

**UIRF** | Urban India Reforms Facility



## **JNNURM Reforms**

### A Brief Introduction



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## **JNNURM Reforms: A Brief Introduction**

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**List of Abbreviations**

- 74th CAA : Seventy Fourth Constitutional Amendment Act  
EWS : Economically Weaker Sections  
GoI : Government of India  
IHSDP : Integrated Housing and Slum Development Programme  
JNNURM : Jawaharlal Nehru National Urban Renewal Mission  
LIG : Lower Income Group  
RCA : Rent Control Act  
UIDSSMT : Urban Infrastructure Development Scheme for Small and Medium Towns  
ULBs : Urban Local Bodies  
ULCRA : Urban Land (Ceiling and Regulation) Act



## **Preface**

Our Parliament passed the 74th Constitutional Amendment Act (74th CAA) in 1992 creating an enabling frame for community participation in the functioning of Urban Local Bodies (ULBs). ULBs being in the state list, it was left to the respective state governments to initiate necessary legislative as well as administrative steps so that the spirit behind the 74th CAA will be taken forward. It speaks volumes that barring states like Kerala and West Bengal, no other states has implemented the necessary legislative and administrative measures in this regard.

It is true that the power structures, with well-knit coalitions of political representatives, independent of the parties they represent, bureaucrats, contractors, are having a tight grip on the functioning of almost all the ULBs in the country. These coalitions, ruling for years in respective urban centers, feel threatened when they are told to create space for communities to participate in the functioning of the ULBs. On the other hand, there are very few forums, which can un-compromisingly represent interests of common citizens; wherever they exist they are quite weak. As such, there is no worthwhile force which can counter the abovementioned coalitions and as a result, situation remains more or less unchanged even after 17 years of passing of 74th CAA.

Probably being aware of the ground realities and frustrated with its own piecemeal approach, Government of India while introducing Jawaharlal Nehru National Urban Renewal Mission (JNNURM) in December 2005 together with another set of schemes, viz., Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT) and Integrated Housing and Slum Development Programme (IHSDP), for the first time linked the financial assistance to be provided to the ULBs with the progress of implementation of a set of urban reforms. Accordingly, the Mission and these Schemes have stipulated 23 Reforms (broadly grouped under those related to land, urban poor, financial, and administrative) and has asked each state government as well as urban local bodies to commit timelines for completing them.

These reform initiatives (i.e., mission, mega-schemes, and governance reforms) involve far-reaching, comprehensive, and irreversible changes in laws, policies, processes, institutional mechanisms and systems. Understandably, such comprehensive reform initiatives could have serious

implications for public interest in general and interest of the poor and marginalized sections of the society. More specifically, this reform agenda has simultaneously given rise to a set of expectations as well as apprehensions among citizens. Expectations and apprehensions indicate the need for effective monitoring by citizens and public control on these initiatives for reform and development. For this to happen, there is a need for evolution of institutional mechanisms to empower representatives of citizens as well as citizens themselves.

According to mid-term appraisal of JNNURM by Planning Commission, even after more than four years of the mission, the progress of implementation of these reforms is rather tardy. The state governments have been selective in implementation of these reforms. For example, those aimed at facilitating land markets are being taken forward enthusiastically whereas those which will compel the ULBs to be more transparent are lagging behind. This situation is unwelcome but not difficult to understand. The reforms which will facilitate creation of land market are being driven by the prospective beneficiaries. For citizens' friendly reforms to succeed, they will also need drivers; and first step is to equip those citizens forums who propose to take up these issues on behalf of the common citizens with relevant knowledge and analytical products.

This Booklet is an attempt in that direction. It provides the readers a brief introduction of all the 23 Reforms stipulated under JNNURM Regime, while simultaneously extending a critique keeping interests of the common citizens, particularly urban poor as central consideration.

We will be happy if our endeavor will contribute, even partially, in enlightening those who intend to take up cause on behalf of common citizens in their respective ULBs across India.

- UIRF Team

## **1. Introduction**

The emergence of urban centres in India, particularly the large cities, as economic engines of the country has led Government of India (GoI) to launch Jawaharlal Nehru National Urban Renewal Mission (JNNURM) in mission mode to focus on cities with upgrading urban infrastructure, governance reforms agenda and mainstreaming of poor as its prime objectives. In addition, GoI has also launched identical schemes for small and medium towns.

The mission and the schemes have stipulated an identical set of 23 mandatory and optional 'reform proposals' to be implemented by the state governments as also by the ULBs and further that the release of central assistance is linked with the progress of implementing these 'reforms'. One of the explicit objectives of these reforms-linked-schemes is to make ULBs in India 'financially self sustainable' and also to make them 'accountable to citizens'.

This Booklet first introduces the mandatory and optional reforms at state and urban local body level. The reforms are grouped on common themes like land and real estate, governance, financial, pro-poor reforms, administrative and those aimed at water conservation. For each reform, first relevant background (situation prior to introduction of JNNURM, rationale of government of India etc.), then exact reform provision is provided and last possible concerns from citizens' point of view are outlined.

The objective behind preparing this Booklet is to provide an overview of all the 23 reforms in one place and list down likely concerns of citizens for each of these reforms so that it will come handy for the civil society organizations or any other agency for educating the common citizens on this subject matter.

### **1.1 Reforms: Mandatory and Optional**

The reforms agenda in JNNURM has been divided into mandatory and optional reforms. The mandatory reforms are to be compulsorily implemented within the mission period by states and urban local bodies. Whereas optional reforms are also mandatory, the only option being that states and urban local bodies are free to choose the two reforms which they want to implement in a particular year.

**Table 1**  
**Mandatory Reforms at State Level**

1.	Implementation of 74th CAA, 1992
2.	Reform of Rent Control Laws balancing the interests of landlords and tenants
3.	Repeal of Urban Land Ceiling and Regulation Act
4.	Enactment of Community Participation Law to institutionalize citizen participation and introducing the concept of Area Sabha in urban areas.
5.	Enactment of Public Disclosure Law to ensure preparation of medium term fiscal plan of urban local bodies/parastatals and release of quarterly performance information to all stakeholders
6.	Assigning or Associating Urban Local Bodies with City Planning
7.	Rationalisation of Stamp Duty to 5 per cent

**Table 2**  
**Mandatory Reforms at Urban Local Body Level**

1.	Adoption of modern accrual based double entry system of accounting
2.	Introduction of system of e-governance
3.	Increase property tax collection at least to 85 per cent
4.	Collection of Full cost of operation and maintenance or recurring cost
5.	Internal earmarking within local body, budgets for basic services to the urban poor
6.	Provision of basic services to urban poor including security of tenure at affordable prices, improved housing, water supply, sanitation and ensuring delivery of education, health and social security

**Table 3**  
**Optional Reforms at State and Urban Local Body Level**

1.	Revision of bye-laws to streamline approval process for construction of buildings, development of sites etc.
2.	Simplification of conversion of agricultural land for non-agricultural purposes
3.	Introduction of Property Title Certification system in Urban Local bodies

4.	Earmarking at least 20-25 per cent of developed land in all housing projects for EWS/LIG with cross subsidization
5.	Introduction of computerized process of registration of land and property
6.	To make rain water harvesting mandatory in all buildings and adoption of water conservation measures
7.	Bye-laws for reuse of recycled water
8.	Administrative Reforms
9.	Structural Reforms
10.	Public-Private Partnership

## 1.2 Reforms: Themes Based Classification

It has been observed that classifying these 23 reforms based on some underlying common theme will not only facilitate better understanding but will also prove to be economical while analysing them. Accordingly, these reforms have been bunched in six groups based on common themes, viz., related to land, governance, finance, administration and related to urban poor and aimed at water conservation. These groups are given in six tables below:

**Table 4**  
**Land and Real Estate Related Reforms**

1.	Reform of Rent Control Laws balancing the interests of landlords and tenants
2.	Repeal of Urban Land Ceiling and Regulation Act,1976
3.	Rationalisation of Stamp Duty to 5 per cent
4.	Revision of bye-laws to streamline approval process for construction of buildings, development of sites etc.
5.	Introduction of Property Title Certification system in Urban Local bodies
6.	Simplification of conversion of agricultural land for non-agricultural purposes
7.	Introduction of computerized process of registration of land and property

**Table 5**  
**Governance Related reforms**

1.	Implementation of 74th CAA, 1992
2.	Enactment of Community Participation Law to institutionalize citizen participation and introducing the concept of Area Sabha in urban areas.

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3.	Enactment of Public Disclosure Law to ensure preparation of medium term fiscal plan of urban local bodies/parastatals and release of quarterly performance information to all stakeholders
4.	Assigning or Associating Urban Local Bodies with City Planning

**Table 6**  
**Finance related reforms**

1.	Adoption of modern accrual based double entry system of accounting
2.	Increase property tax collection at least to 85 per cent
3.	Collection of Full cost of operation and maintenance or recurring cost
4.	Public-Private Partnership

**Table 7**  
**Reforms related to Urban Poor**

1.	Internal earmarking within local body, budgets for basic services to the urban poor
2.	Provision of basic services to urban poor including security of tenure at affordable prices, improved housing, water supply, sanitation and ensuring delivery of education, health and social security
3.	Earmarking at least 20-25 per cent of developed land in all housing projects for EWS/LIG with cross subsidization

**Table 8**  
**Administrative Reforms**

1.	Introduction of system of e-governance
2.	Administrative Reforms
3.	Structural Reforms

**Table 9**  
**Governance Related reforms**

1.	To make rain water harvesting mandatory in all buildings and adoption of water conservation measures
2.	Bye-laws for reuse of recycled water

Each of these reforms is discussed in six chapters divided according to their themes. There are three sub-sections for each chapter devoted to one reform

each viz. background before JNNURM was introduced, provisions in JNNURM and its analysis from the perspective of common citizens particularly urban poor. The background of pre-JNNURM situation is based on related literature review whereas provisions in JNNURM are reproduced from JNNURM documents especially the primers on reforms that have been published by Ministry of Urban Development, Government of India. The perspective of common citizens has been evolved largely through in-house discussions.

## **2. Land and Real Estate related Reforms**

The single largest group among JNNURM reforms are related to land or real estate. There are in all 7 reforms in this group as shown in the table below.

1.	Reform of Rent Control Laws balancing the interests of landlords and tenants
2.	Repeal of Urban Land Ceiling and Regulation Act,1976
3.	Rationalisation of Stamp Duty to 5 per cent
4.	Revision of bye-laws to streamline approval process for construction of buildings, development of sites etc.
5.	Introduction of Property Title Certification system in Urban Local bodies
6.	Simplification of conversion of agricultural land for non-agricultural purposes
7.	Introduction of computerized process of registration of land and property

The main aim of these reforms is to create land markets in urban areas and offer easy entry and exit to buyers and sellers. Though, it was expected that some of these reforms would increase availability of urban land in the market and thereby lead to a decrease in land prices, the truth of the matter is that land prices in cities have increased continuously over last few years partly, due to speculation in real estate. This has also affected prospects of acquiring land for affordable housing projects.

### **2.1 Reform of Rent Control Laws balancing the interests of landlords and tenants**

#### **Background**

The whole idea of a rent control act is to control and regulate eviction of tenants and not to stop it altogether. The standard/fair rent is normally fixed on the basis of the value of land and cost of construction when built. Rent Control Acts (RCA) have always favoured tenants in fixation of rents. Even though the objective of this practice has been to prohibit any profiteering, it has proved to be major disincentive for rental housing. The rates fixed in 1949 are still continuing in island city of Mumbai. This presents a gloomy picture for the future supply in the rental housing markets. In response to demands for increasing rents by some percent after every three or four years many state governments granted permission to increase the rents marginally but

this has failed as this hike in rent was not commensurate with rate of increase of market rents which is much larger. There are also other factors which have contributed to the impasse, viz., (a) The low rate of return also leads to rapid deterioration of existing housing stock, as landlords have no incentive to invest any funds in the upkeep of their apartments, (b) It is difficult to evict a tenant once the house has been rented, thanks to the provisions of the RCA. Thus, the fear of losing perpetual control of their houses might lead them to withdraw their vacant premises from the rental market, leading to reduced supply and (c) Difficult to resell a tenanted house from which it is difficult to evict tenants. This reduces liquidity in the market for ownership housing. All these issues have set the background for reforms in the RCA to ensure maintenance and availability of good quality housing stock on rent.

### **Reform Provision**

“JNNURM requires certain reforms to be undertaken by states/ cities in Rent Control. The Reform proposal envisages balancing of the rights and obligations of landlords and tenants to encourage construction and development of more housing stock, as well as promoting an efficient and robust rental/tenancy market”

States are expected to include following aspects in their Rent Control Legislation reforms under JNNURM

- i. Rights of landlord to get possession back
- ii. Rights of tenants to continue their tenancy
- iii. Obligations of tenants with regard to regular rental payments/ maintenance of tenanted property/ adherence to lease agreements, if present
- iv. Provision for periodic review of rentals, in accordance with market conditions
- v. Fixing of Standard Rents, periodicity of review, and dispute resolution mechanisms”

(Source: JNNURM Primer on Reform of Rent Control Laws balancing the interests of landlords and tenants, 2009)

### **Citizen Concerns**

- Reforms in Rent control Act need to balance interests of landlords and tenants and ensure quality of housing stock as well as affordable rents

- The governments should intervene to provide some indirect incentives to ensure moderate rents and upkeep of the buildings.
- Involvement and participation of tenants in improvement of assets.
- Building more tenements for rental housing has become urgent in view of the increasing number of migrants especially in metropolitan cities.

## **2.2 Repeal of Urban Land Ceiling and Regulation Act**

### **Background**

The Urban Land Ceiling Act (ULCRA) Act was introduced in 1976 with an intention to prevent hoarding of land in private hands and facilitating the government in executing social and common welfare schemes. The main purpose of the Act was to prevent hoarding or excessive holding of land in urban agglomerations by few people and to facilitate proper distribution and uniform development of all sectors of urban areas. The act aimed at preventing concentration of urban land in the hands of a few thereby checking speculation in and profiteering from land, socialization of urban land to ensure equitable distribution amongst various social classes and orderly development of urban built environment. The Act was applied only to large cities because the shortage of land was felt more grievously there as there was a constant influx of population. The Act provided for putting up a ceiling on the possession and ownership of vacant land in urban areas and acquisition of excess land for creating housing stock for the poor. The ceiling in Class I cities like Mumbai and Delhi was fixed at 500 sq. mts. vacant land per owner. The ceiling in other cities was progressively higher according to the size and class of cities. It was an instrument to regulate land supply for the state. It is not clear whether the repeal of ULCRA has resulted in deregulation along with increased land supply in urban areas. It has been argued that ULCRA distorted land markets in urban areas, exacerbated the growth of slums and limited the growth of private enterprises by creating an artificial shortage of land where none existed and this led to land rates shooting up beyond their actual value. The critics of repeal of ULCRA argue that repeal of the act is designed to exclusively benefit local and international investors and gives a free hand to the builder lobby to acquire vast tracts of land in the cities thus driving the poor out of the land market. It is assumed that with the repeal of the ULCRA, there will be greater availability of the land for different purposes which would in effect push down the price effectively. It is based on the assumption that market regulates in most efficient manner and will lead to market forces governing the prices without creating artificial scarcity.

## **Reform Provision**

“JNNURM requires certain reforms to be undertaken by states/ cities in the repeal of ULCRA with the objective of increasing the supply of land in the market, removing the inefficiencies and in the establishment of an efficient land market.” (JNNURM Reforms Checklist on ULCRA)

## **Citizen Concerns**

- The major concern about this reform is that it may lead to concentration of urban land in fewer hands especially real estate companies backed by global finance capital.
- There is increasing evidence of speculative activities in urban land driving land prices upwards. Increased prices of land is a hindrance to develop affordable housing and infrastructure facilities required for urban centres like sewerage treatment plant, water treatment plants and so on.
- Land is an important asset for poor. Under state control, land was available for affordable groups, and in absence of ULCRA, there are very little options that state has for providing land for affordable housing.

## **2.3 Rationalisation of Stamp Duty**

### **Background**

The real estate market in India, as widely known and acknowledged, is narrow and extremely cumbersome. According to Ministry of Urban Development, Government of India, one of the many barriers in the efficient functioning of the real estate market has been, and continues to be, the high rates of stamp duty on transactions .i.e buying and selling real estate. Stamp duties are imposed on transactions and it is usually transferred to the buyers of property and land.

### **Reform Provision**

The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) interalia aims at an efficient real estate market where transactions, i.e., sale and purchase of properties, can take place smoothly, without any barriers and in a transparent manner. The JNNURM requires the rates of stamp duty to be brought down to 5 percent or less, within the Mission period. (JNNURM Primer on Rationalisation of Stamp Duty, 2009)

Refer to Annexure 2 for the process of rationalization of stamp duty.

## **Citizen Concerns**

- Any adverse impact on revenue of the states due to reduction in stamp duties will erode state governments ability to undertake public expenditure.
- Rationalisation of stamp duty is not expected to make housing more affordable as it is imposed on the rates of the ready reckoner which are revised upwards every year.
- It is important that reduction in stamp duty rates can be carried out only after developing fair land values and publishing a ready reckoner for the same. This will prevent the undervaluation of properties.
- Stamp duty is levied only when property changes hands. Most urban citizens do not own a home. Even when they purchase one, they do it with an intention to occupy rather than sell it in their life time. Hence, it is felt that this reform may not have a direct impact on common citizens.

## **2.4. Revision of bye-laws to streamline approval process for construction of buildings, development of sites etc.**

### **Background**

It is widely considered that approval process for building and to develop sites are often time consuming, arbitrary and prone to corruption. The costs of the slow approval process are usually passed to the buyers by developers and real estate companies. Hence, GoI has felt that there is a need to revise existing bye-laws that govern the approval process. The main stakeholders for this reform are developers, state governments and urban local bodies.

### **Reform Provision**

The JNNURM reform to be undertaken by states/ cities needs to assess the current status by identifying the agency responsible for preparing the building bye-laws, establishing the legislation that governs the formulation of building byelaws and implementation of the regulation and examining the role of various agencies involved with building permission and sanction etc. The detail of the existing process of building approval needs to be assessed in order to frame the steps to achieve the reform. The reform in this area can be better understood if the extent of the use of technology and computerisation in the process of building approvals as well as for upkeep of records can be highlighted. The steps indicating the time taken to process/ give approval for building plans and the possible reasons for delay in the approval process also need to be assessed. The objectives of simplifying the building rules are to:

- (i) Make the building provisions development oriented with minimal parameters but at the same time safeguarding public goods and concerns.
- (ii) Strengthen the building control and enforcement mechanism.
- (iii) Encourage gated and other developments (row housing, enclaves, group housing etc.) so as to inspire housing activity with quality infrastructure and facilities. (JNNURM Primer on Revision of bye-laws to streamline approval process for construction of buildings, development of sites, 2009)

### **Citizen Concerns**

- There is a need to implement reforms to streamline the building approval process as it is often opaque, arbitrary and highly prone to rampant corruption.
- A faster approval process must not disregard planning, safety and environmental norms. It must not be free-for-all for the developers.
- Gated developments and housing enclaves mainly have luxury apartments and houses that are even beyond reach middle class citizens and exclude poor citizens totally.
- The approval process must also verify especially for private housing initiatives whether any apartments or land is earmarked for housing EWS/LIG sections. In fact, earmarking of land for EWS and LIG is a JNNURM reform related to urban poor.
- There is a need to develop capacity of urban local bodies to be more vigilant regarding violation of building rules.

## **2.5 Introduction of Property Title Certification system in Urban Local Bodies**

### **Background**

In India, there are different issues involved in titling of property including use of benami names to register property, forgery of title deeds and so on. The Ministry of Urban Development, Government of India has felt that problems in property titling are a hindrance to creation of land markets and there is a need to develop a proper system of property title certification system in urban local bodies. These reforms will have to implemented mostly at state government level.

### **Reform Provision**

Urban local bodies are expected to designate a title registration officer, who could be the collector or any such other authority. To fasten the grant of conclusive title guarantees, the ministry wants cities to establish land titling

tribunals and land titling appellate tribunals. This could revolutionise the land market and also have major implications for India's economy.

### **Citizen Concerns**

- This reform is aimed to support the creation of land market and is more likely to help developers and real estate companies and people who invest significant amount in land or property as an investment avenue. Their objective is not to occupy such houses or land but sell it at appropriate time in future and reap the profits from these transactions.
- Title certification system could resolve many disputes that often lead to litigations for a long time.
- Another issue this reform raises is on dealing with informal tenure system of the urban poor in slums. Though JNNURM emphasises on security of tenure to urban poor as a major reform in Basic Services to Urban Poor and Integrated Housing and Slum Development Programme, the threat of displacement still looms over urban poor as property title certification system becomes institutionalised especially if provision of security of tenure lags behind. Poor often access land through politics of stealth and accommodation which may be threatened.

## **2.6 Simplification of conversion of agricultural land for non-agricultural purposes**

### **Background**

In order to increase land supply, surrounding villages and agricultural land is merged with the city and become periphery of the cities. However, the conversion of these lands to non-agricultural use is often a long and tedious process with approvals required from many authorities. The GoI feels that simplifying the process will lead to an increase in supply of urban land. There is an absence of urban land policy which could lead to indiscriminate urbanisation. Even in declared urban areas, there is a need to get NA permissions.

### **Reform Provision**

JNNURM requires the states and cities to take sufficient steps towards streamlining the process of conversion of agricultural land to non-agricultural purposes with the broad objective of establishing a simple, transparent and lesser time-consuming process that encourages development of towns and cities. (JNNURM Primer on Simplification of conversion of agricultural land for non-agricultural purposes, 2009)

## **Citizen Concerns**

- The important issues that this reform raises is about the alternate livelihoods for the people who are dependent on land do when the land is acquired to be use for other purposes like real estate or infrastructural development.
- 2. The conversion of agricultural land for non-agricultural purposes may affect food security of city dwellers. Unplanned urbanization could lead to disastrous consequences both for citizens living in cities and peri-urban areas. Most cities and towns have expanded by merging adjacent villages to them.
- 3. Forced acquisition of land for urbanization or merging of rural areas to urban areas will lead to strong resistance as citizens will be wary of loss of livelihoods and increased taxes and user charges

## **2.7. Introduction of computerised process of registration of land and property**

### **Background**

The Ministry of Urban Development, Government of India is of the view that real estate market in India is extremely narrow due to the persistence of manual method of property registration, which is extremely cumbersome. One of the many barriers to the efficient functioning of the real estate market has been, and continues to be, the age old practice of manual system of registration, which results in corruption and delay. The registration system is governed by antiquated procedures, which include laborious copying and indexing of documents as well as their unscientific space consuming preservation in ill-maintained backrooms. The laborious procedures and lack of transparency in property valuation have resulted in a flourishing business of brokers and middlemen who exploit citizens who sell or buy property.

### **Reform Provision**

The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) interalia aims at computerisation of the process of registration of land and property, so as to deliver efficient, reliable, speedy and transparent services to citizens. The states/ cities are therefore required to undertake steps to introduce computerised process of registration to bring in an efficient real estate market where transactions, i.e., sale and purchase of properties, can take place smoothly, without any barriers, and in a transparent manner. Although many states have taken steps to introduce computerised process

of registration, in a few states, the manual system still persists. The JNNURM requires that computerization of the process of registration of land and property be adopted by all states and their concerned ULBs within the Mission period. (JNNURM Primer on Introduction of computerised process of registration of land and property, 2009)

### **Citizen Concerns**

- This reform may help common citizens who buy property and land and protect them from being exploited by brokers and middlemen.
- It also needs to be welcomed because it has potential to improve transparency and accountability to any citizens.
- However, computerization also threatens urban poor who live in slums where they do not have legal tenurial rights.
- Hence, provision of security of tenure must go hand in hand with computerization of land and property records.
- There is no regulatory agency to ensure impartial implementation of this reform.

### **3. Governance Related Reforms**

The opening up of the Indian economy since 1991 and wave of globalisation has seen the emergence of the private sector as a major stakeholder in urban affairs. The GOI has realised that without more participatory systems in urban local bodies, governance cannot be strengthened and it will affect other objectives of financial sustainability and infrastructure development in cities and towns. However, the impacts of these reforms are yet to be seen. Even if these reforms are implemented without political will of central and state governments to devolve more functions, finances and functionaries, participatory governance is bound to remain on paper.

There are 4 reforms related to governance as shown in the table below

1.	Implementation of 74th CAA, 1992
2.	Enactment of Community Participation Law to institutionalize citizen participation and introducing the concept of Area Sabha in urban areas.
3.	Enactment of Public Disclosure Law to ensure preparation of medium term fiscal plan of urban local bodies/parastatals and release of quarterly performance information to all stakeholders
4.	Assigning or Associating Urban Local Bodies with City Planning

#### **3.1 Implementation of 74th CAA**

##### **Background**

The 74th Constitutional Amendment Act of 1992, accords constitutional status to municipal government in India, for initiating a process of democratic decentralization and peoples' participation in local programmes. The objects and reasons of 74th CAA mentioned that "in many states, local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersession, and inadequate devolution of powers and functions. As a result, urban local bodies are not able to function effectively as vibrant units of local self-government." The 74th Amendment provided the statutory definition of the urban local bodies (ULBs) of different categories, stipulating the requirements of their constitution and composition as well as outlining the domain of their powers and functions.

It provided the framework for establishing a process of democratic decentralisation of the planning and development of urban area. It also

provided a mechanism for ensuring devolution of functional and financial powers to urban local bodies on a regular and continuing basis. The objective of the amendment was to make urban governance more responsive and closer to people. It was a commitment to people living in numerous towns and cities across India that they would be partners with local governments in their planning and decision making process.

For effective implementation of the provisions, the state governments were required to incorporate these provisions and amend existing legislation related to functioning of ULBs.

Most states have incorporated the provisions with regard to constitution of ULBs, reservation of seats for women as well as for scheduled castes and scheduled tribes, constitution of State election Commission has also been done by all states. However provisions relating to ward committees and planning committees at district and metropolitan levels have either not been included or have been diluted significantly. Most States have not undertaken any significant devolution of power or resources to make municipalities effective institutions of urban local governance. With the exception of the states of Kerala and West Bengal where devolution of functions and finances has taken place to a large extent.

In highly urbanized states (states which have a higher percentage of urban population than national average) like Gujarat and Maharashtra, the core urban planning functions including town planning, regulation of land use, planning for economic and social development has not been assigned to the municipalities. Most urban development programmes are carried out by departments and agencies of state governments or special purpose bodies that have been set up by state governments. It was expected that decentralisation in India would bring governments closer to the people and facilitate people's active participation in governance. However, only few states have taken an active interest in devolution of powers and finances to local governments.

### **Reform Provision**

The JNNURM wants to ensure that states implement 74th CAA. The checklist document clearly states that reforms are to be undertaken for implementation of 74th CAA by states. It requires the states to indicate the status of implementation with regard to constitution of municipalities, municipal councils, reservation of seats for women, scheduled castes and scheduled tribes, constitution of district planning committees and metropolitan planning committees and incorporation schedule XII into

state municipal act. For states that have not constituted a District Planning Committee or Metropolitan Planning Committee, they need to indicate whether a legislative process for their constitution has been initiated.

The states also have to indicate which functions in schedule XII have been transferred to ULBs and whether the transfer of functions has been accompanied by transfer of staff. The states also have to indicate whether they have constituted State Finance Commission, whether SFC have submitted their recommendations and status of implementation of these recommendations. All states that have not implemented any of the above provisions under 74th CAA have to indicate a timeline for the same.

### **Citizen Concerns**

- The formation of institutions like ward committees, district planning committees and metropolitan planning committees could have a significant positive impact on people's participation in urban local self governance. However, this requires that these institutions are endowed with sufficient powers and financial resources.
- It is still up to the state legislature to decide on the extent of decentralization in terms of finances, functions and functionaries and only through sustained people's movements can political pressure for decentralisation could build up on respective state governments.

## **3.2 Community Participation Law**

### **Background**

The Community Participation Law (CPL) is aimed at strengthening municipal governments by institutionalizing citizen participation through the concept of Area Sabhas (consisting of all registered voters of a polling booth in urban areas. It aims to involve citizens in municipal functions like setting priorities, budgeting provisions, exerting pressure for compliance of existing regulations, etc. CPL aims at sub ward level decentralisation and GOI had prepared a Model Nagar Raj Bill (MNRB) as a model CPL that states could follow. However, states have the discretion to decide on the model of CPL they choose to have.

### **Reform Provision**

The CPL is a mandatory reform under the JNNURM and it refers to making appropriate provisions in the state-level municipal statute(s) for the establishment of a three/four tiered structure for municipal governance.

The JNNURM makes it mandatory for states to either enact a separate CPL or make appropriate amendments to their existing municipal laws. These enactments will need to ensure clear definition of functions, duties and powers of each of these tiers, and provide for appropriate devolution of funds, functions and functionaries to these levels.

JNNURM contemplates the creation of another tier of decision-making in the municipality which is below the ward-level, called the Area Sabha. All the Area Sabhas in a ward will be linked to the ward level ward committee through Area Sabha representatives, who will be community representatives. There will thus be minimum of 3 tiers of decision-making in a municipality, namely, the municipality, the ward committee, and the Area Sabhas. In addition, states may choose to have an intermediary level for administrative reasons, clustering multiple wards into a regional structure between the ward and the municipality. Refer Annexure 3 to see steps in drafting a CPL. (JNNURM Primer on Community Participation Law, 2009)

### **Citizen Concerns**

- The 74th CAA as well as the MNRB endeavors to decentralize the urban governance below the municipality level through creation of sub-municipal-level institutions, viz., Ward Committees (WCs) and Area Sabhas (ASs). This decentralization is effective only when these sub-municipal-level institutions would be allowed to perform a wide range of functions and duties and also be allowed to enjoy equally wide powers, authority, and rights.
- The demand for delegation of functions and duties to sub municipal-level institutions like Ward Committees is to make it possible for citizens and their sub-municipal level representatives to participate in a significant, and meaningful manner in the process of making decisions about matters that affect their everyday lives.
- Thus, strengthening of sub-municipal-level institutions i.e., WCs and AS requires delegation of functions and devolution of powers to these institutions. This would, on one hand, facilitate true, significant, and meaningful participation of citizens or their local representatives in WCs or ASs; and, on the other hand, would empower citizens or their representatives in WCs or ASs to extract accountability from higher level functionaries who make or implement decisions affecting lives of citizens.
- It needs to be noted that availability of relevant information is a precondition for facilitating true, significant, and effective

participation as well as for extracting accountability of decision-makers and implementers. In other words, full and operationalized transparency—i.e., availability of full information in unrestrained and timely manner is a precondition for efficient and effective participation and accountability. Hence, a Public Disclosure Law is necessity to have an effective Community Participation Law.

- The key criterion for assessing the efforts to strengthen sub-municipal-level governance is to see whether these efforts facilitate participation as well as enhance accountability and transparency.

### **3.3 Public Disclosure Law (PDL)**

#### **Background**

The right to information is considered as an important right especially if we want to strengthen fundamental rights granted to citizens under the Constitution of India. The passing of Right to Information Act, 2005 by central government and subsequent use of the act by ordinary citizens to expose the corruption and poor governance in different public institutions have only furthered this thought. On the other side, the need to encourage private sector participation in urban infrastructure meant that information about urban local bodies especially financial information needs to be published in public domain. GOI has also published a Model Public Disclosure Law that the states can follow to enact their PDL.

#### **Reform Provision**

The JNNURM envisages the enactment of a Public Disclosure Law (PDL) to ensure release of quarterly performance information to all stakeholders. The core objectives of Public Disclosure Law are:

- To provide appropriate financial and operational information on various municipal services to citizens and other stakeholders.
- To promote efficiency and consistency in the delivery of public goods and services by the municipality.
- To enable comparison over time (of a particular ULB) and space (between ULBs) by disseminating information in a structured, regular and standardized manner.

The JNNURM reform toolkit clearly states, that “JNNURM requires that municipalities and parastatal agencies will have to publish information about the municipality and its functioning on a periodic basis. Such information

includes, but is not limited, to statutorily audited quarterly statements of performance covering operating and financial parameters and service levels for various services being rendered by the municipality.”

The enactment of Public Disclosure Law refers to making appropriate provisions in the state- level municipal statute(s) and/or other state-level statutes to ensure that these disclosures are mandatory. The stated goal of public disclosure is to institute transparency and accountability in the functioning of municipalities through publication of information pertaining to various facets of municipal governance, namely, personnel, particulars of administrative structure, finances and operations. (JNNURM Primer on Public Disclosure Law, 2009)

### **Citizen Concerns**

- A Public Disclosure Law for municipalities can be considered as a step forward in ensuring transparency and accountability of urban local bodies. This law can be considered as the next step in strengthening of urban local bodies after implementation of 74th Constitutional Amendment Act by the states.
- PDL will lead to disclosure of specific information by municipality at specified periodic intervals. It can facilitate in creating a favourable environment for public debate and discussion on policies, activities and works undertaken by urban local bodies.
- It can facilitate citizen participation in decision making process of urban local bodies. The law can also be a useful tool for citizens and civil society organisations for monitoring and building of public pressure in order to ensure public interest is protected in policies and programmes of urban local bodies. The law has the potential to eliminate to a large extent, corruption and misappropriation of funds in urban local bodies by creating a situation of ‘no room for secrecy’ in these bodies.
- The important elements that will determine the strength of the public disclosure law will be the scope and substance of information to be disclosed, the specified time period of disclosure, the form of disclosure and mode or manner of disclosure.
- This reform can also be seen as supplementing another key reform criterion of JNNURM, namely, enactment of Community participation law together helping to achieve informed participation. Thus, public disclosure makes ULBs more accountable to the citizen.
- The major difference between RTI and PDL is the type of information

to be disclosed. In case of RTI Act, information will be obtained by making a written request to the concerned authority. Whereas in case of Public disclosure law, it is a self-disclosure of information by the Municipality at quarterly interval. The scope of applicability of the RTI Act is wider than the PDL. RTI Act assures more transparency in organizational information. On the other hand, the PDL gives more emphasis on disclosure of information about fiscal and financial affairs of organization.

- But, whether states will enable auto disclosure and whether the focus will be on disclosing only financial information needs to be seen. Maharashtra's PDL does not have the provision for auto disclosure of information or even the period for disclosure of information. This illustrates the need for keeping track of public disclosure laws and ensuring that citizen friendly provisions are included in the PDL of all the states.

### **3.4 Assigning or Associating Urban Local bodies with City Planning Functions**

#### **Background**

City planning in India has been historically a function of development authorities in case of metro cities and town planning departments under state government for small and medium towns. Despite implementation of 74th CAA which lists urban planning as a function for urban local bodies, urban and city planning function still resides with the development authorities and town planning departments. Often, this has led to problems of coordination in implementation of city plans. Involvement of ULBs is expected to lead to better well planned cities.

#### **Reform Provision**

The JNNURM reform checklist on city planning states that "JNNURM requires certain reforms to be undertaken by states/ cities in the area of city planning, with an objective to assign or associate elected ULBs with "city planning functions". Over a period of seven years, the Mission aims to ensure that all special agencies that deliver civic services in urban areas to ULBs are transferred and accountability platforms are created for all urban civic service providers in transition". (JNNURM Overview document, 2006)

The states have to indicate whether urban local bodies have been associated with city planning functions, the role of parastatals in preparation of City

Development Plan (CDP) whether urban local bodies have approved CDP. The State also has to indicate whether the following functions namely Sewerage and water supply, public transport and solid waste management are performed by urban local bodies, state level agencies, city level agencies or others. The state governments have to pass a resolution “expressing commitment to transferring responsibility of the delivery of municipal services to the ULBs. (Note: This can be done by way of unbundling of services. E.g. parastatals or others including private operators may operate, maintain, even own and collect user charges for the production and distribution facilities for these municipal services, so long as they are accountable to ULBs. The state governments also have to indicate the year from which CDP will be in accordance with Metropolitan Planning Committee /District Planning Committee if it is already not so. The also have to indicate a timeline for transfer of the mentioned functions to ULBs.

### **Citizen Concerns**

- Transferring City Planning function to ULBs will certainly open up space for participation of citizens, however it is also true that the local level decision making is also relatively more amenable to the influences of the stronger economic interests at the local level.
- The various provisions of JNNURM regime are also aimed at facilitating “market led solutions” to the urban problems. It is apprehended that such market led considerations vitiate the spirit behind the ‘Planning’ process itself.

## **4. Finance related Reforms**

The JNNURM programme gives greater emphasis on finance related reforms because an important objective of JNNURM is to build financially sustainable cities. These reforms are expected to improve the financial status of urban local bodies which at present are mostly in very poor conditions with the exceptions of mega cities. Whether urban local bodies become financially sustainable after JNNURM mission period is over is yet to be seen. Without devolution of finances from states and central governments, urban local bodies especially those in small and medium towns are likely to struggle financially despite reforms.

There are 4 reforms in this group as shown in the table below.

1.	Adoption of modern accrual based double entry system of accounting
2.	Increase property tax collection at least to 85 per cent
3.	Collection of Full cost of operation and maintenance or recurring cost
4.	Public-Private Partnership

### **4.1 Public- Private Partnership**

#### **Background**

Cities are experiencing increasing pressure to provide accessible and affordable infrastructure and basic services due to growing number of citizens. At the same time, they are increasingly constrained in mobilizing the required financial and technical resources. Many cities do not have executive capacity to cope with the rising demand for water supply, sewerage, drainage, electricity supply, roads and solid waste management etc. Projects based on Public Private Partnership are increasingly being seen as solution to these issues. The GoI has defined PPP as :”The Public-Private Partnership (PPP) Project means a project based on contract or concession agreement between a Government or statutory entity on the one side and a private sector company on the other side, for delivering an infrastructure service on payment of user charges.”

#### **Reform Provision**

Public Private Partnership (PPP) is considered by Government of India as a viable alternative to overcome the systemic problems and to infuse efficiency into the operation and maintenance of infrastructure, while bringing in much needed private capital to supplement public funds. Infrastructure

projects are complex, involving different stakeholders, and require significant preparatory work referred to hereafter as project development. When properly structured or made “bankable”, PPP projects should meet the requirements of the government for service provision, with respect to standards, levels and quality of service etc. They also should reduce the project’s exposure to risks and attract private investments. The types of services that could be provided through PPP will, however, vary from one local government to the other based on their needs and priorities. The choice of the PPP model will depend on the city specific objective. For instance, the objective could be as diverse as expansion of infrastructure facilities while reducing the cost of new investments, or to control the extent of tariff increase through increasing efficiency, or develop alternate sources of water, or to turn around customer management services. The collaboration between the public and private sector could take any one of the forms, viz., (a) Public funding with private service delivery and private management, (b) Public as well as private funding with private service delivery and private management, (c) Public as well as private funding with public/private service delivery and public/private/joint management and (d) Private funding with private service delivery and private management. (JNNURM Primer)

### **Citizen Concerns**

- The major concern for citizens regarding PPPs in urban services is whether it will lead to privatization of urban services. This may have negative impact on access, affordability and equity in delivery of urban services for citizens especially urban poor.
- Another major concern for citizens is a steep rise in user charges or service charges for urban services due to entry of private players who need to recover costs and more crucially earn profits.
- The issues of transparency of contracts and accountability of private operators to the elected urban local bodies and ordinary citizens need to be addressed.
- Private sector companies may not find small and medium towns attractive because of the small scale of projects which also means smaller profits.

## **4.2 User Charges**

### **Background**

The poor maintenance of assets which are used to deliver public services has led to inefficiencies in delivery of these services. With the plan of increasing

privatization of public expenses, there is an increasing debate that operation and maintenance charges should be recovered from the ‘consumers or customers’ themselves.

### **Reform Provision**

A mandatory reform to be undertaken at the local body/city level is, “the levy of reasonable user charges by ULBs and parastatals with the objective that the full cost of Operation and Maintenance (O&M) or recurring cost is collected within the next seven years.” In other words, ULBs/parastatals managing the delivery of any urban service are required to revise user charges in such a manner that by the year 2012, income from user charges of a particular service recovers the full cost of O&M of the service. Rational user charges provide financial stability and strengthen the ULBs/parastatals by effectively recovering all the costs associated with a particular urban service. Such financially viable user charges may even generate resources for expanding or upgrading the service. User charges enable ULBs/parastatals to provide services from a demand perspective. They encourage people to realize the need for conservation of precious resources by reducing wastage and optimizing usage. (JNNURM Primer on User Charges, 2009)

### **Citizen Concerns**

- If the process for setting user charges is not transparent, present inefficiencies in the services will be passed on to the customer.
- There is a need for differential tariffs to ensure access and affordability of public services especially to urban poor. The ULBs can protect the interests of vulnerable groups through lifeline tariff mechanisms and cross subsidies. User charges need to be used as a redistributive mechanism that will benefit the poor.
- The concern of citizens is not on the need of meeting expenses on operation and maintenance. Rather it is on transparency of mechanisms devised to calculate these expenses and from which section of the citizens these charges are going to be levied. There is a need to evolve a criterion for charging rational user charges.
- Financial sustainability of urban services is important. Usually poor have to pay much more to access urban services through illegal means. If unaccounted water and improvement of collection efficiency of existing user charges can lead to a situation where there may not be need for increasing user charges.

### **4.3 Accounting Reforms**

#### **Background**

Most ULBs currently follow a cash basis of accounting, which provides inadequate information. Since, a statement of assets and liabilities is usually not prepared, a full picture of assets and liabilities is not readily available for appropriate financial management. The prevalent systems do not provide timely quality information essential for planning, decision-making and financial control.

#### **Reform Provision**

JNNURM reform conditionalities call for “improved municipal accounting, with the objective of having a modern accounting system based on double entry and accrual principles, leading to better financial management, transparency and self reliance”, as a mandatory reform for local bodies.

- Improved financial management, accountability, transparency of management and improved governance
- Accurate costing for all urban civic services
- Timely and better MIS for decision-making
- Accurate reporting of subsidies for better management and targeting
- Better control and utilization of assets
- Publishing of audited financial statements on a timely basis
- Better management of resources and risks
- Responsible civil society that is prepared to partner with local government. (JNNURM Primer on Municipal Accounting, 2009)

#### **Citizen Concerns**

- Single entry cash basis accounting system is more prone to corruption. Financial audits in many ULBs are pending for many years. Inadequate internal control systems and absence of an internal audit system hinder risk mitigation and management.
- As opposed to cash basis, accrual basis is a superior method of accounting of the economic resources of the urban local bodies. Under accrual accounting, recording of transactions and events takes place whenever a transaction occurs, even if no cash is received or disbursed, the relevance, objectivity, timeliness, completeness and comparability of the accounting records and statements are much enhanced. This system helps in creation of asset register of urban local bodies which

is necessary for their maintenance. Though accrual based accounting system is used in corporate sector, it is a misguided apprehension that using of accrual based accounting system is the first step in privatization of urban local bodies.

- Outcome budgeting and social audits need to be institutionalized in urban local bodies to develop citizen based monitoring and evaluation of municipal finances.

#### **4.4. Property Tax**

##### **Background**

Property tax is the single most important tax revenue source available to a ULB. Hence revenues from property tax form a significant part of income of an urban local body. In most States the weaknesses and deficiencies in the current system of property taxation does not allow for full use of the revenue potential of this tax. The present deficiencies occur on account of the present assessment systems as also poor administrative and information systems currently in place. Partly on account of the inbuilt deficiencies in the assessment systems noted above, and partly due to poor administrative systems in place, the present property tax systems have the following problems/drawbacks

- Scope for subjective assessments in a corruption-prone environment
- Scope for excessive use of discretionary powers leading to possible collusion between the assessor and assessee
- Non- transparency in the assessment process

Hence, JNNURM reform provision on property is being considered by GoI as a step towards increasing revenue from property tax as well as increasing transparency in the assessment process.

##### **Reform Provision**

Reform of the property tax systems is one of the mandatory reforms under JNNURM. The guidelines emphasize the need for a) proper mapping of properties using a GIS system so that the ULB is able to have a full record of properties in the city and bring them under the tax net b) making the system capable of self-assessment (that is a system which is formula driven and where the property owner can calculate the tax due) and c) improving collections to achieve at least 85% of demand.

The objective of the reform should be to:

- Tap the full potential of property tax as a source of own revenue of the ULB
- Make the system transparent and simple so as to be easily understood and interpreted by all property owners
- Eliminate/reduce subjectivity and discretion in assessment particularly at the field level
- Enable property owners/occupiers to calculate tax liability on their own, file self assessment forms and pay tax on that basis, putting the onus upon the assesses to pay tax on time
- Remove existing inequities in tax burden on similarly placed or similarly used properties
- Bring all properties into the tax net
- Make the systems of assessment, collection and information citizen friendly
- Introduce efficient mechanisms for speedy grievance redressal and dispute settlement
- Introduce system improvements to increase efficiency in tax administration focusing on the entire value chain – coverage, billing, collection and enforcement. (JNNURM Reform on Property Tax, 2009)

### **Citizen Concerns**

- The need for reforms in system of property tax assessment and collection is necessary. However, its impact on ordinary citizens and urban poor need to be seen. This reform along with property related reforms can all be seen as ensuring development of a stable urban land market in India.
- The burden of property tax must not fall disproportionately on ordinary citizens and the urban poor.
- In post octroi era, property tax, is likely to be the single most important source of ULBs revenue income. There is a positive correlation between property values or even rents with the vibrancy of economic activity in that city/town. Small and medium cities and towns are more vulnerable and they are witnessing decline in economic activities in their vicinity. Many factors would be contributing to this phenomenon like globalization of Indian economy, economic activities gravitating towards larger cities etc.

Refer to Annexure 1 for problems in assessment of property tax.

## **5. Pro-poor Reforms**

As a result of quite a few socio-political factors, not only the percentage of urban population in total population is increasing, the proportion of poor in urban centers is also increasing. With almost 30-50 per cent of the urban citizens being classified as poor, the Government of India seems to have realised that any scheme focussing on improving infrastructure in cities will need to look at mainstreaming the poor whose labour sustain cities and contribute to their economic empowerment. In this regard, the special emphasis on implementation of pro-poor reforms for BSUP and IHSDP schemes in JNNURM is to be appreciated. However, effective implementation of these reforms will be the key in achieving the stated objective of mainstreaming the poor. Urban poor are wary of reforms because often they have meant displacement from existing houses or slums, additional user charges and cutting down expenditure meant for welfare of poorer sections by urban local bodies.

There are 3 reforms related to specifically for urban poor in this group as shown in the table below.

1.	Internal earmarking within local body, budgets for basic services to the urban poor
2.	Provision of basic services to urban poor including security of tenure at affordable prices, improved housing, water supply, sanitation and ensuring delivery of education, health and social security
3.	Earmarking at least 20-25 per cent of developed land in all housing projects for EWS/LIG with cross subsidization

### **5.1 Internal earmarking within local body, budgets for basic services to the urban poor**

#### **Background**

There has been no uniformity in internal earmarking in budget for urban poor. Urban local bodies often have not spent this amount or diverted this amount to other expenditures. Also, schemes for urban poor have been often given lowest priority by urban local bodies.

#### **Reform Provision**

JNNURM requires ULBs to undertake reforms aimed at institutionalizing “internal earmarking of funds in their budgets specifically for basic services to the poor”. The Mission also seeks commitment from ULBs for undertaking

reforms in budgeting and accounting systems to enable internal earmarking of funds for the urban poor.

Internal earmarking of funds refers to the percentage of total estimated municipal income that would be utilized for provision of housing and basic services for the urban poor. While budgeting systems and processes are a key element for efficient functioning of municipalities, it is often the most neglected and underdeveloped barring a few exceptions.

“Internal earmarking, within local body budgets, for basic services to the urban poor”, is an important reform required for the attainment of the following larger objectives envisaged under JNNURM like scale-up delivery of civic amenities and services with emphasis on universal access to the urban poor. Also the focus is on provision of basic services to the urban poor including security of tenure at affordable prices, improved housing, water supply and sanitation, and ensuring delivery of other existing universal services of the government for education, health and social security and integrated development of slums through projects for providing shelter, basic services and other related civic amenities. (JNNURM Primer on Internal earmarking within local body, budgets for basic services to the urban poor, 2009)

### **Citizen Concerns**

- A major concern regarding this reform is manipulation of amount budgeted for urban poor by urban local bodies. An example is that of Pimpri-Chinchwad Municipal Corporation which has earmarked 15 per cent under every budget head in its 2008-09 budget as expenditure for urban poor.
- Urban local bodies often accord low priority to implementation of schemes for urban poor.
- There is need for mechanisms to monitor and evaluate the expenditure on urban poor to ensure tangible outputs. Outcome budgeting and social audit can be used for this purpose.

## **5.2 Provision of Basic Services for Urban Poor**

### **Background**

Even today, most cities are divided clearly in terms of provision of basic services. Often older parts and new peripheries of cities are completely neglected in delivery of basic services. It is in these same parts, that urban poor live in larger numbers, rents are cheaper and informal housing through slums or shacks are

available. Urban poor constitutes between 30 to 50 percent of the population of large cities. They contribute to the city's economic growth through labour most which is in the informal sector. They provide the labour that drives urban infrastructure development. They also pay local taxes for goods and services purchased in the city. However, their living conditions are abysmal. About 22 per cent of urban poor in India stay in slums. It is estimated that 20 per cent of urban households do not have access to safe drinking water. About 72 per cent of urban poor is not covered to any sewerage network leading to conditions of poor health and hygiene for urban poor.

### **Reform Provision**

Basic Services for the Urban Poor (BSUP) is a mandatory urban poverty reform for all local bodies supported under JNNURM. The goal is to provide basic services to all poor including security of tenure, water supply and sanitation and improved housing at affordable prices and ensure delivery of social services of education, health and social security to poor people.

### **Citizen Concerns**

- Providing affordable quality housing with security of tenure is a necessary condition for improving living conditions of urban poor, Affordable housing has the potential to improve the living conditions of urban poor and increase their spending on nutrition and education.
- In-situ upgradation of slums will ensure that livelihoods of poor are not affected. In small land medium towns where slums are not declared, there is a need to upgrade poor quality (kucha) houses for urban poor.
- Providing access to basic services such as water supply, sanitation and solid waste management has huge positive implications for health conditions of urban poor. It will also act as a step to improving the public health conditions of the city.
- The government must make efforts to ensure that health services through primary health centres, education facilities through anganwadis and schools are accessible to urban poor.
- Ensuring social security by providing livelihoods to urban poor and welfare measures like pensions for vulnerable sections.
- With legal access to municipal services, housing and livelihoods, the poor will be able to voice their needs and demands during planning of services. ULBs need to take into account these needs and demands when planning different schemes and projects for towns and cities.

### **5.3 Earmarking of at least 20-25 per cent land in all housing projects (both Public and Private agencies) for EWS/LIG category with system of cross subsidization**

#### **Background**

With sky rocketing prices of urban land, it has become impossible to acquire land for developing affordable housing for ordinary citizens and urban poor. With developers and real estate companies focusing only on upper middle class clientele and reduction in stock of social housing, the housing market has totally excluded low income citizens and urban poor out of its ambit. The reform of earmarking a certain percentage of land or tenements for EWS/LIG category housing is an attempt to correct this situation.

#### **Reform Provision**

This reform expects that all housing projects will reserve 20-25 per cent of land or tenements for economically weaker section (EWS) and Lower Income Group (LIG) in all housing projects undertaken by both public and private agencies. State governments are expected to issue an order to ensure this earmarking in all housing projects.

#### **Citizen Concerns**

- The reform proposal to earmark land or tenements for housing EWS and LIG sections is welcome. But ensuring its proper implementation will be the key to having effective outcomes of inclusive and slum free cities.
- The percentage of earmarking of land or housing can be arrived at urban local bodies after ensuring a consultative process involving all stakeholders. For example, Maharashtra has already reduced the percentage to be earmarked to 10 per cent uniformly across the state. This may not be sufficient to solve the issue of affordable housing in larger cities like Mumbai and Pune.
- The percentage of land or tenements to be reserved can vary from state to state and town to town. The demand for affordable housing in small towns may not be very high.
- The quality of housing as well as delivery of basic services like water supply, sewerage and solid waste management must be ensured. It is often seen that houses made for poor are often of poor quality without adequate basic services.

## **6. Administration related reforms**

These reforms aim to introduce new changes in administration of urban local bodies in order to facilitate better interaction between ULBs and citizens and for effective management of ULBs. There are 3 reforms related to administration as shown in the table below.

1.	Introduction of system of e-governance
2.	Administrative Reforms
3.	Structural Reforms

### **6.1. E- Governance**

#### **Background**

The recent advances in ICT and the Internet provide opportunities to transform the relationship between governments and citizens, as well as contribute to the achievement of good governance goals. E-governance will ensure that the interface between citizens and ULBs is made smooth and resolves the problems encountered by people at present.

#### **Reform Provision**

ULBs need to exploit the advantages of ICT to transform the quality and cost effectiveness of their services, to align and integrate them with those of other public bodies, and to collect and manage data in ways that make it possible to provide information and services in an integrated manner at the local level. (JNNURM Primer on E-governance, 2009)

#### **Citizen Concerns**

- Use of ICT can greatly help to improve service delivery, better information management and transparency, citizen involvement in government and overall improvement in urban governance across departments and at all levels.
- E-governance if used effectively can benefit both citizens and urban local bodies. However, urban local bodies will have to make extra effort to include urban poor and develop relevant services through e-governance for them.
- States like Kerala and Andhra Pradesh already use ICT for local bodies. Local experiments in planning and monitoring of service delivery through ICT needs to be encouraged.

## **6.2 Administrative reforms**

### **Background**

Generally, a number of systems and processes for functioning of ULBs are laid down as per Rules notified under the Municipal Acts, Procedures notified through Government Orders, etc. However, many of these systems and processes have become redundant over time, and require substantial change. Also for a number of areas procedures are not defined and practices have evolved overtime. Therefore, a thorough review of systems and processes is called for in order to address multiple challenges that have emerged over time, such as:

1. Municipal boundaries have expanded over time, requiring expansion in the administrative structure of the ULBs to address larger volume of work. Municipal functions have increased and become more complex. Most issues require multi-functional expertise to plan for, develop and manage. Thus the scale and skill requirements of municipal management have changed.
2. Information Technology can be significantly leveraged to manage large volumes of data, citizen information, spatial information, etc. Ability of IT software tools to store, transfer and retrieve large amounts of data, makes it possible to simplify and speed up many municipal processes. Information and communication technologies can also be leveraged for easier, faster and more accessible two-way communication between citizens and other stakeholders.
3. Adding more staff to deal with these changes is not an option for ULBs as it is important for ULBs to be cost effective in its delivery of services. (JNNURM Primer on Administrative Reforms, 2009)

### **Reform Provision**

These reforms under JNNURM seek to focus on issues related to people, systems and processes. Technically speaking, administrative reforms cut across various reform elements, and are not a stand-alone reform of a specific aspect of functioning of ULBs.

However, apart from all of the above further reforms are required in a few key areas, to enable ULBs function as effective units of urban local governments. (JNNURM Primer on Administrative Reforms, 2009)

### **Citizen Concerns**

- These reforms are related to outsourcing and contracting out most services provided by urban local bodies to private sector which may have serious negative implications for service delivery and accountability to citizens.
- Loss of jobs is a major concern for municipal employees leading to strong resistance from them to urban reforms agenda.
- There is a need to develop training programmes to upgrade skills of municipal employees. It is found that municipal employees are not provided adequate training and opportunities for upgrading their skills.

### **6.3. Structural Reforms**

#### **Background**

These reforms are seen by GoI as needed to facilitate and enable other reforms. They include restructuring different aspects of urban management process in the states.

#### **Reform Provision**

Structural reforms under JNNURM are therefore envisaged to provide an enabling and supporting institutional context for governance improvements to strike roots and sustain them. These include (a) Reforms in the institutional structures of urban management at the State level, (b) Creation of cadre of municipal staff for different disciplines, (c) Decentralisation of municipal administration, and synchronisation of internal jurisdictions and (d) Organisation structure review and optimisation of staffing patterns. Implementation of these reforms requires concurrent actions at both the State level and ULB level. The Department for Urban Development / Municipal Administration (or its equivalent) in every state should take the lead in enabling implementation of the above mentioned structural reforms. (JNNURM Primer on Structural Reforms, 2009)

### **Citizen Concerns**

- The lack of qualified and adequate staff is a hindrance to proper functioning of urban local bodies and dealing with issues of citizens.
- Implementing the community participation law, achieving targeted service levels, disclosure of service levels across wards in a city cannot be achieved in the real sense, until the administrative, revenue and electoral jurisdictions are aligned to one another. This realignment is

likely to run to strong resistance and discord among departments due to the fear of loss of power and importance.

- These structural reforms will make fundamental changes in the way state governments manage urban areas and urban local bodies. These reforms may face stiff resistance from state level and local level political leaders.
- Unnecessary limits on staff strength of ULBs make them ill-equipped to deal with complex responsibilities and functions which they have to undertake.

## **7. Reforms for Water Conservation**

The next group in JNNURM reforms are related to water conservation. There are 2 reforms related to water conservation as shown below.

1.	To make rain water harvesting mandatory in all buildings and adoption of water conservation measures
2.	Bye-laws for reuse of recycled water

### **7.1 Rainwater harvesting**

#### **Background**

The focus of these reforms is on conservation of water. Most Indian cities and towns are actually water deficient and cover their water deficits by supplying water from faraway lakes and rivers far away thereby creating water scarcity in those regions. The reforms like rainwater harvesting and reuse of waste water are small steps in improving the water situation in cities and towns.

#### **Reform Provision**

The main objective of making rainwater harvesting mandatory in all buildings is to recharge groundwater and augment overall water availability. This measure will ensure that the rain falling on all buildings is tapped and directed to recharge groundwater aquifers or stored for direct consumption by occupants of buildings. With increasing population in urban areas, the municipal bodies and other public agencies are increasingly finding it difficult to supply water in adequate quantities to citizens. Often citizens use private tube wells to supplement the municipal supply for their daily needs.

Recharging ground water will raise aquifer levels and will help municipal and other public agencies to have access to larger quantities of groundwater. Recharging aquifers will also reduce the requirement for additional financial resources for augmenting water supply. (JNNURM Primer on Rainwater Harvesting, 2009)

#### **Citizens-Concerns**

The proposal is in the interest of entire city or town and all citizens shall participate in its implementation to whatever extent they can

## **7.2 Reuse of Waste Water**

### **Reform Provision**

One of the optional reforms to be undertaken at the local body/city level is formulating “Byelaws for reuse of wastewater”. This primer provides explanation and lists the essential steps in implementing this reform. In this primer, the words “water reuse”, “reclaimed water”, “and treated wastewater” have been used interchangeably. To meet the water demand for the growing population and to provide for protection against droughts, local governments must make the most efficient use of their water resources. Water recycling and reuse offer cost-effective and ecologically beneficial solutions. Water reuse involves using domestic wastewater from bathroom, kitchen, clothes washing and toilets a second time around, for an appropriate purpose after primary, secondary or tertiary treatment. This can be at an individual property level or at group housing level like apartment complexes or at community level. (JNNURM Primer on Reuse of Waste Water, 2009)

By adoption of water reuse reform, ULBs can ensure adequate and reliable water supply for growing communities and thereby improving service delivery. In addition, water reuse facilitates ULBs in efficient resource allocation by promoting drawing of water from aquifers only for potable uses and reducing the need for augmenting supplies. Also, water reuse ensures resource conservation, preservation of sensitive ecosystems and reducing pollutant loading on rivers and streams.

### **Citizen Concerns**

- Both these reforms can be seen as attempts to deal with water shortages in urban centres and are welcome. However, their effectiveness will need to be studied and monitored.
- The capacity of urban local bodies to develop mechanisms to recycle waste water and reuse it needs to be developed.
- Incentives for rainwater harvesting need to be provided to citizens.

## **Annexure 1**

### **Problems in Assessment of Property Tax**

**Rental Value Basis:** The system of property taxation followed in most Municipal Acts is a rent-based rateable valuation system where the annual value or the annual rental value ( ARV) of the property shall be deemed to be “the gross annual rent at which the land or buildings might, at the time of assessment, be reasonably expected to be let from year to year ...”

**Capital Value Basis:** In many Municipal Acts there is an alternative provision for assessment of properties (particularly those self occupied) on a capital value basis. The annual value is arrived at on the basis of estimated market value of land and cost of construction at the time of construction or acquisition.

**ARV restricted by Judicial Pronouncements:** Over the last few decades a series of judgments of the Supreme Court have given a severe setback to the revenue aspirations of municipal bodies, since they are required to assess annual value for the levy of property tax on the basis of “fair rent” as determined under the relevant Rent Control Act, irrespective of the actual rent received, or whether a fair rent has been determined by a Rent Control Court or not. Even in the cases where the municipal law provided for a non-obstante clause, the Court ruled that the municipal authorities should not consider the actual rent as the only yardstick. It has been held that reasonable determination of rent by the municipal authorities needs application of mind, keeping in mind all relevant factors

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rent received, or whether a fair rent has been determined by a Rent Control Court or not. Even in the cases where the municipal law provided for a non-obstante clause, the Court ruled that the municipal authorities should not consider the actual rent as the only yardstick. This immediately leads to a scope for subjective assessment and discretion at the level of the assessing officer, as well as subjective interpretation by the appellate authority.

Other problems with the Rental based system: Besides the major issue above there are other problems with the ARV system:

- Rent deeds often suppress actual rent paid – with rent being collected in other forms like interest free deposits, partnership fees, charges for amenities and services
- Difficulty in arriving at hypothetical “rent” in the case of self-occupied properties, particularly residential properties which have never been rented out
- Problems of assessing properties like educational and medical institutions, clubs and entertainment places, hotels and guest houses.

Problems with a Capital Value based system: The system of assessment based on Capital Value has its own share of problems:

- In the absence of a free open market in land and property transactions, the purchase value of the property, particularly in metros, does not reflect the true “use” value of the property, but is more a speculative price
- Hence there is a tendency to under report transaction prices, to escape stamp duty and registration.
- There is limited availability of a computerized data base of property transactions against which an objective assessment can be made.
- Assessing staff are not professionally trained valuers to make scientific assessments in such cases.
- Since the capital value is determined with reference to the date of acquisition or construction, the tax base gets frozen, and there is no buoyancy in the tax.
- This also leads to wide disparities and inequity in similarly placed properties assessed at different points of time.
- There is uncertainty in what category of assets in the property should be assessed (eg. central air-conditioning systems, captive power generation systems).

(JNNURM Primer on Property Tax, 2009)

## **Annexure- 2**

### **Rationalisation of Stamp Duty**

The JNNURM envisages it to be a five-step exercise.

- i. Fixing of the “guidance values”** - Guidance values are values that are used for registering properties and other conveyance-related transactions. These reflect the market values of properties, and are therefore assumed to be appropriate for registration purposes. Many states have been using the “guidance values” (instead of the values that the buyer/seller may indicate in the registration form). Fixing the guidance values is a professional exercise. In order to impart professionalism, it is essential that the state governments set up a valuation board or a valuation committee, like the Central Valuation Board in West Bengal, whose principal task should be to fix the “guidance values” for the different parts of cities, towns, and villages. It is important to maintain the autonomy of such professional bodies. Many of the states have instituted the system of “guidance values”, which are published with due processes of public scrutiny such as their publication prior to finalization, inviting objections, criteria used for determining the values, etc.
- ii. Statutory backing to guidance values** – It is important that guidance values, which are determined with due processes, enjoy the statutory backing, and are not laid down purely via administrative decisions. A specific provision for the fixation and annual revision of guidance values is thus essential in the State Stamp Acts.
- iii. Reduction and gradual elimination of stamp duty remissions** – In many states, stamp duty remissions are commonly extended to specific groups of individuals, business and industry.

Apart from the fact that such remissions have weak reasoning, they reduce the revenue productivity of stamp duty and adversely affect the revenues from this revenue source. Doing away with such remissions should be an integral part of public policy.

- iv. Widening the scope of the definition of conveyance** - It is currently not uncommon to define the term “conveyance” in a narrow sense, excluding other instruments involving transfer of property, e.g., power of attorney, development agreements, Courts Orders, and decrees, etc. For realizing the full benefits of stamp duty reform, it is important to widen the definition of the term “conveyance” so as to widen the tax base, and further reduce the stamp duty rate.

(JNNURM Primer on Rationalisation of Stamp Duty, 2009)

## **Annexure-3**

### Community Participation Law

#### **Steps in drafting CPL**

The state should decide on whether to provide a four-tier (with an intermediary/regional committee) or a three-tier (without the intermediary committee) structure for participation.

The state should decide whether the provision would be restricted to certain types of ULBs. That is, the structure could depend on the size of the ULB. For example, the legislative provision for a three/four-tier structure could apply to ULBs with population of more than a lakh. The structure could be 2-tiered (at city and ward levels) when the ward population is a manageable size.

The legislation should provide the link between the different tiers, especially between an Area Sabha and a ward committee. This could be through the Area Sabha representatives, who may be either elected by the voters in the area or nominated by the ward councilor. The legislation should also specify the manner of selection of the Area Sabha representative and provide the voters the right to recall, if they are dissatisfied with their representative.

The state should decide on the functions that it would devolve to the different tiers below the municipal level. The legislation should provide an activity mapping of functions under each tier.

The legislation should provide for the responsibilities (based on the activity mapping) and powers of the different tiers. Finally, the legislation should also specify the role of the convener of the different tiers of participation, especially Area Sabha representative, chairperson of ward committee and zonal committee (if present).

The rules specified under the law should spell out the guidelines for conducting the business of the different tiers specifying the process for arriving at the business agenda and resolutions and also provide for checks and balances for the optimal functioning of the different platforms.

(JNNURM Primer on Community Participation Law, 2009)



