed that communities will invest in home improvement with de facto tenure they trust, even without title. The question of what happens when guarantees lapse (though many have already been renewed) is an important one, but the benefits already accrued are also undeniable. This essay offers several models ahead for where Parivartan could head, not least of which is to convert the slum communities into rental households with the AMC as a landlord. For further reading, see Das and Takahashi (2009).

### *Bangkok*

In Thai, *baan* means “house” and *mankong* means “secure.” Baan Mankong is one of the world’s largest in-situ upgrading and collective housing schemes. Begun in Bangkok but now spread over all of Thailand’s cities, the programme that began as a community initiative to secure tenure is now institutionalized through the Community Organizations Development Institute (CODI) that manages a large central government fund for housing improvement.

Baan Mankong innovated in many ways. It used a city-wide approach where upgrading plans were made for all slums in a city rather than individuated project-based approaches. Communities were thus brought into networks and

federations across the city, and part of the choosing developmental pathways as well as the chronology of interventions.

Baan Mankong's approach focuses on buying what we have called "development time" in this essay, using a variety of forms that secure tenure for extended periods without necessarily giving title. This emphasis on long-term secure tenure has enabled negotiations with both public and private land-owners on whose lands slum communities are settled. It also allows the programme to resist both forced evictions as well as market-induced displacement. Overall, in 2011, the programme had reached over 90,000 households across 27 cities. Importantly, a majority of them were upgraded on site or within 5km of the original site.

TYPE OF DEVELOPMENT	HOUSEHOLDS	% OF TOTAL
Upgrading and Reconstruction	57913	62.64
Relocation within 5km	9631	10.42
Relocation beyond 5km	24441	26.43
Homeless Housing	473	0.51
<b>Total</b>	<b>92458</b>	<b>100</b>

Source: Community Organisations Development Institute (CODI). Available at: <http://www.codi.or.th/housing/results.html>.

A strong central government support to the programme has no doubt enabled negotiations with public and crown-owned land in the programme. Yet innovative techniques that emphasize security of tenure rather than titling have also played a significant role in the programme's success. The table below summarizes the programme's emphasis on community, leasehold titling in order to prevent market-induced displacement.

TITLING IN BAAN MANKONG, THAILAND (2011)		
STATUS OF LAND TENURE	HOUSEHOLDS	% OF TOTAL
Cooperative Titling	32153	34.78
Long-term Lease	40292	43.58
Short-term Lease (<5 yrs)	7594	8.21
Permission to Use Land	12419	13.43
<b>Total</b>	<b>92458</b>	<b>100</b>

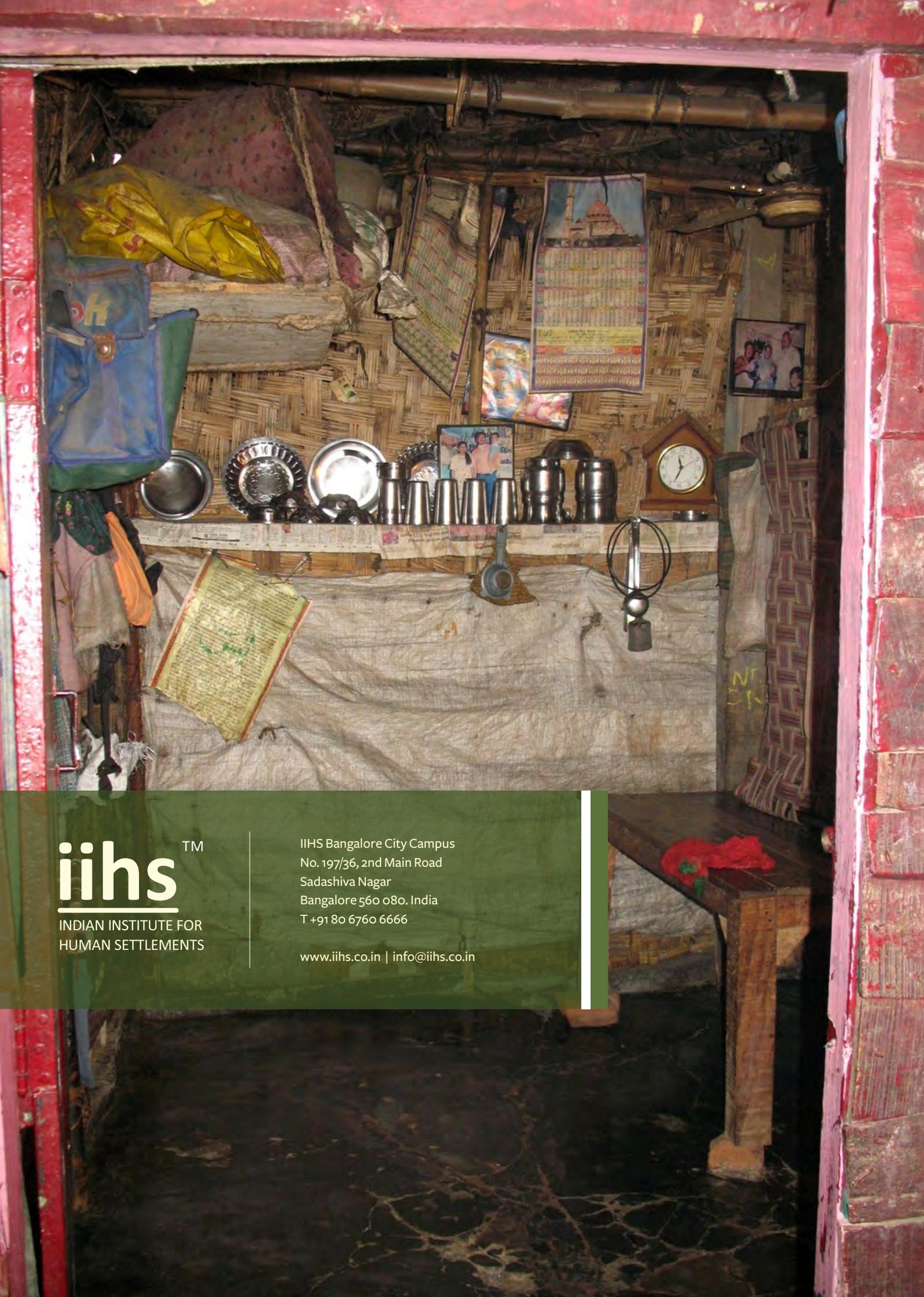
Source: Community Organisations Development Institute (CODI). See <http://www.codi.or.th/housing/results.html>.

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