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Abstract

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Key Words: Shelter, Urbanization, Legal Framework, Housing

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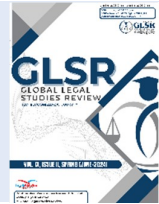
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Abstract

India's rapid urbanization and growing socio-economic inequality have resulted in a severe housing shortage. This study investigates India's legal and policy frameworks concerning housing, focusing on the 'Housing for All' initiative. It examines key legal developments, significant court rulings, and policies like the National Housing & Habitat Policy and the Land Acquisition Act, of 2013. The research highlights the challenges of implementing housing initiatives at municipal, state, and federal levels and evaluates their effectiveness in providing housing to underserved populations. The study underscores the importance of a robust and inclusive legal framework to achieve housing for all, suggesting that access to adequate and affordable housing is crucial for addressing India's housing crisis and ensuring social equity.

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Introduction

Since independence, housing has traditionally been considered an unimportant concern (Chandrasekhar, 2011). Prioritizing basic resources like steel and cement for the capital goods and infrastructure sectors was part of the planning logic that placed an emphasis on material allocation (Chandrasekhar, 2011). The purpose of housing's restricted consumption was to increase household savings outflows because it is seen as a final goods industry (Jain, 2013). As a result, the capacity of state-owned banks and development finance

institutions (DFIs) to provide construction financing was constrained (Mohan, 1996).

For example, Housing Development Finance Corporation Limited (HDFC) was only able to provide loans to homeowners by claiming that it obtained capital in the market rather than utilizing governmental funds (taxes or deposits) (Mohan, 1996). This justification also allowed Reliance to get beyond the 1956 Textile Policy, which otherwise restricted the textile industries in the organized sector (Jain, 2013). Financing for home construction didn't happen on a large scale until the



1980s, with the operations of HDFC and then LIC Housing Finance Ltd (LICHFL) (Chandrasekhar, 2011). The Narasimha Rao government's liberalization policies of 1991–1993 gave banks and other financial institutions the authority to lend money to people for the purchase and building of homes as well as to builders to fund their projects (Raman, 2010).

Much of India's economic development between 2003 and 2008, with growth rates that topped 8.5% annually, was fueled by large-scale housing investments (Mohan, 1996). The government has made an effort to provide inexpensive housing, but it has not been successful (Chandrasekhar, 2011). This is evident in the master plans of many large and medium-sized cities as well as in the programs designed for the Low-Income Group (Raman, 2010). Although low-income group housing has consumed a significant number of public resources, the issue of affordable housing has not been successfully tackled (Jain, 2013).

Presently, there are few ideological or theological impediments to the challenges of cheap housing, and money is not a major obstacle, since many regions seek to revitalize housing in order to spur economic recovery (Raman, 2010). This chapter will evaluate the Indian government's efforts to provide cheap housing, particularly the Housing for All 2022 and Pradhan Mantri Awas Yojana (Mohan, 1996). There has been little improvement in affordability as a result of these policies (Chandrasekhar, 2011). Scale and reach are still limited, especially when one considers that in quickly industrializing countries, public housing and land-cost reduction initiatives with high locational value are usually the primary drivers of inexpensive housing (Jain, 2013). As is well known, India is rapidly becoming more urbanized, with migration from small towns and villages contributing to an annual increase in the urban population of almost 3% (Raman, 2010). Thus, an increase in the supply of housing is required due to the growing urban population (Jain, 2013). Growth in and of itself is not rare, despite popular belief, as fast urbanization and economic transition are widespread occurrences (Chandrasekhar, 2011).

In reality, the housing "shortage" statistics that the Indian government and others frequently cite are needs-based (Mohan, 1996). In most housing talks, the real effective demand for housing, which

drives the shortage, has gone unnoticed (Raman, 2010). Demand determines the quantity and caliber of housing that households, in light of their financial situation and preferences, will decide to occupy (at given pricing) (Jain, 2013). The robustness of demand-based estimation would be lower than for commodities and services without market failure (Chandrasekhar, 2011).

The hold-out issue, particular values, and values resulting from the use of other properties are problems for land markets (Mohan, 1996). Thus, the market is also hindered from efficient use and allocation by the locational value element (Raman, 2010). Certain ones, like the holdout issue with aggregating land, are surmountable, while others can only be lessened by legislation (Chandrasekhar, 2011). When regulation is done incorrectly, it can exacerbate market perversities. In India, this is the situation (Jain, 2013).

The housing shortage is defined as consisting of the following elements by the Technical Group on Urban Housing Shortage for the Twelfth Five-Year Plan:

- Excess of households compared to the supply of suitable housing (individuals residing in unofficial houses)
- Number of additional homes required as a result of traffic
- Number of additional homes required as a result of obsolescence
- Quantity of Kutcha homes in need of upgrading

The previously described classification solely takes into account the need for housing and eliminates the housing requirements from the demand. Put another way, it isn't the actual need for housing. This criterion states that there was a national deficit of roughly 19 million need-based housing units as of the 2011 census (Bhan, 2013). There are two categories of housing markets: formal and informal (Desai, 2018). The government has severe requirements that must be met by the formal housing units (Sharma, 2016). However, due to their rigidity and possibly even "unviability," many of these standards are routinely broken in practice (Patel & Mishra, 2017). Conversely, as the informal market is unregulated and not subject to legal oversight, the majority of its participants do not adhere to even the most basic standards of living (Srivastava, 2015). A portion of people live entirely without housing except for these types of

homes. Nevertheless, this represents just about 3% of the total (Nair, [2014](#)). The informal "markets" are used by those who cannot afford housing in the regular market to live in chawls and bastis (Srinivas, [2012](#)).

After that, other initiatives pertaining to affordable housing have been added. These include MoHUPA ([2015b](#)) - throughout the mission period (2005–2012). JNNURM focused on housing through two policies.

It is possible that a two-pronged strategy could help visualize the answer to the urban housing dilemma (Ramachandran, [2014](#)). Making formal housing more affordable would be the first step, as it is commonly understood that untreated market failures push up housing costs (Roy & Bhattacharya, [2015](#)). These occur mostly through land whose "prices" represent the expenses of regulatory errors as well as obstacles and limitations on land usage (Singh, [2017](#)).

Land prices have increased in India as a result of laws that limit land usage, reduce FSI, restrict property transfers (thereby raising transaction costs), and other similar measures (Jain, [2018](#)). A greater number of individuals can access housing through the formal market and the cost per built-up area can be considerably decreased with the implementation of appropriate policies (Sundaram, [2016](#)). Even in the case of the most efficient markets, there will be a subset of the population that cannot afford even the most basic type of housing (Chaudhuri, [2017](#)). For these households to have access to basic housing, the government must provide for them. If the regulations to make the market efficient are already in place, the cost of such programs may be greatly decreased (Desai & Mahadevia, [2018](#)).

In the absence of this reform, providing even a minimal level of care for the impoverished would come at a very high financial cost, making universal coverage impossible (Ghosh, [2015](#)). The government works to increase the availability of affordable housing for low-income urban and rural residents through a number of programs (Tiwari, [2016](#)). According to preliminary calculations, the cost of addressing India's whole housing crisis comes out to a staggering 9% of GDP when land prices are excluded, and increases to 19% of GDP when land "costs" are taken into consideration (Mitra, [2018](#)). Land costs are irrelevant in any social cost-benefit analysis unless it is necessary to

account for the value of the land lost due to agricultural usage (Prakash & Rao, [2019](#)).

This implies that in order to provide housing for everyone within the next five years, the government will need to allocate 2% of its yearly GDP to affordable housing (Saha, [2020](#)). It is not feasible to allocate such a significant number of financial resources for a variety of reasons (Verma, [2020](#)). This amounts to around 0.13% of GDP. Therefore, a 2% yearly expenditure of GDP represents a fairly large increase. It will be challenging to accomplish this on a political and financial level (Roy & Sen, [2019](#)).

Affordable housing

Should the land and regulatory framework be altered without considering the best places for houses to be constructed, "affordable housing" developments would only occur in the periphery, where individuals who work in cities and must travel to central areas would rather reside (Bharucha, [2017](#)). Affordable housing is essential to define in order to highlight the scope of the problem before creating a policy on affordable housing (Patel, [2018](#)). It is also necessary to define this phrase in order to develop targeted strategies that offer attractive terms comparable to infrastructure investment, interest rate subsidies, or improved accessibility to financing (Sarkar, [2019](#)). Housing affordability is defined differently throughout the world (Tiwari & Parikh, [2017](#)).

A commonly recognized definition of affordability is the percentage of household income allocated to housing (Singh & Bhan, [2020](#)). The Indian government supports this definition as well, defining affordable housing as housing that satisfies certain affordability requirements concerning family income, residence size, or affordability in terms of monthly installments or the ratio of the price of the property to the annual income (MoHUPA, [2015d](#)). Both income and housing size are used to define the notion, according to a 2011 report from the MoHUPA. Alternative affordability criteria have also been developed in a number of studies conducted in the Indian setting (Verma, [2017](#)). Although spending is still the key criterion for defining affordability, there are alternative ways to measure affordability, which are discussed in the sections that follow (Bhardwaj, [2016](#)).

There are numerous variables in India that contribute to the demand for affordable housing (Nandy & Sivaramakrishnan, 2018). The population of cities increased rapidly along with rapid urbanization (Joshi & Pathak, 2019). This tendency has put pressure on vital services like water, power, and green areas while exacerbating problems like land scarcity, housing shortages, and clogged transportation (Mehta & Pathak, 2020). The Ministry of Housing reports that during the 12th plan period, there was a shortage of 18.78 million dwellings, mostly affecting lower-class and economically disadvantaged populations (Roy, 2017). Based on the 2011 Census, the number of slums and informal settlements was projected to be 65 million (MoHUPA, 2015e).

Second, the growing middle class brought about by increased earnings has increased demand for affordable housing that nevertheless has all the facilities that a family needs (Verma & Mishra, 2019). Thirdly, the Indian economy is heavily influenced by the real estate sector, which generated 6.3% of GDP in 2013–14, or an estimated ₹3.7 lakh crores, and employed roughly 7.6 million people (Kumar & Sharma, 2018). Affordable housing options are essential on many levels, including national, urban, and personal (Chaudhuri & Sinha, 2019). Cities are important centers for economic growth, and housing that is within the means of the median wage earner is crucial for drawing in and keeping the labor force that is required for long-term economic growth (Srinivas & Patel, 2017). In the United States, reasonably priced housing is a sign of balanced development across all sectors (Joshi & Sharma, 2018).

Exorbitant housing expenses can set off housing market instability, which can then ripple through economic policies and result in more significant economic imbalances (Bhardwaj & Patel, 2016). A well-known study shows a correlation between affordable housing and community-wide advantages in health and education (Nair & Ghosh, 2020). Affordable housing is closely related to many aspects of personal well-being (Sinha & Patel, 2019). It also draws attention to the beneficial externalities that affordable housing programs have on health outcomes (Patel & Sharma, 2020). An increased sense of personal control and life happiness, as well as better access to healthcare and education, have all been linked to the

availability of inexpensive housing (Verma & Joshi, 2018). Additionally, by promoting job stability, cheap housing benefits individuals economically and helps to lower crime rates (Roy & Singh, 2020).

Constitutional Perspective of Right to Housing and Shelter

The country India is one of the nations with a highly codified and well-defined constitution. Numerous laws and regulations protect the various rights guaranteed to citizens. Although not explicitly mentioned in any constitutional clause, the right to housing is a fundamental aspect of the document, as demonstrated by multiple legal precedents and practical applications. With the freedom to move about, engage in social interactions, and express oneself in various ways (Bhatia, 2019). Additionally, the rights to life, personal liberty, and the freedom to live and settle anywhere in the country have been interpreted to include the concept of adequate housing (Saxena, 2021).

Given that India is a welfare state, the government is responsible for ensuring the welfare of its people. Housing, which is closely linked to income, is a significant factor in this regard. The state has an affirmative duty to ensure political, social, and economic justice, in addition to maintaining order, to minimize differences in status, opportunities, and facilities among individuals and groups living in different areas (Chaudhary, 2020).

In *Sudama Singh v. Government of Delhi*, the court recognized the relationship between human development and well-being and the provision of suitable housing, concluding that the former serves as a "crucible" for the latter by combining elements of sustainable development, ecology, and growth (Rai, 2018). In addition to court rulings and constitutional provisions on adequate housing and shelter, the Indian government enacted the National Housing Policy in 1994, which recognized the state's role as a facilitator rather than a provider (Tiwari & Kumar, 2021).

The National Urban Housing and Habitat Policy eventually went into effect in 2007 with the intention of quickening the construction of housing and infrastructure generating a sufficient supply of homes for both the ownership and rental reasons, and emphasizing the need to improve the affordability of housing for the most vulnerable and

economically disadvantaged members of society (Sharma & Ahuja, [2022](#)). This policy aimed to provide suitable capital or interest subsidies, increase the accessibility of serviced land, and focus on developing housing for low-income and other economically disadvantaged groups (Verma & Singh, [2020](#)).

Poverty, often identified by financial constraints, is intricately linked to living conditions, health, and the availability of basic services like electricity, clean water, and air, which enable people to lead decent lives (Deshpande & Mukherjee, [2020](#)). In *Olga Tellis v. Bombay Municipal Corporation*, the Supreme Court recognized that poverty infringes upon certain human rights, including those outlined in Article 21 of the Indian Constitution. Poverty is acknowledged as the biggest barrier to achieving any other fundamental or human rights. Housing and shelter were deemed rights that should be protected, particularly for the less fortunate members of society, such as slum dwellers (Pathak & Gupta, [2019](#)).

The lower-income population is most likely to be denied access to housing and shelter. A decent standard of living, which protects one's dignity, offers security and promotes a sense of belonging, requires adequate housing (Khan, [2021](#)). In the cases of *Ajay Maden v. Union of India* and *Udal v. Delhi Urban Shelter Improvement Board*, the court discussed homelessness and forced evictions, highlighting the hardships faced by marginalized and weaker groups, a common thread in these cases (Sengupta, [2020](#)).

INDIA: The National Housing & Habitat Policy 1998

For a considerable amount of time, both the general public and decision-makers have expressed serious concerns about India's housing situation, particularly the country's housing scarcity. Population growth has exacerbated the housing deficit by significantly undermining public efforts to construct infrastructure and homes. The continuous influx of people seeking employment from rural areas has also strained housing and other services in metropolitan areas (Desai, [2021](#)). It is widely believed that a well-balanced housing strategy must be developed to meet the expanding demand

for housing while preserving our steadily declining natural resource reserves. Consequently, it is essential to ensure the balanced and sustainable development of housing and human settlements (Gopalan & Venkataraman, [2020](#)).

In July 1998, the Indian government announced the National Housing and Habitat Policy, 1998, with the aim of combating individual servitude and human indignity. This policy reflects a shift in the government's role, emphasizing the need for it to act more as an enabler and facilitator than a direct provider of housing. The policy encourages participants in the cooperative and private sectors to assume responsibility for supporting government programs by offering financial concessions and other incentives (Sivaramakrishnan, [2022](#)). With the anticipated greater engagement of the private sector, the government's direct intervention in the welfare of the impoverished and deprived will be reinterpreted (Agarwal, [2021](#)).

According to the 1991 Census, the nation's estimated housing shortfall was 22.90 million units, with more than 90% of this deficit accounted for by the impoverished and low-income groups (Patel, 2019). The Ninth Plan's housing provisions, along with this shortfall, will require an expenditure of Rs. 1,51,000 crores. It is anticipated that banks, financial institutions, and the federal and state governments will contribute no more than 25% of this total (Banerjee & Das, [2020](#)). As a result, greater private and informal sector involvement in housing is required to meet the enormous need for investment in urban and rural infrastructure.

In light of this, the government established "Housing for All" as a priority area through the National Agenda for Governance, setting a goal of building an additional 2 million homes each year, especially for the poor (Rao, [2021](#)). The National Agenda also highlights the role of housing activity in creating jobs in the nation. To achieve this goal, all administrative and legal barriers that obstruct housing development should be eliminated. The government would implement legislative and regulatory changes, provide financial concessions, and foster a supportive atmosphere. The private sector, as the other partner, would be urged to build homes, assemble land, and invest in infrastructural services.

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