

## AFFORDABLE HOUSING IN INDIA: A WAY AHEAD

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### Abstract

As the national population increases, the need for the housing, infrastructure and better living grows proportionally. India being a rapidly growing economy and the second largest populated country, the real estate sector contributes nearly 6% to the gross domestic product to its economy. As 65% of the country's population is below 35 years of age and comprises primarily young professionals belonging to middle income and lower income strata, employed and working in the metropolitan cities of the country, the Indian economy is an extensive platform for affordable housing. A challenge to the quasi-federal state at this juncture is to provide a friendly environment for the people involved in business and to purchaser/s in order to add the contribution of real estate sector to the gross domestic product. Under this article, an overview about the affordable housing in India with initiatives offered by the Government of India is analyzed keeping in mind the present condition of the market due to other factors that affected the real estate sector and provide suggestions to improve the real estate sector with the help of affordable housing structure.

### Keywords:

Affordable Housing, Pradhan Mantri Awas Yojana, Real Estate (Regulation and Development) Act, 2016, Land Acquisition, Rehabilitation and Resettlement Act, 2013, Goods and Service Tax for Affordable Housing.

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## 1. INTRODUCTION:

With the changing times and growing economy, affordable housing occupies a pivotal position in the Indian real estate sector. There is an increase in the affordable housing business to a large extent owing to the migrating working class and vast scope that for development that still exists in the Indian paradigm. Due to rise in number of middle-class citizens and affordable housing sector being less susceptible to changes, the market is attracting attention of the lots. As per the United Nations report published in the year 2014, out of the total population of India, youth constitutes 28 percent of the population, which statistics is more than that of the World's largest communist state, China<sup>1</sup>. The youth population forming major share of the middle-class people<sup>2</sup> shall act as a driving force and play a major role in the country's economic growth contributing

significantly to the growth of affordable housing sector.

In a country like India which is the seventh largest country in the world by surface area, the cost at which a house is to be purchased is variable. As the economic development, income levels, geography affects the cost of construction and the consequent increase or decrease in the pricing of affordable housing, it is very difficult to define as to what actually affordable housing<sup>3</sup> is. However, according to the economic times, affordable refers to housing units that are affordable by that section of society whose income is below the median household income. As India is potentially rich in this sector, the government of India by passing Real Estate (Regulation and Development) Act, 2016<sup>4</sup> has created the authority to overlook and protect the interest of the purchaser/s and developers, further now after passing of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("LARR"), the appropriate

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<sup>1</sup> Report by United Nations Fund for Population Activities, „*The Power of 1.8 Billion, Adolescents, Youth and the Transformation of the Future*“, 18<sup>th</sup> November 2014; ISBN: 978-0-89714-972-3, Available at <http://eeca.unfpa.org/sites/default/files/pub-pdf/EN-SWOP14-FINAL-web.pdf> ; last visited on 19<sup>th</sup> August 2020 at 03:54pm. The same was also reported in The Hindu, „*India has world's largest youth population: UN Report*“, 19<sup>th</sup> November 2014; Available at <http://www.thehindu.com/todays-paper/tp-in-school/india-has-worlds-largest-youth-population-un-report/article6612615.ece> ; last visited on 20<sup>th</sup> August, 2020 at 04:01pm

<sup>2</sup> Morgan Stanley, „*India's Millennials to Recast Economy in own Tech Savvy Image*“, 17<sup>th</sup> March 2017, Available at <https://www.morganstanley.com/ideas/india-millennials-makeover-disruption-growth> ; last visited on 18<sup>th</sup> August 2020 at 09:10am.

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<sup>3</sup> KPMG, „*Decoding housing for all by 2022*“, Available at <https://assets.kpmg.com/content/dam/kpmg/pdf/2014/09/Decoding-Housing-for-all-2022.pdf> ; last visited on 17<sup>th</sup> August 2020 at 07:00pm. Theme 5 of the report that deals with „*Empower the consumer for greater affordability*“ categorizes the consumers on the income group and also marks the affordability.

<sup>4</sup> Real Estate (Regulation and Development) Act, 2016 as available at [http://www.naredco.in/notification/pdfs/egazette\\_The%20Real%20Estate%20\(Regulation%20and%20Dev elopment\)%20Act%202016.pdf](http://www.naredco.in/notification/pdfs/egazette_The%20Real%20Estate%20(Regulation%20and%20Development)%20Act%202016.pdf) ; last visited on 30<sup>th</sup> July, 2020 at 02:28pm and also available at <http://egazette.nic.in/WriteReadData/2016/168720.pdf> ; last visited on 30<sup>th</sup> July, 2020 at 11:23am.

government is empowered to acquire land for housing of such income groups<sup>5</sup>. The government of India also through Pradhan Mantri Awas Yojana, is providing subsidies to purchaser/s based on their corresponding income level group<sup>6</sup>. Further government of India has allowed 100% foreign direct investment in real estate sector through automatic route<sup>7</sup>.

However, there are external factors which affect such as other government policies, no provision for subsidies to developers/builders, demone-tization, implication of goods and service tax, economic crunch, structural and procedural frameworks for ease of doing the business etc. In the present article, the authors discuss about government initiatives for affordable housing sector, the problems and attempts to provide effective suggestions in this regard.

<sup>5</sup> Section. 2 (d) of Right to Fair Compensation and Transparency in Acquisition, Rehabilitation and Resettlement Act, 2013 states *project for housing of such income groups, as may be specified from time to time by the appropriate Government;* Available at <https://dolr.gov.in/sites/default/files/Right%20to%20Fair%20Compensation%20and%20Transparency%20in%20Land%20Acquisition%2C%20Rehabilitation%20and%20Resettlement%20Act%2C%202013.pdf> ; last visited on 01<sup>st</sup> August, 2020 at 01:21pm

<sup>6</sup> Pradhan Mantri Awas Yojana, Housing for all (Urban) Scheme Guidelines 2015, available at [http://www.naredco.in/notification/pdfs/PMAY\\_Guidelines\\_English.pdf](http://www.naredco.in/notification/pdfs/PMAY_Guidelines_English.pdf) ; last visited on 23<sup>rd</sup> July, 2020 at 01:55pm

<sup>7</sup> Business Line, „*Realty Sector eligible for 100% FDI via Automatic Route*“, January 10, New Delhi, Available at <https://www.thehindubusinessline.com/economy/policy/realty-sector-eligible-for-100-fdi-via-automatic-route/article10024720.ece> ; last visited on 23<sup>rd</sup> July 2020 at 02:35pm

## **2. GOVERNMENT INITIATIVES AIMING GROWTH OF THE SECTOR:**

### **2.1. HOUSING FOR ALL BY 2022 - PRADHAN MANTRI AWAS YOJANA**

The important step to provide affordable housing came in light in the year 2015 after Union cabinet passed the „Housing for all by 2022“ (“**Housing Mission**”) popularly known as Pradhan Mantri Awas Yojana, mainly concentrating on the urban areas with a focus on state and union territories. The following are the key features of the Housing Mission<sup>8</sup>:

- a. *Slum rehabilitation of Slum Dwellers with participation of private developers using land as a resource;*
- b. *Promotion of affordable housing for weaker section through credit linked subsidy;*
- c. *Affordable housing in partnership with Public & Private sectors and*
- d. *Subsidy for beneficiary-led individual house construction or enhancement.*

Under this scheme, people are classified based upon the income as either Economic Weaker Section (“**EWS**”), Low Income Group, Middle Income Group – I and Middle Income Group – II (“**MIG**”). Under the scheme, the annual

<sup>8</sup> PM India News Updates, “*Housing for All by 2022*” Mission – National Mission for Urban Housing”, 17 June 2015, Available at [http://www.pmindia.gov.in/en/news\\_updates/housing-for-all-by-2022-mission-national-mission-for-urban-housing/#skip\\_to\\_main](http://www.pmindia.gov.in/en/news_updates/housing-for-all-by-2022-mission-national-mission-for-urban-housing/#skip_to_main); last visited on 27<sup>th</sup> July 2020 at 11:03am.

income of a person is taken into consideration to ascertain EWS or MIG category. Further, the duration and coverage of the Housing Mission shall be from 17.06.2015 to 31.03.2022, covering 4041 towns with focus on 500 class one cities to be covered in three phases<sup>9</sup>.

Further an important and attractive feature of the Housing Scheme is credit linked subsidy wherein EWS and LIG are entitled for interest subsidy of 6.5% for the tenure of 15 years or during tenure of the loan whichever is lower. However, the subsidy is available for loan amount of Rupees six lakhs and interest subsidy is credited upfront to the loan which indirectly reduces the loan and reduces the amount of equated monthly installment. The credit linked subsidy scheme is also available for construction of new houses or additions to existing homes as well<sup>10</sup>.

An important feature is that it empowers the EWS to purchase homes being built by the state government, union territory or cities under the Housing Scheme. The states and union territories can plan for affordable housing projects in partnership with private entities wherein the Central Government shall provide

assistance of Rupees one lakh fifty thousand in such projects<sup>11</sup>.

With introduction of the Housing Scheme, the Government of India has taken a commendable initiative to provide affordable homes based on income groups and indirectly helping builders as well as the governmental agencies to partner with the private entities to provide affordable homes.

## **2.2. REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016**

The Real Estate (Regulation and Development) Act, 2016 (“Act”) was passed by the Rajya Sabha on 10<sup>th</sup> of March, 2016 and it received assent of the President of India on 25<sup>th</sup> of March, 2016 and got published on 26<sup>th</sup> of March, 2016<sup>12</sup>. After one year of the Act getting notified, as many as 27 states and Union Territories have notified rules under RERA and 16 states and union territories have a fully operational web portal for enabling online registration of real estate projects and agents. However, on the other end, Developers / Builders are of the opinion that the Act as well as the rules have completely sidelined the genuine grievances of the Developers / Builders. It has also been alleged that the Act is more consumer centric and does not include the solutions to the problems faced by the Developers / Builders.

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<sup>9</sup> Clause 1.5 and 2.1, Pradhan Mantri Awas Yojana, Housing for all (Urban) Scheme Guidelines 2015, available at

[http://pmaymis.gov.in/PDF/HFA\\_Guidelines/hfa\\_Guidelines.pdf](http://pmaymis.gov.in/PDF/HFA_Guidelines/hfa_Guidelines.pdf) ; last visited on 23<sup>rd</sup> July, 2020 at 02:22am

<sup>10</sup> Clause 5, *Ibid.*,

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<sup>11</sup> Clause 6, *Ibid.*,

<sup>12</sup> *Supra* 5

The builders opine that regardless of the fact that the Government wanted to remove the license raj in the country through this act and rules made thereunder, there are only increased checks and balances and the real estate sector is being submersed back to license raj regime wherein a builder has to take permissions at every state including but not limited to local authorities and real estate regulatory authority. It is suggested that there must exist one authority which can successfully render an end to end solution in the process of development.

Though it is very helpful for the consumers who were often been made to wait to get the possession of the apartment due to delay in completion by the Developer/Builders as most of their problems have been addressed by the Act<sup>13</sup>, the Developers / Builders raised their descent against the structure of the Act. However, when we throw light on the policies of affordable housing sectors, the Developers/Builders are also not on the losing end as Government of India is giving subsidies to the Developers/Builders and also attractive loans for purchase of the Apartment to the purchasers.

### **2.3. LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013**

<sup>13</sup> Real Estate Regulator Bill : 10 things you should know about, March 10, 2016, Available at <https://economictimes.indiatimes.com/wealth/real-estate/real-estate-regulator-bill-10-things-you-should-know-about-it/articleshow/51344872.cms> ; last visited on 31<sup>st</sup> July, 2020 at 01:22am.

Government of India from time to time by ratifying legislations has empowered the appropriate governments and itself to provide effective mechanisms to promote the affordable housing sector. Though, the government much prior to passing of LARR had other schemes in force, the target group under the erstwhile acts was limited to the economically weaker sections of the society.

The object behind enacting LARR was to actively involve the gram panchayats for land acquisition for public purposes to provide fair compensation<sup>14</sup>. Another important objective which LARR included was that it is made applicable when the appropriate government acquires any land to build houses for such income groups<sup>15</sup> and development of land of

<sup>14</sup> Objective of Right to Fair Compensation and Transparency in Acquisition, Rehabilitation and Resettlement Act, 2013 states „An Act to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialization, development of essential infrastructural facilities and urbanization with the least disturbance to the owners of the land and other affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto“.

Available at

<https://dolr.gov.in/sites/default/files/Right%20to%20Fair%20Compensation%20and%20Transparency%20in%20Land%20Acquisition%2C%20Rehabilitation%20and%20Resettlement%20Act%2C%202013.pdf> ; last visited on 01<sup>st</sup> August, 2020 at 01:26pm

<sup>15</sup> Supra 6

residential purpose of weaker section of society in urban and rural areas<sup>16</sup>.

Through LARR, government can now carry out social impact assessment and acquire the land for public purposes. So, the government on its own can now undertake the project for affordable homes and through LARR, the government on its own shall look after the acquisition, payment of compensation and resettlement of people who have lost their lands.

### **3. PROBLEMS & SUGGESTIONS:**

#### **3.1. GOVERNMENT POLICIES**

Government of India has allowed 100% of foreign direct investment in real estate sector through automatic route<sup>17</sup>. Though this step has been welcomed for attracting investment into the real estate sector and it boosts the affordable housing in the country, the dark side of the story is that foreign direct investments are being lowered due to corruption in the real estate sector. The report as provided by the World Economic Forum on Indian real estate sector and infrastructure venture states that *“High levels of corruption impede foreign direct investment and*

<sup>16</sup> Section. 2 (e) of Right to Fair Compensation and Transparency in Acquisition, Rehabilitation and Resettlement Act, 2013 states *project for planned development or the improvement of village sites or any site in the urban areas or provision of land for residential purposes for the weaker sections in rural and urban areas*; Available at <https://dolr.gov.in/sites/default/files/Right%20to%20Fair%20Compensation%20and%20Transparency%20in%20Land%20Acquisition%2C%20Rehabilitation%20and%20Resettlement%20Act%2C%202013.pdf> ; last visited on 01<sup>st</sup> August, 2020 at 01:29pm

<sup>17</sup> Supra 8

*market entry for global enterprises that assess the risks of damaged reputation and potential consequences under legislation such as the U.S. Foreign Corrupt Practices Act (FCPA) or the U.K. Bribery Act. Even if strong internal programmes are in place, risks remain along the supply chain via subcontractors and intermediaries”*. Further, the report also provides that real estate firms in India pay 50 percent on average basis as bribes to speed up clearances for the real estate and infrastructure ventures<sup>18</sup>.

Government must come out with the mechanism of transparency in order to abolish this which shall give rise to flow of foreign direct investment in the country as investors expect to get higher profit in the specified period of time. However, till today the government has been all talk and no action about even trying to eradicate corrupt practices from the authorities responsible to grant permissions.

Further, on 08<sup>th</sup> of November 2016, the government of India announced the demonetization of 500 and 1000 series notes. Though it was done with a view to the terror funding, black money, regularize tax payments and make people go cashless<sup>19</sup>, it witnessed

<sup>18</sup> Vikas Dhoot, Firms pay 50% cost as bribes, The Hindu, March 22, 2016, Available at <http://www.thehindu.com/business/Industry/firms-pay-50-of-cost-as-bribes/article8386124.ece> ;last visited on 01st July, 2020 at 01:35am

<sup>19</sup> Aishwarya Krishnan, Demonetization Anniversary: Decoding the Effects of Indian Currency Notes Ban, November 13, 2017, Available at <https://economictimes.indiatimes.com/tmc/your->

other effects wherein the real estate sector got hit due to money crunch and ongoing projects were hit which resulted in the delay of completion of project ultimately affecting the consumers. The government initially launched the Act and then declared demonetization. Though the effect was short term, it is observed here that it will give long term benefit to the sector as it will bring transparency and increase capital flows into the sector<sup>20</sup>.

### 3.2. STRUCTURAL AND PROCEDURAL FRAMEWORK FOR EASE OF DOING BUSINESS

It is necessary that Government should invite active participation from private players in affordable housing sector. There are instances in Gujarat where the affordable housing was taken in participation with the private players<sup>21</sup>. However, the private companies which are interested in taking up affordable housing are taken aback with the structural procedures which are not only lengthy and cumbersome but also

time consuming. The procedural aspects that are mainly involved relate to:

- (i) title of land
- (ii) Construction of building in compliance with the central and state legislations
- (iii) Pending litigations and institution of litigation after commencement of the project.

Often there is delay in approvals which are to be taken before commencement of the project due to over lapping of the jurisdiction of the sectors and lack of the clarity over the power of the authorities which give rise to individual interpretation and no accountability of the authorities.<sup>22</sup>

It is necessary for government to promote the affordable housing sector and simultaneously, establishing a single window clearance mechanism for the developers and builders who undertake building of projects and also to fix a definite timeline on the authorities. Specific guidelines must be issued for applying of approvals in order to wipe away any scope of ambiguity. However, the focus must be on a single window clearance and also LARR must be amended so that the government can only acquire the land and provide it to builders. An important amendment that LARR must undergo is to reduce timeline of acquisition and payment of the compensation within such timelines.

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[money/demonetization-anniversary-decoding-the-effects-of-indian-currency-notes-ban/articleshow/61579118.cms](https://www.moneycontrol.com/news/business/personal-finance/demonetisation-dissectingimpactreal-estate-sector--921129.html) ; last visited on 02<sup>nd</sup> April, 2020 at 04:53pm

<sup>20</sup> Narasimha Jayakumar, Demonetisation: Dissecting the impact on real estate sector, Available at <https://www.moneycontrol.com/news/business/personal-finance/demonetisation-dissectingimpactreal-estate-sector--921129.html> ; last visited on 20<sup>th</sup> June, 2020 at 04:00pm

<sup>21</sup> Gujarat govt to adopt „redevelopment policy“ for affordable housing in state, Jun 01 2015, Available at <https://www.firstpost.com/india/gujarat-govt-adopt-redevelopment-policy-affordable-housing-state-2272278.html> ; last visited on April 04, 2019 at 08:08pm and

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<sup>22</sup> Supra 4; Theme 3

Every alternative year, as the state governments are empowered with the sole authority to increase the guideline value of the lands, the Developers are under the direct loss as they have to also accordingly bear the costs of increment in the value. Further, the governments of states have shown an extent of leniency towards developers to load and develop the transfer development rights. It is necessary to mention here that in the State of Karnataka, though the government has provided the Development Right Certificate, but there exist a lot of pending applications before the developmental authorities to approve the same. Accordingly, the Government has to further provide land to the Developers to develop affordable housing which was even successful in some states.

#### **4. GOODS AND SERVICE TAX**

Affordable housing embraced an imperative uplift on Goods and Service Tax (“GST”) after the in GST council in its meeting held on March 19, 2019 announced a new tax rate of 1% for the affordable houses, the said boost was the need of the hour, the council also defined the affordable housing for the purpose of availing benefits under the GST, it’s now dealt with the carpet area and cost of the apartment. The price of the apartment in both metro and non-metro cities are kept at 45 lakhs, however, the carpet area is 60 square meters whereas for non-metros the carpet area is 90 square meters.

#### **5. CONCLUSION:**

Though Government of India has come out with the policy to provide housing for all by 2022, keeping in mind the prevailing circumstances, it is hard to believe that the objective will be achieved as implementation of policies are always delayed due to factors relating to existing rules, regulations and structural aspects.

Though the policy is in place from 2015, there is no such interest by the public at large to avail the benefit due to insufficient promotion of the policy and as well lesser projects that offer affordable houses. Keeping in the mind the youth and middle-income group of the country it is necessary that government must involve the private players and complete the project.

The other relevant factors such as the present legislations that are in place, be it the Real Estate (Regulation and Development) Act, 2016, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the local land laws and approvals as required under the respective laws should have been amended upto an extent that helps the sector.

Also, the government should provide a single window mechanism wherein the developers can get the approvals under one roof for the affordable housing projects, as approvals involve time which ultimately affects the commencement of the project and delays in the handover to consumers.

Affordable housing attracts many potential business models as well for the private builders/developers. The government can take measures and offer adequate relaxation and financial support to the builders to involve and develop the affordable housing in the country. It can be seen that the world economic forum which came out with the report stating that the developers in Indian real estate sector pay for nearly 50% of the amount involved in the project for approvals, this shall also have major impact on the sector and it might slowdown the foreign direct investments. A mechanism of transparency must be brought in place. Nonetheless, the real estate sector contributes 6% to the Indian gross domestic product and through effective policies for the affordable housing the contribution to the economy can be further increased.