

**Working Paper Series**

# **Land Reform and Housing in India**

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## **ABSTRACT**

Land is seen as providing a vital economic and social foundation for development. In India, land scarcity poses a huge barrier to all infrastructural development. Its efficient utilisation plays a key role in increasing our agricultural output, conversely related to the incomes of the majority of our populace. Since India's economy thrives primarily on agriculture, equitable distribution of land and secure land rights can be viewed as instrumental in empowering the urban and rural poor; to enable them to meet ongoing changes posed by a rapidly globalizing world. A major concern of citizens today stems from the lack of availability and inflated prices of land; the residual effect of which is lack of availability of land for housing, developmental and economic activities. Is it land scarcity or the mismanagement of land available that has led to this; two pivotal questions policy makers must address in seeking solutions for this crisis.

The premise of this paper rests on the belief that if land that has been locked in litigation by the government for over 30 years is systematically evaluated and released into the free market, post allocating land out of this total, to engage in housing development activity undertaken by the State itself on a welfare-cum-profit motive, it could perhaps aid in combating the present housing crisis in our country. The given illustration would better elaborate this.

India's present land area is 807,684,813 acres (eight hundred seven million six hundred eighty four thousand eight hundred thirteen), which includes all types of land, since the 'quality' of land has no bearing on the construction of housing. The land area locked under litigation is 1,150,728 acres (one million one hundred fifty thousand seven hundred twenty eight), which is 0.14 per cent of the total land area. Currently there is a requirement for 32 million units of housing, includes both urban and rural. Since the plinth of the largest low-income house as per national norms is 350 sq.ft, the total area required to construct them horizontally is 257,116 acres. If the land that is released were to be used for the purpose of construction of these houses, it would leave a remainder of 893,612 acres. Out of this, if we were to take for roads, common areas etc. an equal amount of land to that which has gone into construction of the housing, then it would lead to the utilization of 514,232 acres. The remaining land measuring 636,496 acres would, hence, be a surplus.

STATE	TOTAL AREA (Acres)	LOCKED IN LITIGATION (Acres)	%
Rajasthan	84532292	78432	0.09
Madhya Pradesh	76111568	79586	0.1
3. Maharashtra	76005111	31320	0.04
4. Andhra Pradesh	64236796	141363	0.22
5. Uttar Pradesh	58925802	50371	0.09
6. Jammu and Kashmir	54892292	32935	0.06
7. Gujarat	48417928	71214	0.15
8. Karnataka	47373612	131172	0.28
9. Orissa	38459629	11409	0.03
10. Chhattisgarh	33392918	20036	0.06
11. Tamil Nadu	32124326	9589	0.03
12. Bihar	23258508	159903	0.69
13. West Bengal	21921744	194477	0.89
14. Arunachal Pradesh	20684521	12411	0.06
15. Jharkhand	19685900	11812	0.06
16. Assam	19385301	23596	0.12
17. Himachal Pradesh	13751231	7115	0.05
18. Uttarakhand	13230802	7938	0.06
19. Punjab	12439414	24642	0.2
20. Haryana	10920364	4968	0.05
21. Kerala	9599161	30345	0.32
22. Meghalaya	5539963	3324	0.06
23. Manipur	5514769	3309	0.06
24. Mizoram	5207007	3124	0.06
25. Nagaland	4095013	2457	0.06
26. Tripura	2591524	59	0.002
27. A&N Islands	2037503	1223	0.06
28. Sikkim	1752712	1052	0.06
29. Goa	914394	549	0.06
30. Delhi	366301	183	0.05
31. Puducherry	121524	698	0.57
32. D&N Haveli	121277	73	0.06
33. Chandigarh	35568	21	0.06
34. Daman and Diu	30134	18	0.06
35. Lakshadweep	7904	5	0.06
India	<b>807684813</b>	<b>1150728</b>	<b>0.14</b>

Source: Computed using Source: Lok Sabha Unstarred Question No. 984, dated 27.02.2001;  
<http://www.indiastat.com/landlitigation>

States listed in descending order, based on size.



■ All data entered in the ‘%’ field are based on taking half of the sum total percentage of available data for convenience and uniformity sake. In the ‘land locked in litigation’ field, the values are estimates based on extrapolation.

This paper, hence, looks at the amounts of land locked in litigation in each state and correlates this given data to that on the housing deficit in each state. In doing so, it calculates in which states the deficit is met with land availability. For the states in which this is met, the paper illustrates further a housing construction and finance model.

**NOTE: Based on my calculations, tabulated below are the figures that show that 0.14 per cent of India's total land area is litigated. Further, it is seen that 80 per cent of the states in India are those where the housing shortage is met with availability of land (litigated).**

State	Litigated (Acres)	Shortage (Million)	Digits	Acres	Surplus
1. A&N Island	1,223	0.03	30000	241.046832	982
2. Delhi	183	2.22	2220000	17837.46556	-17,654
3. Andhra Pradesh	141,363	0.14	140000	1124.885216	140,238
4. Arunachal	12,411	2.36	2360000	18962.35078	-6,551
5. Assam	23,596	4.3	4300000	34550.04591	-10,954
6. Bihar	159,903	0.02	20000	160.697888	159,742
7. Chandigarh	21	0.1	100000	803.4894399	-782
8. Chhattisgarh	20,036	0	0	0	20,036
9. Dadra & Nagar	73	0	0	0	73
10. Daman & Diu	18	0.55	550000	4419.191919	-4,401
11. Goa	549	0.04	40000	321.3957759	228
12. Gujarat	71,214	1.69	1690000	13578.97153	57,635
13. Haryana	4,968	0.34	340000	2731.864096	2,236
14. Himachal	7,115	0.01	10000	80.34894399	7,035
15. Jammu Kashmir	32,935	0.18	180000	1446.280992	31,489
16. Jharkhand	11,812	0.15	150000	1205.23416	10,607
17. Karnataka	131,172	1.14	1140000	9159.779614	122,012
18. Kerala	30,345	0.64	640000	5142.332415	25,203
19. Lakshadweep	5	0	0	0	5
20. Madhya Pradesh	79,586	0.44	440000	3535.353535	76,051
21. Maharashtra	31,320	2.1	2100000	16873.27824	14,447
22. Manipur	3,309	0.08	80000	642.7915519	2,666
23. Meghalaya	3,324	0.17	170000	1365.932048	1,958
24. Mizoram	3,124	0.05	50000	401.7447199	2,722
25. Nagaland	2,457	0.09	90000	723.1404959	1,734
26. Orissa	11,409	0.86	860000	6910.009183	4,499
27. Puducherry	698	0.04	40000	321.3957759	377
28. Punjab	24,642	0.3	300000	2410.46832	22,232
29. Rajasthan	78,432	0.44	440000	3535.353535	74,897
30. Sikkim	1,052	0.01	10000	80.34894399	972
31. Tamil Nadu	9,589	1.98	1980000	15909.09091	-6,320
32. Tripura	59	0.21	210000	1687.327824	-1,628
33. Uttar Pradesh	50,371	2.12	2120000	17033.97612	33,337
34. Uttarakhand	7,938	0.13	130000	1044.536272	6,893
35. West Bengal	194,477	1.73	1730000	13900.36731	180,577
India	<b>1,150,728</b>				

**Source: Computed using Source: Lok Sabha Unstarred Question No. 984, dated 27.02.2001; <http://www.indiastat.com/landlitigation>, <http://www.indiastat.com/housing>**

-  The columns highlighted are those states in which the housing shortage surpasses the land availability (litigated). It is seen that 80 per cent of the states in India are those where the shortage is met with its land demand (litigated), resulting in a surplus availability.
-  The columns highlighted are those states in which the housing shortage is assessed as nil, based on given data.

## **INTRODUCTION**

World-renowned expert on land use, Alain Bertaud, places forth the following arguments reflecting on poor space management practiced by developing nations like India, where he critiques the laws and practices pertaining to land and urban planning to quantify his line of reasoning. He believes that past government regulations and practices, to a large extent, have led to a decrease in land supply and artificial increase in land consumption. For instance, the Urban Land Ceiling Act that led to the freezing of large tracts of land in legal disputes, owing to which not only are these areas barred from development, but often they are also excluded from the process of redevelopment. The result of this can be seen in the state exercising ‘a de facto’ monopoly on land development and, thus, private parties are often left out from purchasing large areas of land to undertake developmental projects. Similar to this is the policy of rent control, which affected the supply of new rental properties contributing to a decrease in land supply as buildings which are under rent control cannot be redeveloped or even renovated. For example, the commercial complex of Connaught Place in New Delhi, on which rent control laws instituted during the British government hold ascendance. Not only does this lead to the exercising of invalid taxation laws, bringing in negligible revenue, but prime real estate is also undervalued.

This has resulted in the surrounding properties attaining an inflated value. Many rented buildings are very old, badly maintained and structurally unsound, but owners won’t undertake any construction or repair on them since the cost of this is far greater than the income their rental brings in. Due to this, no redevelopment can occur until the tenant vacates the premises voluntarily. Hence, the landlord waits for the building to degenerate before any new development can occur on it. Until that happens, all developmental activity has to take a detour around these areas that are under rent control – ‘blocked’ land as far as development is concerned. Preventing or slowing down of conversion of land from one use to another also poses a huge roadblock to any sort of real estate-related development. This is particularly evident on the periphery of cities where

land has to be often converted from agricultural to urban use. Change of land use within cities too is a long and cumbersome process resulting in the accumulation of 'dead land'. For example, obsolete mills, factories or refineries not in function continue to occupy large patches of land in commercially viable and geographically centred locations, despite there being a consensus that they are neither economically profitable nor environmentally beneficial. This, along with high stamp duties, has led to slowing the pace of land transactions, resulting in reduction of the supply of land in the market.

“High stamp duty incites to grossly under-declare the real value of land. This, in turn, adversely affects the possibility of using land as collateral for construction financing. In the future, Indian cities will have to move to an ad valorem property tax system. But setting an ad valorem tax requires a reasonable transparency in land transactions. It could, therefore, be said that an unreasonably high stamp duty prevents the modernization of the property tax system in India” (Bertaud, 2002). The JNNURM primer, under its section on rationalization on stamp duty, further supports the above claim by stating that high rates of stamp duty and their adverse effects on the economy, and consequently the need to reduce them, have long been underlined by various committees and experts. They have pointed out the high cost that stamp duties impose on the economy and economic growth. Specifically, they have argued that:

- High rates of stamp duty lead to undervaluation of properties, resulting in substantial loss of revenue to the states and urban local bodies. Undervaluation of properties is commonly observed and is the main source of corruption and black money in the country.
- High stamp duty rates hamper development of the economic system, and adversely affect growth.
- Existence of high duty rates in some states and low or moderate duty rates in others leads to diversion of economic activity, which is often unhealthy and economically inefficient.

Another setback is the creation of Master Plans that allocate land between various uses and limits the amount of floor space that can be built on specific parcels, either directly through maximum FSI or indirectly through setbacks, plot coverage ratio, and maximum number of floors. These parameters are set most arbitrarily and have been set without taking into account the efficiency of city structure or the affordability of different social groups. Hence, Master Plans are often seen ignoring real estate demand and forwarding vested interests of the politicians who exert their dominance over the state and its funds.

Likewise, in this regard, the concept of low value for floor scale index (FSI) has come under the radar of town planners for its rather capricious enforcement.

Typically, FSI in India are seldom above 1.6, even in centrally located areas, compared to values ranging from 5 to 15 in the CBD of other cities of Asia. This tendency of lowering the FSI leads to an increase in the consumption of land, because with low FSI, more land is required to build a given area of floor space. In the case where the supply of land is severely constrained by the laws, low FSI values result in a reduction in the consumption of floor space. (Bertaud, 2002).

Hence, we see this policy greatly affecting the low and middle income households more than others, while in the non-residential sector it contributes to a loss of productivity. Indian urban planners have a tendency to prefer low intensity of development through low FSI values and to ban commercial development in central areas to 'avoid congestion'. This is the urban version of the regional development philosophy that had been banning new industries around successful metropolises like Mumbai and Surat and had been subsidizing industrial infrastructure in remote areas like Western Gujarat (next to the desert of Kutch) and in the mountains of Arunachal Pradesh. (Bertaud, 2002).

There is a need for the government to seriously re-evaluate its past and current measures and aim at shifting 'land' from a being a matter of state, to national importance. All activities concerning land utilization, reform and development should be decided at the Centre to avoid the amassing of power by local leaders.

In this respect, transparency and efficiency in land records management and instituting systems that facilitate this should be one of the primary goals the Central Government must endeavour to achieve.

There is still a widespread conceit among policy makers that the absence of development in some remote location (whether urban or regional) is a sign of market failure which should be corrected by government investment and tax subsidies; and reciprocally, that fast growth in high demand locations should be discouraged by government regulations. Very low property taxes and property taxes based on actual rents rather than on land values create an incentive to hold vacant or underused land, thus decreasing the amount of land in



the market. Introducing an ad valorem property tax would require more open and transparent land transactions, since ad valorem land taxation is incompatible with rent control. (Bertaud, 2002).

One sees that the failure to provide primary infrastructure with a capacity consistent with demand is often cited as a justification for constraining development intensity. With this view, it is important to realize that an adjustment of land-use regulation to actual market demand will also require the provision of primary infrastructure of sufficient capacity.

The means to finance primary infrastructure could come from a better design of the property tax or from the imposition of impact fees when redeveloping high density areas. Land subdivision regulations tend to ‘over-design’ roads, right of ways, open space and other land reserves. This practice results in an increase in the consumption of land compared to what would be necessary. Many of the right of ways reserved are never used for circulation. (Bertaud, 2002).

Similarly the setting of minimum plot sizes that are often set at a different value for state development agencies and another for the private sector results in excluding the private sector from the supply of plots and housing. “Minimum plot sizes should be adjusted to reflect land values and the affordability of various socio-economic groups and the same standards should be available for both the private and public sectors.” (Bertaud, 2002)

In toto, one sees that if the government was to undertake a more proactive role in land reclamation, reformation and development by taking sincere steps in engaging the right minds, formulating and implementing sound policy for planning, it could surely revolutionise land practices in India.

## **BACKGROUND**

It is forecasted that around 41 per cent of India's masses would be living in cities and towns by 2030; an increase from the present 28 per cent. The urban sector in India accounts to 55 per cent of India's GDP, showing that the process of urbanization has a bearing on the increase of India's GDP and its economic development. India has witnessed an 8 per cent growth rate in the past and has planned to achieve a 9 per cent growth rate target in its GDP by the end of the 11<sup>th</sup> plan period. Given these figures, one sees that India's urban population too is increasing at a rapid rate and is seen sharing this pattern with some of the fastest growing regions in Asia and the world.

With the onset of globalization one sees the gap between the rich and the poor widening. 72.2 per cent of India's total population lives in villages, the rest lives in urban India. (CIA handbook-2001) According to a recent study conducted by the Saxena panel, 50 per cent of India's total population lies under the poverty line. Below are the proposed projections, reflecting the ratio of urban and rural poor.

<b>Projection of National Poverty Ratios in India (1996-1997, 2001-2002, 2006-2007 and 2011-2012)</b>				
<b>(Percent)</b>				
<b>Region</b>	<b>1996-97</b>	<b>2001-02</b>	<b>2006-07</b>	<b>2011-12</b>
<b>Rural</b>	<b>30.55</b>	<b>18.61</b>	<b>9.64</b>	<b>4.31</b>
<b>Urban</b>	<b>25.58</b>	<b>16.46</b>	<b>9.28</b>	<b>4.49</b>
<b>Total</b>	<b>29.18</b>	<b>17.98</b>	<b>9.53</b>	<b>4.37</b>

**Source: Rural Development Statistics 2002-03, National Institute of Rural Development; <http://www.indiastat.com/poverty>**

As per the latest National Sample Survey Organization (NSSO) survey around 80 million of India's poor live in cities and town of which as per 2001 estimates by the Town and County Planning Organization (TCPO), 61.80 million people live in slums. It is interesting to note that the ratio of urban poverty in some of the largest states in India is higher to that of rural poverty.

The reason for this is the steady increase in migration from rural areas to urban ones owing to socio-economic factors that have led to an added stress on resources, most specifically land. This has resulted in the development of urban slums and the subsequent problems of lack of space that arise, including lack of health care, crime rate increase and population outbreaks. Paradoxically, one sees that urban areas with their limited land resources and abundant capital are faced with the

challenge of not only providing for its existing masses, but also migrants from rural areas who come seeking greener pastures.

Despite having passed several reform laws to ensure equitable distribution, land continues to be a contentious resource and a lack of space for housing comes as a consequence of it.

<b>State-wise Percentage of Population Living Below the Poverty Line by Social Groups in Rural and Urban Areas of India (2004-2005)</b>								
<b>States/UTs</b>	<b>Rural</b>				<b>Urban</b>			
	<b>ST</b>	<b>SC</b>	<b>OBC</b>	<b>Others</b>	<b>SC</b>	<b>ST</b>	<b>OBC</b>	<b>Others</b>
Andhra Pradesh	30.5	15.4	9.5	4.1	50.0	39.9	28.9	20.6
Assam	14.1	27.7	18.8	25.4	4.8	8.6	8.6	4.2
Bihar	53.3	64.0	37.8	26.6	57.2	67.2	41.4	18.3
Chhattisgarh	54.7	32.7	33.9	29.2	41.0	52.0	52.7	21.4
Delhi	0.0	0.0	0.0	10.6	9.4	35.8	18.3	6.4
Gujarat	34.7	21.8	19.1	4.8	21.4	16.0	22.9	7.0
Haryana	0.0	26.8	13.9	4.2	4.6	33.4	22.5	5.9
Himachal Pradesh	14.9	19.6	9.1	6.4	2.4	5.6	10.1	2.0
Jammu & Kashmir	8.8	5.2	10.0	3.3	0.0	13.7	4.8	7.8
Jharkhand	54.2	57.9	40.2	37.1	45.1	47.2	19.1	9.2
Karnataka	23.5	31.8	20.9	13.8	58.3	50.6	39.1	20.3
Kerala	44.3	21.6	13.7	6.6	19.2	32.5	24.3	7.8
Madhya Pradesh	58.6	42.8	29.6	13.4	44.7	67.3	55.5	20.8
Maharashtra	56.6	44.8	23.9	18.9	40.4	43.2	35.6	26.8
Orissa	75.6	50.2	36.9	23.4	61.8	72.6	50.2	28.9
Punjab	30.7	14.6	10.6	2.2	2.1	16.1	8.4	2.9
Rajasthan	32.6	28.7	13.1	8.2	24.1	52.1	35.6	20.7
Tamil Nadu	32.1	31.2	19.8	19.1	32.5	40.2	20.9	6.5
Uttar Pradesh	32.4	44.8	32.9	19.7	37.4	44.9	36.6	19.2
Uttarakhand	43.2	54.2	44.8	33.5	64.4	65.7	46.5	25.5
West Bengal	42.4	29.5	18.3	27.5	25.7	28.5	10.4	13.0
<b>All India</b>	<b>47.2</b>	<b>36.8</b>	<b>26.7</b>	<b>16.1</b>	<b>33.3</b>	<b>39.9</b>	<b>31.4</b>	<b>16.0</b>

**Source: Compiled from the statistics released by Ministry of Tribal Affairs, Govt. of India; <http://www.indiastat.com/poverty>**

The Planning Commission of India's report on the 11<sup>th</sup> Five Year Plan reveals that currently there is a need to provide in total 32 million units of housing to meet the needs of India's homeless. Broken down, it's 24.71 million units in urban areas and a 7 million units' shortage in rural areas.

Though one must remember that it isn't a shortage of housing for the poor alone, but for the middle and upper class as well that leads us to the sum total of housing requirement.

The following tabulation gives a state-wise account of the housing deficit and the segment in which it falls under.

<b>State-wise Housing Shortage in India(2001)</b>			
<b>(In Million)</b>			
<b>States/UTs</b>	<b>Housing Shortage</b>		
	<b>Rural</b>	<b>Urban</b>	<b>Total</b>
Andaman & Nicobar Islands	0.02	0.01	0.03
Andhra Pradesh	1.27	0.95	2.22
Arunachal Pradesh	0.12	0.02	0.14
Assam	2.22	0.14	2.36
Bihar	3.95	0.35	4.30
Chandigarh	0.00	0.02	0.02
Chhattisgarh	0.02	0.08	0.10
Dadra & Nagar Haveli	0.00	0.00	0.00
Daman & Diu	0.00	0.00	0.00
Delhi	0.02	0.53	0.55
Goa	0.02	0.02	0.04
Gujarat	0.70	0.99	1.69
Haryana	0.13	0.21	0.34
Himachal Pradesh	0.00	0.01	0.01
Jammu & Kashmir	0.11	0.07	0.18
Jharkhand	0.04	0.11	0.15
Karnataka	0.48	0.66	1.14
Kerala	0.33	0.31	0.64
Lakshadweep	0.00	0.00	0.00
Madhya Pradesh	0.05	0.39	0.44
Maharashtra	0.73	1.37	2.10
Manipur	0.05	0.03	0.08
Meghalaya	0.15	0.02	0.17
Mizoram	0.04	0.01	0.05
Nagaland	0.09	0.00	0.09
Orissa	0.49	0.37	0.86
Pondicherry	0.01	0.03	0.04
Punjab	0.09	0.21	0.30
Rajasthan	0.14	0.30	0.44
Sikkim	0.01	0.00	0.01
Tamil Nadu	0.44	1.54	1.98
Tripura	0.18	0.03	0.21
Uttar Pradesh	1.08	1.04	2.12
Uttaranchal	0.05	0.08	0.13
West Bengal	1.09	0.64	1.73
<b>India</b>	<b>14.12</b>	<b>10.56</b>	<b>24.68</b>

Source: National Housing Bank (10437); <http://www.Indiastat.com/housing>

## CLASSIFICATION OF LAND

India occupies about 2.4 per cent of the world's landscape and it supports about 16.2 per cent of the world's human population and has only 0.5 per cent of the world's grazing area, but supports 18 per cent of the world's cattle population. According to Thornthwaite's classification about 228 mha (69 per cent) of its total geographical area (about 328 mha) fall within the ambit of dry land (arid, semi-arid and dry sub-humid). Agriculture forms the major sector of growth of the Indian economy, with a total cultivated area of 142 mha.



India's mainland comprises of four broad geographical areas - the Northern Mountains that has the great Himalayas, the vast Indo-Gangetic plains, the Southern (Deccan) Peninsular bounded by the Western and Eastern Ghats, and fourthly, the coastal plains and islands (Census of India, 1991). The country covers a geographical area of 328 mha of which, land use statistics are available for roughly 305 mha accounting for 93 per cent of the total land area. Within this, roughly 264 mha of land is available for agriculture, forestry and related purposes, based on which the density of population varies from region to region along with the quality and quantity of land mass available.

**Profile of the Main Physio-Geographic Zones in the Country**

Physio-Geographic Zone	Area		Population		No. of districts	Density of Popln.	Urban Centres (No.)	Population (in million) in Urban Centres	Villages (No.)	Population (in million) in villages
	in km <sup>2</sup>	in %	in million	in %						
<b>Northern Mountains</b>	322158	10.5	28.04	3.34						
<b>The Great Plains</b>	730955	22.2	333.43	39.4	150	456	1516	74.03	235641	259.4
<b>The Deccan Plateau</b>	1525279	49.76	307.49	36.67	158	202	1785	78.13	266892	29.36
<b>The Coastal Plains &amp; Islands</b>	486635	15.38	169.61	20.23	76	349	1031	58.76	67972	110.84

Source: Census of India, 1991

## **LAND-USE PATTERN**

During 1949-50, the land area in India was classified based on five categories termed as the five-fold land-utilization classification. This five fold land utilization classification is a very broad outline of land use in the country and was found to be inadequate since it didn't aid in planning land use for agricultural and infrastructural development purposes. The five categories are as follows: Area under agricultural uses, land under non-agrarian uses, area under forest, area under grazing and common property resources. Area under non-agrarian use consists of all lands occupied by buildings, roads and railways, or under water, e.g. rivers and canals, and other lands put to uses other than agricultural. Due to increase in industrial development and the economic boom that followed, there has been an increase in land that has been utilised for non-agrarian uses. The states where the proportion of land under non-agricultural uses is higher than the all-India average are Haryana, Jammu and Kashmir, Kerala, Orissa, Uttar Pradesh, Andhra Pradesh, Punjab, Tamil Nadu, Bihar, Assam, Goa, Delhi, Pondicherry and the Union Territory of Daman and Diu. The states that account for more than two-thirds of the land under non-agricultural uses are Andhra Pradesh, Madhya Pradesh, Uttar Pradesh, Bihar, Tamil Nadu, Rajasthan, Orissa and Karnataka.

The other types of areas, which are covered under barren and uncultivable lands, are generally unsuitable for agricultural use, either because of the topography or because of their inaccessibility - desert areas in Rajasthan, the saline lands in parts of the Rann of Kutch in Gujarat, the weed-infected and ravine lands in Madhya Pradesh and alkaline lands in Uttar Pradesh. The proportions of barren and uncultivated lands to the reporting areas are higher in the states of Rajasthan, West Bengal, Assam, Gujarat, Manipur, Nagaland, Meghalaya, Arunachal Pradesh and Mizoram. The states of Rajasthan, Gujarat, Uttar Pradesh, Madhya Pradesh, Meghalaya, Assam and Maharashtra together account for more than 67 per cent of the land under this category in the country. (General Profile, Land Use Classification and Land Use Pattern).

There are no official estimates with regard to common property resources. They provide resources such as village forests, grazing lands, rivulets, and watershed drainage. It is important to note that a distinction should be made between Common Property Resource (CPR) and wasteland.

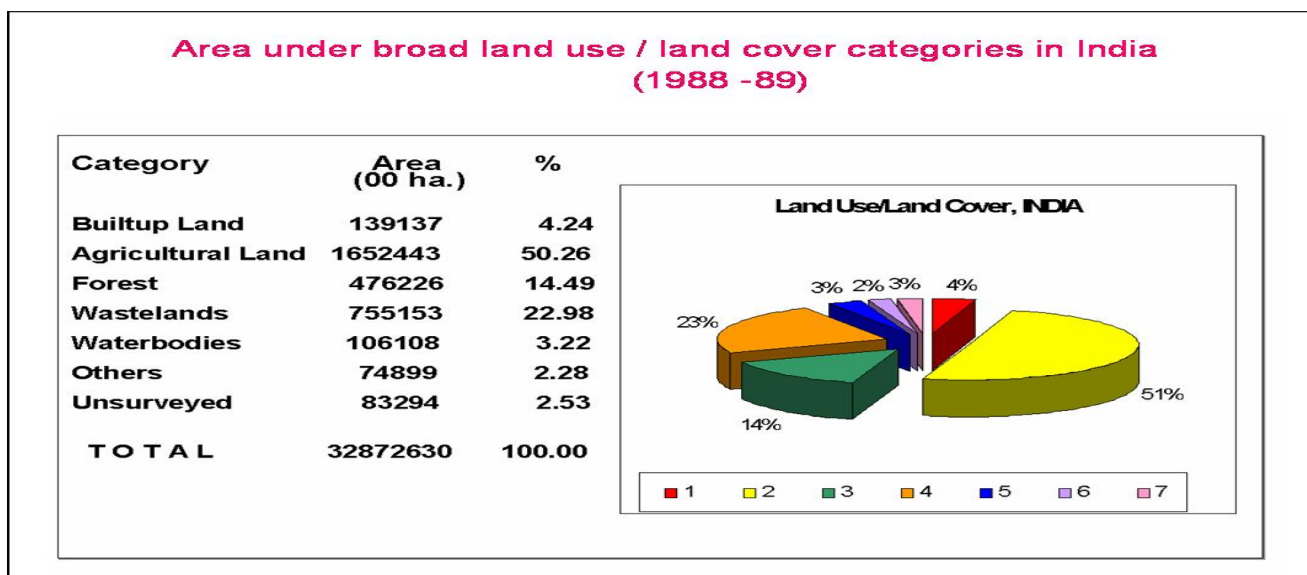
While CPR is a matter of defining a particular type of property rights on land in the class of variety of property rights, the latter is a case of identifying a specific ecological characteristic for making developmental program for recovery of degraded lands; irrespective of property rights.

Property:

- State: Owned by Govt., forests or national park.
- Private: Private lands, wells within private lands, crop lands

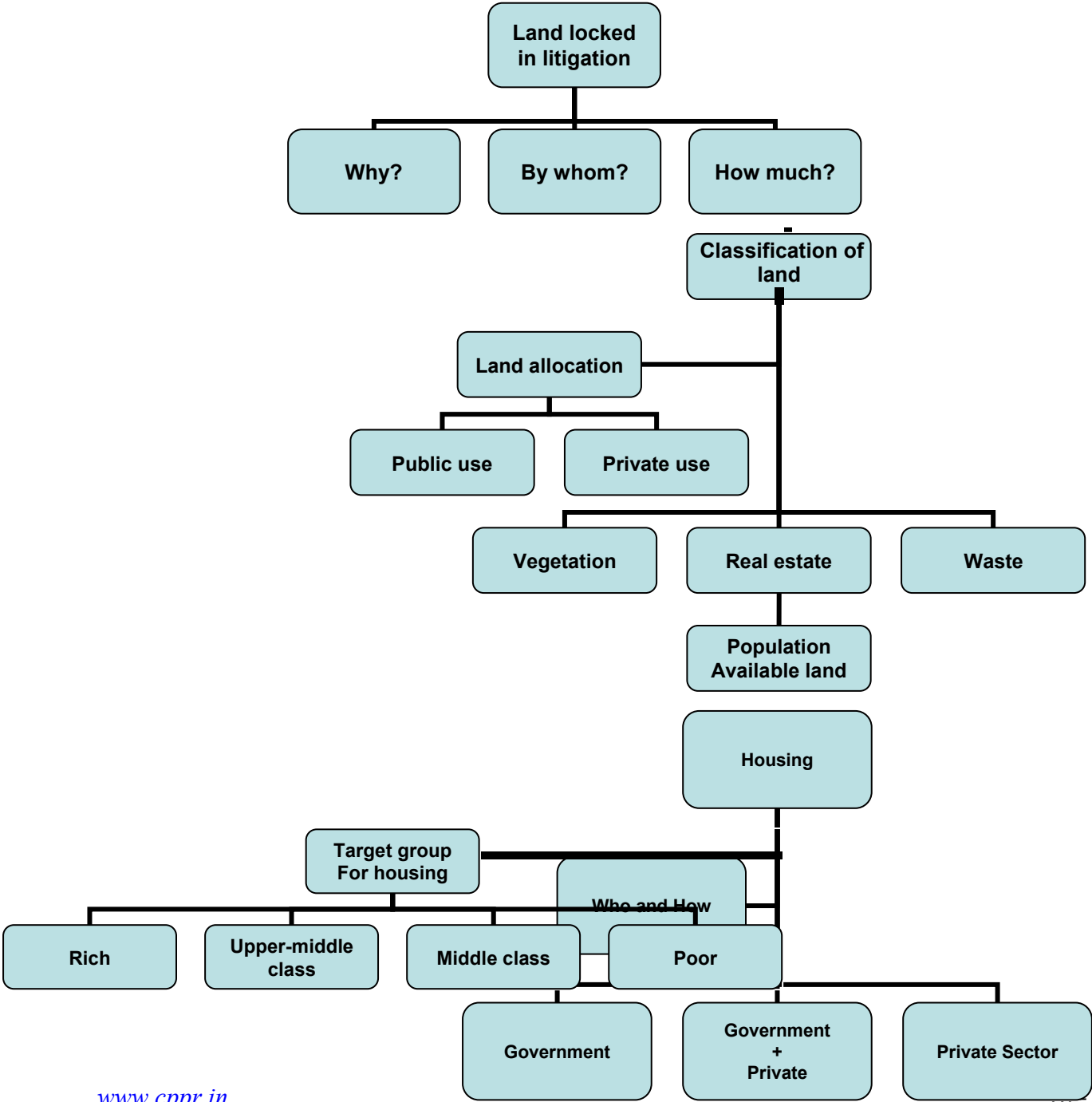
Common Property: Community property where individuals have claims on collective goods as members of a recognized community, village and panchayat. In all CPRs, no single individual has exclusive property rights.

Example: Community grazing and pasture lands, community wells, and other water sources such as ponds, tanks, etc (General Profile, Land Use Classification and Land Use Pattern).



Source: Department of space government of India; <http://www.nrsc.gov.in/lulcl.html>

**PROPOSED REFORM MODELS**





## **LAND REFORM-REVISIONED**

In legal terms, the act of land litigation is when a government agency requires land or an interest in land (such as an easement) to carry out a project. The property may have to be acquired by an action known as a 'condemnation proceeding'. Such proceedings are filed by this office only after attempts to amicably purchase the interest from the owner have been unsuccessful. When they are not, the party engages in filing litigation. There are many reasons for land litigation. In layman terms, a person enters into litigation when a person is unhappy about some aspect of the land and wants to change the status quo.

- The other person isn't willing to conciliate with the request to change the status quo.
- Incorrect deed descriptions that incorrectly delineate land, where in the first case the grantor wants the extra land back. In the other case, the grantee wants the land they agreed to buy.
- Two people who both claim ownership to the same land - they need to litigate to see who has superior proof of ownership.
- A developer who is trying to move a cart road easement that runs through the middle of a parcel that could otherwise be subdivided.
- A landowner who has been using a private road for access for many years and is barred by a new owner of the land would need to bring an action in court for a prescriptive easement.
- A title exam reveals that several heirs in a chain of title never released their interests in the land. They may come forward and make a claim that will need to be settled by a court decree.
- An owner may file a suit to prohibit someone else from using his land to prevent a later claim of adverse possession. An owner may litigate to remove a right of way that is no longer operative because an interstate cut through the land extinguishing the need for the fight.

(What are some causes of land litigation. Answers Corporation, 2009. *Wiki.Answers.com* 2<sup>nd</sup> July 2010).

Hence, one can sum up the likely reasons into why the litigations occur; ranging from the government having locked acres of land for national projects to land acquired in prime locations.

Government entities or parastatals, such as Railways, often own large tracts of land in cities. Because this land cannot be sold on the market to the benefit of the owning institution, it is often underused, or used in a way incompatible with its real market value. Many of the land holdings have been inherited from colonial time and are located in downtown areas. Government entities and parastatals should be required to make a full inventory of their land holdings and evaluate them at market value. Government entities and parastatals should be allowed to sell their land holdings, and retain the proceeds, whenever they feel that the cash value of land would be more valuable to them than the use of land. A complete inventory of urban institutional land holdings has never been done in India, but an informal survey made in Chennai some 20 years ago indicated that more than 30 per cent of the urban land was owned by government institutions; not including housing boards or development authorities. (Bertaud, 2002).

Similarly other causes for land litigation can be seen in cases where large tracts of land are locked up without use, since they were purchased during the pre-independent era by large industrial houses and private owners who failed to leave any will to ensure distribution post their demise or utilization deed. Apart from the shortcomings of our legal system, the status of land records of our country too are in a rather abominable state and one sees the maximum litigation in rural and urban areas is owing to land ownership, where government is seen owning maximum tracts of land.

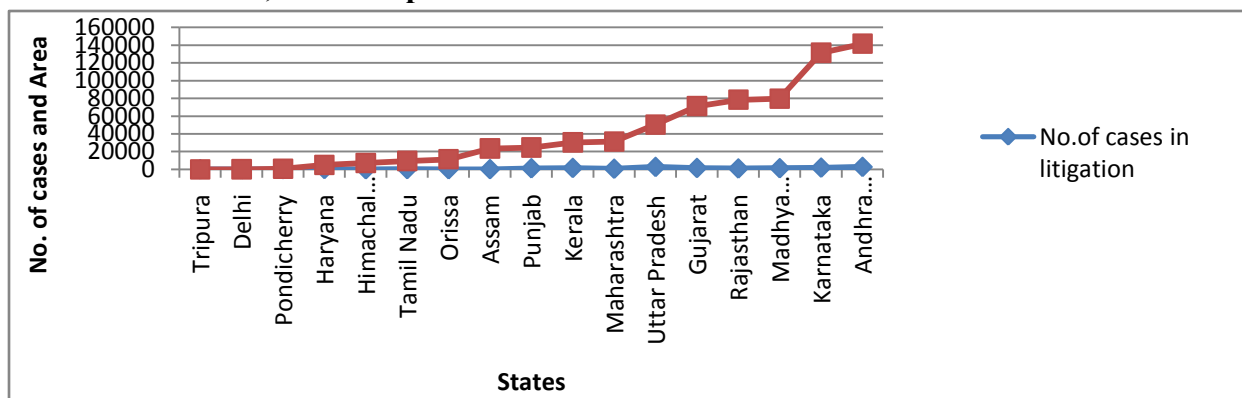
It has been estimated by reputed agencies that India loses 1.3 per cent economic growth annually as a result of disputed land titles, which inhibit supply of capital and credit for agriculture. It is, therefore, exceedingly important that a fundamental change is brought about in the way not only land records are maintained and the conversion of the present system of presumptive titles to land into conclusive titles. (Wadhwa, 2002).

Owing to the unintelligible manner of information storage and record keeping, there has been a widespread manipulation of records. The country has never had a centralised unit for information on ownership and usage of land, resulting in much of the land being locked in litigation. Rita Sinha, secretary of the government's Department of Land Resources, in an article for the Washington post, was quoted as saying that the digitization project was intended to quicken India's switch from presumptive land titles to a system where the government confers clear, conclusive

ownership. “Since in technicality all land in India belongs to the government, and citizens are permitted only to ‘enjoy the fruits’ of the land, making their ownership status tenuous, at best. Modernization of land records will also reduce litigation.”

To summate: “Bold political direction alone can bring about reform of this magnitude, which will bring our country in the mainstream of a worldwide trend, enhance the marketability of land, reduce the stupendous social cost of litigation and give a boost to agricultural production and urban and industrial development.” (Wadhwa, 2002).

**NOTE: In the graph below we see that Andhra Pradesh is the state with most no. of cases and area involved, while Tripura is the least.**

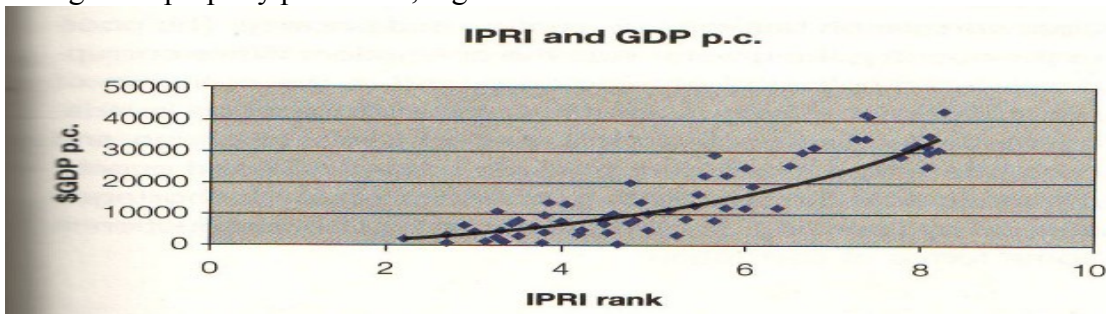


Devaluation of land and its distribution from the powerful to those less influential and endowing land rights to the poor would result in increasing an overall sense of development. For, it would not only economically endue them, but also result in their psychological and social upliftment. If this land that has been locked in litigation were to be released into the market, irrespective of the nature of the land being unknown, including residential real estate, agrarian, industrial and fallow land, how would it affect the market? Who would gain control of distribution of this land - the market or the government?

With an assumption if land were to be released into the real estate market, with the view that majority land released is the government's, where in case of disputes over land between the government and private party, the government emerges as the decree holder, automatically/by default of absolute majority principal, the government should gain autonomous control over all land holdings. In this given situation, the government could constitute an apex body; like in the case of the public distribution system, fix a price of all land and monitors sales to mitigate all situations of land hoarding and further litigation. In doing so, the government would not only avoid and eliminate chances of recessionary conditions to materialise, but also prevent the creation of a

real estate black market. A market requires institutions like the government to foster individual rights, like property rights to ensure the existence of a market in the very first place. Despite the fact that states with least state intervention fair better in comparison to those with state intervention do, one can't negate other conditions, such as population, to play a crucial role. In a country like India, which is densely populated and diverse, only the government's involvement in a market would ensure equity. In my belief, the government should gain control over the distribution of land and fixing its price. Pareto's principal summates that if the government would gain control of regulating the price of land and its equitable distribution, a desired scenario favouring a welfare economy would occur. Forces of demand and supply show that if demand is high and supply is low, scarcity occurs, but in a situation like this, with an increase in demand and supply simultaneously, a certain level of market equilibrium could be sought; the residual result of which is that land prices would fall and attain certain uniformity.

With the realisation that property can be a key tool to empower the masses; the International Property Rights Index (IPRI) was formulated. As a relatively new index, it aims to capture physical, intellectual, titled legal and political environment of a country. The IPRI is calculated by aggregating all these three categories. The following table shows the Top 5 and Bottom 5 economies; how they fare in each category and in relation to the world over index. Protection of property rights is a key element in market economies. Relationship between IPRI and GDP is the stronger the property protection, higher the GDP and vice versa.



**Source: Handbook of Transformation to Market Economy, Bibek Debroy, Liberal Institute of Friedrich - Naumann Foundation.**

**NOTE: The scatter gram above represents the direct relation between property rights and GDP. As seen the scatter is more concentrated towards the lower half of the graph, from which we can conclude that there are more countries in which property rights are not secured, while the top of the graph shows the countries in which they are, to be very few. The Gini coefficient has been used to illustrate for us the relations between low GDPs and inequality in distribution of land in developing countries. Here, a perfectly equal distribution will have a Gini coefficient of 0, while a perfectly unequal distribution will have a Gini coefficient of 1. Hence the higher the coefficient greater the inequality experienced.**

## **CONSTRUCTION OF HOUSING**

Case studies in the housing sector, which show various programmes related to community housing conducted the world over, reveal practices that are the best and the most efficiently executed in an attempt to overcome their respective housing deficits. China, for example, which exhibit demographic similarities with India, can be sought as one of the foremost examples of this. Since population is the binding factor with India, its case study could be attempted at implementation here as well. The Chinese housing market was liberalised only towards the end of the late nineties. Here, for people living in slums, a 'one-time' equity grants based on the market value of their existing houses was given to enable their access mortgage instruments. Land leases were 'auctioned' to developers to supply housing on a 'home ownership' bases. Developers were provided incentives in the form of tax reductions or tax exemptions. As a result, we see China develop more than 20 million housing units in the last five years. Similarly Thailand adopted the 'The Baan Mankong' (Secure housing in Thai) Program that saw the channelling of government funds through the Community Organizations Development Institute. The Thai Government had earmarked a budget of about US\$ 470 million for infrastructure subsidy and housing loan interest subsidy, which worked out to be US\$ 1,650 per family. Hence, we see Thailand put its slum communities and their community networks at the core of the development process, for seeking long-term, all-encompassing solutions to the problems of land and housing. Chile pioneered the 'upfront capital subsidy programme' in 1977. This programme attempted to eradicate all slums from Chilean cities. Here, on the supply side, social housing is built by the private sector. On the demand side, subsidies are given to poor families to increase effective demand for private 'social' housing. Chile set aside 05.8 per cent of its national budget for providing such subsidies. In South Africa, like Singapore, Cuba and Sweden, a viable market for low-cost housing has been established through subsidy programmes. This has been made possible through establishing partnership with housing institutions, communities, the private sector and NGOs. Accordingly 1.4 million houses with secure tenure have been constructed in the last ten years for the poorest of the poor. Following more or less a similar pattern of participatory or partnership model of development are countries like Brazil, Egypt, Mexico, and Tunisia. In all these countries, the respective central governments have been in the 'driving seat' to implement inclusive policies for housing, land reforms and regularization.

Some low-income or middle-income countries like Colombia, El Salvador, Philippines, Indonesia, Myanmar and Sri Lanka, have managed to prevent slum formation by foreseeing and planning for growing urban populations by investing in low-cost and affordable housing. (Manoj P, 2010).

Drawing on the above lessons, the model floated in my thesis looks to its implementation via an apex body that is constituted post the releasing of land. The body deals with fixing the price of land and its allocation, either to build housing for low income groups or a further engagement by selling the land to private real estate players for a profit motive.

To overcome the housing deficit, the proposed housing for the poor that could be purchased by them based on the subsequent finance model provided would be built on either of the given strategies/schemes. The first scheme entails the government involves itself in the construction of housing and undertakes sale for a profit motive, where the revenue would go to the state fund. Practiced as ‘public’ housing, it is a kind of housing tenure where the property is owned by a governmental authority, centrally or locally, while for low-income groups social housing could be undertaken, where the housing construction may be owned and managed by the state, by non-profit organizations, or by a combination of the two, usually with the aim of providing affordable housing. Thus, the government could not only engage in constructing housing for the lower income group as a welfare motive, but also for the middle and upper middle class, where housing market and lack of it exists. Such models have been seen successfully implemented in countries like Singapore, Hong Kong and China in Asia, while in Europe and North America too they are practiced in certain states. Here, the stigma associated with ‘public housing’, seen as a sign little exists as they are considered to be an affordable, spacious and secure mode of habitat. Majority of the houses are ‘owner’ owned, and aren’t limited to lower income. Middle and upper income sections as well fall into this group.

The second scheme places private players in the construction market as the suppliers who could come forth on a tender basis to undertake the construction of the proposed community housing model on land allocated by the government, after which the government here acts as a buyer and post completion of the project undertakes sale of these houses at a break-even price for the poor and a profit motive for the middle and upper middle class housing markets. This is known as the Build Operate Transfer (BOT) model; a private-public partnership for housing. In the infrastructure and construction industry this model is used in building of highways or bridges, where the private party would operate it for a period of time and later hand over to a government entity.

The model rests on specialists who bring in the best of knowledge and skill sets for erecting the project. The model works on outsourcing the early stages of projects execution to specialists and once the project starts functioning smoothly it is taken over by government, in this case. In the BOT model, the client has a right to own the facility, while the third-party vendor builds the facility, hires the employees, and gets the operation running for a certain period of time (usually a period of 3-5 years). After this, the process of handing over the operations to the client after the said period takes place. During the contract period, the vendor and the client work closely with a senior client representative who would be monitoring the operations. At the time of the transition, the vendor is suitably compensated, or the vendor earns a revenue with profit over a period of time and when it has completed earning back its cost of production, it hands over the 'product' to the government. This could be applied in the case of middle and upper class housing, while for low income groups BOT could be undertaken, purely on contract basis for construction alone and not sale.

In view of the above success stories and model given, it may be noted that huge housing shortage (including slum formation and other social evils) is a reflection not of market failure, but societal letdown. The poor must have access to housing in homes they can afford. Since market forces will never provide housing that the poor can afford, and further market forces will never have the ability to do so until these masses cease being poor, it is up to the government to take the initiative. The government can stimulate the creation of sustainable and affordable housing for the poor through the involvement of the private sector. Reform measures in (i) the land (grant of land security to poor, reduced government interventions in land market), (ii) finance (down marketing housing finance, fiscal incentives to the private sector developers, micro-finance institutions), (iii) capital subsidies targeted subsidies in various forms (upfront subsidies to the poor, or through savings institutions, or to the developers). One of the key requisites for such initiatives to be successful is that of ensuring a governance system that is open, transparent and able to implement the 'rule of the law' in its true letter and spirit. ( Manoj P. K, 2010).

### **FINANCE AND EMPLOYMENT MODEL**

Drawn from the model constructed by Habitat for Humanity, the finance model was developed to ensure the accessibility of these houses for the poor. The standard plinth of the house would be taken as 350 sq. ft. [1]; for standard sake we would use that as the base low-income housing

measurement figure. The government using the above proposed schemes would either build or renovates homes through a one third partnership model.

The cost of construction would be borne by the government. If the government were to engage in construction via its public works or developmental authority department, the labour engaged would be recruited under a centralised scheme like NREGA, where they would be paid a minimum fixed wage, by the hour set by the government. This could also help solve the unemployment problem, though it ‘wouldn’t work on the premise that you construct your own house. Not only would this process result in creating employment and a means of steady income, but would also afford them the right and economic stability to purchase a house under the micro-credit scheme enlisted by the government. Once the house is completed, the repayment process starts. Repayment would occur based on a revised micro-credit scheme formulated by a national bank under the aegis of the government.’

**Family selection criteria (as per the Habitat for Humanity model):**

- Low income groups, indigenous tribal families, rural poor and marginalised sections (daily wage earners, low-income factory workers, agricultural workers, small and marginal farmers)
- Who may or may not possess land tenure

In case the government was to employ the ‘built-operate-transfer’ model, only the repayment scheme would stand applicable.

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[1] The plinth area is taken as 350 sq. ft. as a national norm since the measurement is the bare minimum to satisfy the space requirement for a family of 4 (2 rooms,1 toilet, common living space and kitchen), at the same time making full use of the available space for building a large number of houses.



## **CONCLUSION**

It is a realised fact that there exists a land scarcity, but a way to overcome that could possibly be to create systems of land record maintenance, which would help in assessing what land belongs to whom. Our country incurs huge losses owing to land litigation, which leaves prime land, a valued resource, from not being utilised efficiently. If this land were to be released with government oversight and used to construct housing, maybe a solution to our land and housing crisis could be sought. Once the housing task is accomplished, steps could be taken to mitigate the hoarding of land and houses by seeing that these houses would not be given out cost-less but on a finance scheme instituted by the government through nationalised banks that would disable the creation of a real estate black market and create ownership. Apart from this, peer-monitoring would also be encouraged to dissuade subletting of these properties. Subsequently these houses would be held as proof of address against social services, which would be provided by the government, such as the procurement of a PAN card, UID card, and PDS benefits, for which permanent addresses are a pre-requisite. Despite the large numbers of migrant labourers in India, the requirement of permanent residency should be championed by the government with the aim to carry out all related welfare activity efficiently. The argument of displacement would be put forth to counter the objective of the paper, but in its defence, dispersion of housing and people would only lead to the creation of second and third tier cities that would result in de-congestion of urban agglomerates.

Hence, if the government were to take conclusive steps to value and release land that has been left unused for years, utilise it productively to cater to the largest section of our population-the poor, it would truly accomplish its task of being and providing for the world's largest democracy.

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