

India: Overview Of Proposed Land Reforms

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The demand for land reforms recently reached fever pitch in October 2012, when the Ministry of Rural Development (MoRD) entered into a 10-point agreement on land reforms with members of Jan Satyagraha, a non-violent march organized by [Ekta Parishad](#). MoRD had inter-alia agreed to initiate a dialogue with States for establishing Fast Track Land Tribunals and Courts and introduction of a National Land Reforms Policy. This once again brought to light the compelling economic and political arguments for enacting land reforms – primarily to tackle the scarcity and unequal distribution of land on one hand and growing demand of housing and industrial development on the other. Since land forms the basis of economic activity, land serves as an essential asset for a country to accomplish economic growth and social equity. During the last few decades, various land reforms have been enacted and numerous proposed amendments to existing laws, new legislations and policies are in the pipeline. Land reforms are closely linked to agricultural productivity, industrial growth, infrastructure development, employment opportunities, housing, foreign investment, to name a few. There are some policies and reforms which when enacted and implemented, will bring wide-sweeping changes.

Land Acquisition: Acquisition of land is the first and foremost hurdle in the development of any industrial, real estate and/or infrastructural project. The NOIDA-Greater NOIDA dispute brought to light the flawed acquisition process and the urgent need to address concerns of land owners and developers alike. The Land Acquisition, Rehabilitation and Resettlement Bill, 2011 seeks to address these concerns and replace the outdated Land Acquisition Act, 1894. The Bill provides a smoother acquisition process coupled with rehabilitation and resettlement (R&R) scheme, Social Impact Assessment, equitable compensation and annuity to displaced persons. Significant proposals include the requirement of prior consent of 80% of persons affected for certain projects and employment opportunities in such projects for members of displaced families. Further, the Land Acquisition and Rehabilitation and Resettlement Authority is proposed to be established for settling disputes relating to acquisition, compensation, and R&R. The industry has expressed its concerns that the method of calculation of compensation may hamper the acquisition of land at competitive rates, further pushing up land prices. Also, the requirement of obtaining prior consent of persons affected and conducting Social Impact Assessment, though imperative and laudable, may make the acquisition process more elaborate and time-consuming, thus affecting large-scale projects and industries dependent on speedy availability of land.

Land Pooling: Since the land acquisition, development and disposal policies framed previously have failed to address the issues involved in the land acquisition process, planned development is struggling to keep pace with the increasing demands of urbanization. The process of acquisition and quantum of compensation is increasingly being challenged by land owners. Keeping this in mind, various States including Delhi, Haryana and Punjab are coming up with innovative land pooling schemes and models. For instance, the land pooling policy proposed by Delhi Development Authority for Delhi is based on the concept wherein the land parcels owned by individuals or group of owners would be legally consolidated by transfer of ownership rights to the designated land pooling agency which would later transfer the ownership of the part of land back to the land owners for undertaking development of such areas, thus giving land owners an option to become partners in the development process.

Land Records: The National Land Records Modernization Programme was conceptualized in 2008-09 by Ministry of Rural Development for the creation of an integrated land information management system with up-to-date and real time land records, mutation records, digitization of maps as well as training of officials, with the ultimate goal of conclusive titles with title guarantee in India. This is integral for securing property rights, minimizing land disputes, and increasing overall efficiency of the economy. Other services such as providing land-related certificates (e.g. caste certificates, income certificates, domicile certificates etc.), abolition of physical stamp papers and electronic payment of stamp duty and registration fees, automatic mutations and single-window services are also envisioned under this programme.

In this regard, the draft Land Titling Bill, 2011 has also been proposed. The current system of physical property records has many drawbacks – such as duplication of property records maintained by different government bodies, inaccurate and missing records, time-consuming process of updating property records, to name a few. This Bill provides for the establishment, administration and management of a uniform system of conclusive property titles through digitization of property documents.

Any title recorded in accordance with the provisions of this Bill when enacted, shall be considered as evidence of the marketable title of the titleholder, subject to other provisions of the Bill. All such information will be available in the public domain and furnished upon request. Many States such as Uttar Pradesh, Haryana and Delhi are already undertaking digitization of land records.

e-Stamping & Registration: In various States like Delhi, Gujarat, Karnataka, Maharashtra, Assam, Tamil Nadu, Rajasthan, Himachal Pradesh, to name a few, physical stamp papers have been done away with and e-stamping facility has been introduced. E-stamping is a computer based application and a secured way of paying stamp duty to the Government. Upon payment of the requisite stamp duty, a

unique identification number is generated by the system which essentially acts as proof that stamp duty has been duly paid, making it easy to verify transactions. Payment for e-stamps is done via secured electronic payment channels, hence curbing fraudulent transactions and hoarding of stamp papers. Similarly, e-registration facility has replaced the conventional registration process in certain states including Mumbai and parts of Delhi, making registration transparent, accessible and free from touts.

Real Estate Bill:The land acquisition disputes in NOIDA and Greater NOIDA are yet to subside, confirming the need for establishing a real estate regulator. Specialized regulation of the sector would boost planned development and both domestic and foreign investment to meet the demand for housing.

The much-awaited Real Estate (Regulation and Development) Bill, 2013¹, covers a wide range of aspects viz. obligations of promoters vis-à-vis project disclosures, execution, setting up of regulatory mechanism, dispute resolution mechanism between promoters and allottees and allottees inter-se. With definitions of terms such as 'carpet area', 'common areas', etc, the Bill seeks to standardize best practices in construction sector. The main criticism of previous drafts of the Bill was that a multistakeholder approach was missing and that it focused almost entirely on regulating the developers, to the exclusion of other stakeholders such as contractors, sub-contractors and local authorities. As per the press release, real estate agents have been brought within the ambit of the latest draft of the Bill. To achieve the goals set out in the Bill's Preamble, the real estate regulators to be established in the various States and Union Territories will have to play an independent role have been mandated to evolve a consensus amongst Central and State Governments, local bodies, promoters, association of real estate developers. As instances of developers battling cost and time over-runs are numerous, provision of a single window clearance and time-bound process of granting approval would facilitate objectives of the Bill.

Right to Homestead: The right to property guaranteed by our Constitution was deleted by the 44th Amendment. However, recently the notion of right to property has taken an interesting turn with MoRD's proposal to introduce the National Right to Homestead Bill, 2013. This Bill is an ambitious entitlement-based legislation which promises that every landless and homeless family in rural areas shall own a 'homestead' of not less than '10 cents' (0.1 acre or 4,356 sq. ft.), consisting of a 'dwelling' with 'adequate' housing facilities. The Bill is expected to be introduced in the monsoon session of Parliament. The Bill proposes that the title to the homestead would be in the name of the adult woman member of the family and that priority in allotment will be given to marginalized communities. The introduction of the Bill is a politically contentious issue, and it will be interesting to see the course of its developments.

States like Haryana, Punjab and Gujarat are devising affordable housing policies by encouraging private developers to undertake affordable housing projects aimed primarily for the urban poor. The entry of private sector can help tackle the burgeoning issue of housing shortage and fiscal constraints. Earlier this year, then Union minister for Housing and Urban poverty alleviation Mr. [Ajay Maken](#) had assured that affordable housing may soon be granted the much-desired 'infrastructure' status and an Urban Housing Fund would be set up to facilitate financing. These innovative financial schemes and legislative reforms promise to change the landscape of realty.

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Footnote

1 As on the date of submission of the article for publication, the draft Real Estate (Regulation and Development) Bill, 2013 was unavailable in public domain.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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