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**URBAN LAND CEILING ACT:
*APPEAL TO REPEAL***

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Urban Land Ceiling Act

Appeal to Repeal

Makarand Bakore¹

JNNURM Reform: Repeal of Urban Land Ceiling and Regulation Act.

OVERVIEW

The Urban Land (Ceiling & Regulation) Act, 1976 (ULCRA) imposes a ceiling on vacant land in urban agglomerations and provides for the acquisition of such land in excess of a ceiling limit.² The Act was enacted to prevent the concentration of land holdings in urban areas in a few private hands and make urban land available for housing of the middle- and low-income groups.³ The Act came into force in 1976 in 64 urban agglomerations, spread over the states of Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Orissa, Punjab, Tripura, Uttar Pradesh, West Bengal and all the Union Territories.⁴ The Act was subsequently adopted in Assam, Bihar, Madhya Pradesh, Manipur, Meghalaya and Rajasthan. The state of Tamil Nadu had its own Act, known as the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978.⁵

ULCRA was repealed in 1999 by the Union government through the Urban Land (Ceiling & Regulation) Repeal Act, 1999, and subsequently, it was repealed in the states of Gujarat, Haryana, Karnataka, Madhya Pradesh, Orissa, Punjab, Rajasthan, Uttar Pradesh and all the Union Territories. The ULCRA is still in force in the states of Andhra Pradesh, Assam, Bihar, Maharashtra and West Bengal.⁶

Repeal of ULCRA is one of the mandatory reforms under JNNURM.

¹ Research Associate, Centre for Civil Society, New Delhi. My thanks to my colleague, Mr. Ali Mehdi, for reviewing this document

² Sify Glossary. <http://sify.com/finance/loans/fullstory.php?id=12984610&vsv=442> (Accessed on 9/1/2007 at 16:30)

³ Srivastava, Rahul. 'Planning the past: History of India's urban Plans'. http://www.infochangeindia.org/urban_india_06.jsp (Accessed on 9/1/2007 at 16:40)

⁴ Urban Land (Ceiling and Regulation) Act, 1976, Section 1(2)

⁵ Press Information Bureau. 'Performance Of Repealed Urban Land (Ceiling & Regulation) Act, 1976'. <http://pib.nic.in/focus/fojan99/fo1201991.html> (Accessed on 10/1/2007 at 13:10)

⁶ Ministry of Urban Development. 'Urban Land (Ceiling & Regulation) Act, 1976 and the Urban Land (Ceiling & Regulation) Repeal Act, 1999'. <http://urbanindia.nic.in/moud/publicinfo/acts/ulact.pdf> (Accessed on 10/1/2007 at 13:20)

PERCEIVED NEED OF THE ULCRA

ULCRA was passed during the emergency of 1976. The objectives of the Act were to prevent the concentration of urban property in the hands of a few persons and speculation and profiteering therein; to bring about socialization of urban land in urban agglomerations to ensure equitable distribution; to discourage construction of luxury housing leading to conspicuous consumption of scarce building material; and to secure orderly urbanization.⁷

The Act provided for imposition of a ceiling on both ownership and possession of vacant land in urban agglomerations; acquisition of the excess vacant land by the state government, with powers to dispose the vacant land for common good; payment of an amount for the acquisition of the excess land; and granting exceptions in respect of certain specific categories of vacant land.⁷

CEILING ON OWNERSHIP OF VACANT LAND UNDER ULCRA

In 'A' class cities such as Delhi, Mumbai and Kolkata, the ceiling was 500 sq. metres (0.05 hectares or 5,382 sq. feet) per owner. This figure was arrived at on the basis that a family of four should be entitled to 20,000 sq. feet. Land owned above this limit can be used only if houses for the poor are built on a part of it.⁸ In category B, C and D cities, the ceiling was 1,000 sq. metres, 1,500 sq. metres and 2,000 sq. metres respectively.

FAILURE OF THE IMPLEMENTATION OF THE ULCRA

The total vacant land, estimated to be in excess of the ceiling limits, was 2,20,674 hectares.⁹ Almost 40 million houses for the poor could have been built on this land.¹⁰ But the performance of the governments was dismal. As little as 0.4% of the surplus vacant land has been used to create houses for the poor.¹¹ 56,640 hectares (26%) was exempted under Sections 20 (for reasons of "public interest" and "undue hardships"). 5,327 hectares (2%) was exempted under Section 21 (for the purpose of building dwelling units for weaker sections of the society).⁹

⁷ Statement of Object of the Urban Land (Ceiling and Regulation) Act, 1976

⁸ Urban Land (Ceiling and Regulation) Act, 1976, Section 21(1)

⁹ Press Information Bureau. 'Performance Of Repealed Urban Land (Ceiling & Regulation) Act, 1976.', January 1999. <http://pib.nic.in/focus/fojan99/fo1201991.html> (Accessed on 10/1/2007 at 13:40)

¹⁰ Ramesh, Jairam. 'Cry not for ULCRA'. India Today, 18th January 1999

¹¹ 'Govt urged to repeal Land Ceiling Act', Times of India, 16th August 2000 (Accessed on 11/1/2007 at 12:00)

Out of the excess vacant land of 50,046 hectares vested in the state governments, only 19,020 hectares (38%) could be physically acquired¹² in 22 years of the enactment of the ULCRA. Of this acquired land, 10,910 hectares was put to use for the purposes of the Act, while the remaining 8,172 hectares could not be put to use.¹³

In Maharashtra, 262 acres (106 hectares) was acquired of a total of 30,023 acres (12,150 hectares) rendered surplus.¹⁴ Thus, a mere 0.87% of the vacant land has been acquired over the last thirty years. In Mumbai, Thane and Ulhasnagar, only 5% of the excess vacant land of 4,836 hectares was acquired.¹⁵ In Andhra Pradesh, of the total vacant land of 7,596 hectares, only 2,466 hectares (32%) was acquired, and 1,176 hectares (15%) was used to create housing for the poor.

REASONS FOR THE FAILURE OF ULCRA

There are several reasons for the failure of the ULCRA:

1. The state governments were bestowed with too much discretionary power in granting exemptions. Section 20 granted exemption in “public interest”, and Section 21 granted exemption on account of “undue hardship” to the land owner. Since the decisions on these criteria were very subjective, almost all land owners claimed exemptions. This also bred a nexus of corruption between politicians, bureaucrats and the builders. Those who could not gain exemptions went to the courts and the land got embroiled in litigation.
2. The compensation provided for the acquired land was so little that it was almost penal. The maximum compensation was rupees ten per sq. metre.¹⁶ The total compensation could not exceed Rs. 2 lakhs per owner.¹⁷ This made land owners reluctant to declare their vacant land as surplus.

¹² Rajya Sabha. Answer to starred question No. 172 on 8th June 1998

¹³ (1999) 2 SCC (Jour) 1. <http://www.ebc-india.com/lawyer/articles/9902a1.htm> (Accessed on 11/1/2005 at 16:30)

¹⁴ Ranade, Ajit. ‘Urban Zamindari’. Mumbai Mirror, 21st October 2006

¹⁵ Mumbai Metropolitan Region Development Authority. ‘Regional Plan for Mumbai Metropolitan Region 1996 – 2011’, Ch.8, p.180

¹⁶ Urban Land (Ceiling and Regulation) Act, 1976, Section 11(1)(b)

¹⁷ Urban Land (Ceiling and Regulation) Act, 1976, Section 11(6)

3. The ULCRA did not have any provision to ensure that the government created houses for the poor on the land acquired through the Act. For example, the government of Gujarat has surplus land of 1.30 crore sq. metres (1,300 hectares) in Ahmedabad, Rajkot, Surat, Vadodara, Bhavnagar and Jamnagar, which has not been utilised to create housing for the poor.¹⁸

Land prices in cities have reached astronomical heights due to the artificial scarcity of land created by the ULCRA.

REPEAL OF THE ACT

Since the objectives of the ULCRA were not being met, there were suggestions from the National Commission on Urbanisation (1988) and others that the Act should be amended. The Cabinet decided to repeal it, in view of promoting housing under the National Housing and Habitat Policy, 1998. With the passing of the Urban Land (Ceiling and Regulation) Repeal Bill, 1999, the ULCRA was repealed in Haryana, Punjab and all the Union Territories (including Delhi) from March 1999.¹⁹ Other states like Gujarat, Haryana, Karnataka, Orissa, Madhya Pradesh and Rajasthan repealed it subsequently. The only states yet to repeal the ULCRA are Andhra Pradesh, Assam, Bihar, Maharashtra and West Bengal.²⁰ Under JNNURM, they would have to commit to repealing it within a time frame committed to by them.

THE FALLACY OF THE ULCRA

“Why will a builder create houses for the poor?”

Supporting the ULCRA has an emotive appeal. Limiting the amount of vacant land in the hands of the rich and creating houses for the poor is enticing to the voters. “Why will any builder create houses for the poor?” is a question that plays on the distrust of big businesses. The real reason for builders not making houses for the urban poor is the ULCRA itself. When land is scarce, a builder will find a huge demand in the highest consumer segment. There will be no

¹⁸ ‘SC issues notice to State Govt on surplus land’, Ahmedabad Newslite, 23rd September 2006

¹⁹ Press Information Bureau. India Reference 2000. <http://pib.myiris.com/refer/article.php3?fl=B3754&sr=25> (Accessed on 10/1/2007 at 12:40)

²⁰ Ministry of Urban Development. ‘Urban Land (Ceiling & Regulation) Act, 1976 and the Urban Land (Ceiling & Regulation) Repeal Act, 1999’. <http://urbanindia.nic.in/moud/publicinfo/acts/ulact.pdf> (Accessed on 10/1/2007 at 13:20)

need to reach out to the smaller consumers. But the demand for the expensive constructions is always finite. If enough land is available, the builders will be forced to cater to the lower consumer segment.

This logic applies to many other products. Let us take the example of a shirt. We can buy a shirt in the market for Rs. 3000 as well as for Rs. 30. Why don't all companies make shirts priced at Rs. 3,000 only? The reason is simply that demand for the high-end shirts is finite. Once that demand is met, entrepreneurs are forced to target the consumers in the lower bracket. In this way, shirts are available in the market at all price points. If there was a scarcity of any input that went into making of a shirt, we would find only expensive shirts in the market. Similarly, ULCRA created an artificial scarcity of land, thereby only expensive housing is available in the cities. If this artificial scarcity is removed, builders will be able to meet the demand of housing in all consumer segments. The ULCRA is self-perpetuating as it creates a scarcity of housing for the poor and thereby justifies its own existence.

“It is the implementation of ULCRA that has gone wrong.”

Everybody agrees that housing should be available to all in our cities. With liberalisation and globalisation, the nature of the Indian economy is changing. India is exploring market-solutions to social challenges. Public-private partnership is looked at favourably by the government and the people. Is it realistic in today's times to expect people to give up their vacant land for a paltry sum to the government? The investment required to provide adequate housing and infrastructure to rapidly urbanising cities is too huge for the government to invest alone. It must take the help of private sector to achieve these goals. We have tried the ULCRA for thirty years and it has failed to provide housing to the urban poor. The perverse incentive that the ULCRA creates for land owners, builders and government officials is enough to ensure its failure. We must explore other ways of providing affordable housing to the urban poor.

REPEAL OF ULCRA AND THE WAY FORWARD

The repeal of the ULCRA will release 18,000 acres (7,284 hectares) of vacant land in Mumbai alone.²¹ The Chief Minister of Maharashtra has estimated that land prices in Mumbai will go down

²¹ Prabhu, Chandrashekhar. 'Landing in Trouble', Daily News and Analysis, 25th June 2006

by 30 to 40 %²² Approximately 10,000 acres (4,047 hectares) will be freed up in Kolkata.²³ Of the 17 states that had enacted the ULCRA, only five states are yet to repeal it. They should do so at the earliest to access the funds under JNNURM, but more importantly, to create a climate for construction of affordable housing in our cities for all.

²² NewKerala.com. 'Maharashtra to repeal Urban Land Ceiling Act for funds under JNURM', <http://www.newkerala.com/news4.php?action=fullnews&id=41413> (Accessed on 10/1/2007 at 16:50)

²³ 'Stumbling Blocks', The Telegraph, 17th February 2006

(continued from back cover)

Optional Reforms (Common to state and local bodies)

1. Revision of bye-laws to streamline the approval process for construction of buildings, development of sites, etc
2. Simplification of legal and procedural frameworks for conversion of agricultural land for non-agricultural purposes
3. Introduction of Property Title Certification System in ULBs
4. Earmarking at least 20-25% of developed land in all housing projects (both Public and Private Agencies) for EWS/LIG category with a system of cross subsidization
5. Introduction of computerized process of registration of land and property
6. Revision of bye-laws to make rain water harvesting mandatory in all buildings to come up in future and for adoption of water conservation measures
7. Bye-laws on reuse of recycled water
8. Administrative reforms, i.e., reduction in establishment by bringing out voluntary retirement schemes, non-filling up of posts falling vacant due to retirement etc., and achieving specified milestones in this regard*
9. Structural reforms
10. Encouraging public-private partnership*

The National Urban Renewal Mission (NURM) is a project of the central government. Through this project, the central government will fund 63 cities for developing urban infrastructure and services. The cities will have to carry out mandated reforms in return. The mission will last for a period of seven years starting December 2005. The total central government funding will be Rs. 50,000 crores. Adding the contribution of states and municipalities, the amount will go upto to Rs. 1,25,000 crores over the seven year period.

REFORMS UNDER NURM

CCS research papers are available for the starred reforms.

State Level Mandatory Reforms

1. Effective implementation of decentralization initiatives as envisaged in the Constitution (Seventy-fourth) Amendment Act, 1992 *
2. Repeal of Urban Land (Ceiling and Regulation) Act, 1976 *
3. Reform of Rent Control laws, by balancing the interests of landlords and tenants *
4. Rationalisation of stamp duty to bring it down to no more than 5 per cent within seven years
5. Enactment of public disclosure law *
6. Enactment of a community participation law, so as to institutionalise citizens' participation in local decision making *
7. Association of elected municipalities with the city planning function

Municipal Level Mandatory Reforms

1. Adoption of a modern, accrual-based, double entry system of accounting*
2. Introduction of a system of e-governance using IT applications, GIS and MIS for various urban services
3. Reform of property with GIS, and arrangements for its effective implementation so as raise collection efficiency to 85 per cent
4. Levy of reasonable user charges, with the objective that full cost of operation and maintenance is collected within seven years *
5. Internal earmarking of budgets for basic services to the urban poor
6. Provision of basic services to the urban poor, including security of tenure at affordable prices

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