

निवारा हक्क सुरक्षा समिति

संघर्ष :

अन्ना कुरीयन,
ब्रीचा हाऊस, गझदर रोड,
कोलाबा, बम्बई-४०००३९
फोन : २२१८९८

ऑफिस :

संघर्ष नगर,
प्लॉट २६७, एच-१/१
गोरेगांव-मुलुंड लिंक रोड,
मुलुंड (प), बम्बई-४०० ०९७

Dated : 3rd December 1998.

The Chairman and the Committee Members,
Parliamentary Committee,
The Urban Land (Ceiling and Regulations) Repeal Bill 1998.

Dear Sir,

Sub : Public Hearing

We are indeed thankful to you for giving us this opportunity to present our views on the subject of the 'Urban Land (Ceiling and Regulations) Act' and the Repeal Bill 1998.

Please find enclosed herewith our suggestions and objections, ^(11 pages) in continuation of our earlier submissions dated 24th August and 28th August 1998.

We are hopeful that the Parliamentary Committee will give due consideration to our views before taking the final decision.

Thanking you,

Yours Sincerely,
For Nivara Hakk Suraksha Samiti.


P.K. Das & Gurbir Singh.
Joint Convenors.

Encl : Our Submission.

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**SUGGESTIONS AND OBJECTIONS TO THE URBAN LAND
(CEILING AND REGULATIONS) REPEAL BILL 1998.**

Objectives of the ULC Act :

‘An Act to provide for the imposition of a ceiling on vacant land in urban agglomerations for the acquisition of such land in excess of the ceiling limit, to regulate the construction of buildings on such land and for matters connected therewith, with a view to preventing the concentration of urban land in the hands of a few persons and speculation and profiteering therein and with a view to bringing about an equitable distribution of land in urban agglomerations to subserve the common good’.

Urban Context (The background) :

Housing supply and the living conditions in our towns and cities is fast deteriorating, particularly for the poor and the middle class. Prices of real-estate are at an unaffordable limit, whereby more and more people have to live in shanties. Various housing agencies of the government have not been successful in easing this situation. The private sector which builds a much larger percentage of housing in urban areas have not even ventured to mass housing schemes for the poor. As a result of this indifference, both by the government and the private sector, environmental and housing conditions in our cities and towns is fast deteriorating, leading to social tensions and sharpening of class differences. x >

A) OPPOSE THE REPEAL BILL 1998 AND REINFORCE THE ULC ACT 1976 :

- 1) **We oppose the repeal of the ULC Act** - Instead, we propose that necessary amendments to the various provisions in the Act be carried out to strengthen the Act, limit exemptions and plug the loop-holes that allow for graft and corruption.

It is amply clear that what has failed is not the legislation itself but its implementation ; administrative apathy, legal loop-holes, exemption provisions and more important, the lack of political will and commitment to implement the objectives of the Act. To throw out the Act because of its non-implementation will be like throwing out the baby with the bathwater.

- 2) **Demands for ammendments and not Repeal** - The inter Governmental Committee (set-up in December 1996), the deliberations at the National conference of Urbanisation ; the Chief Ministers conference (held in March 1992) and the proposals approved by a group of Minister's (in October 1992), suggest 21 major and minor ammendments to the main Act of 1976. There has/ been no demand for its repeal by any of the above Committees.

We therefore find the proposal for repeal and the Repeal bill 1998 a handiwork , against a national consensus.

- 3) **Invalid declaration** - The Ministry of Urban and Rural Development has said that 2 states have demanded for the repeal, namely Haryana and Punjab. Firstly ULC is not applicable to Haryana, secondly Haryana was amongst the first to authorise the Parliament to enact the ULC Act, then choøse to remain outside the law and now suggest for its repeal. This seems to be a clear case of manipulation by same vested interests. Can we therefore rely on this process for taking important decisions that will have for reaching consequences ?
- 4) **Opinion Poll** - The Ministry has not carried out any opinion poll or survey in different States before putting up its recommendation for repeal. There has not been any conducted public debate or discussion either.

We suggest that a Select Committee under this very important Parliamentary Committee conduct hearings in different cities to allow

opportunity to grass root activists and organisations to express their views and thereby gather a wider public opinion.

- 5) **Monitoring the Implementation of the ULC Act** - The government has failed to monitor the various exemptions granted under the Act, which as we know far exceeds the quantum of land acquired. It is therefore necessary to set-up a review committee to examine the various proceedings under the Act in different States.

B) NEED FOR THE ULC ACT :

1) Government must be resourceful :

- 1.1. Desirable urban development requires increased production of affordable mass housing with proportionate amenities (schools, hospitals, open-spaces and playgrounds), services (watersupply, electricity, toilets, sanitation) and infrastructure (roads and transportation).
- 1.2 In most cities today, the building-up of the internal efficiency of the city has become a critical need. This involves reconstruction of old buildings, rehabilitation schemes, development of slums, repairs and reconstruction of rental or tenanted properties, changes in land-use, clearance of encroachers from land reserved for amenities and infrastructure, protection of water-fronts, forests and other environmentally sensitive areas, etc.

For carrying out these priority projects and in order to provide healthy living environment in our cities, the government must possess land and have direct control over other vital resources.

1.3. Implementation of Development Plan - Every city has a development plan in which proportionate land area for housing, industry, offices, amenities etc., are ear-marked and reserved. For implementing the development plan in any city, vacant land is essential.

2) **Creating Land Banks :**

The Inter-Governmental Committee (set-up in December 1996) recommends for the creation of a "Land Bank for the Urban Poor".

It is necessary for the government to set-up Land Banks in order to make land available on time and for projects of social priorities. The Urban Land Ceiling Act is a powerful weapon with the government for acquiring vacant urban land, whereby it would be possible to create the land banks.

- 2.1. Urban land is expensive for a variety of reasons, the single most important reason being the high investment that is made by the government for infrastructure (roads, electricity, watersupply, transportation etc.) and services.
- 2.2. This high investment land has to be effectively utilised for social development and not be made available for speculation, monopoly control, and for developments that subvert plans and programmes for the mass of the cities population. The high investments by the State cannot be kept unutilised or underutilised by private business interests. In order to carry out orderly and desirable urban development, the government must not starve of land but allow for its equitable distribution by active peoples participation.
- 2.3. We must not forget that land is a fixed commodity and its availability in cities is limited, unless otherwise its neighbouring areas are taken over and developed at high investment costs.

3) **Government Private Partnership : Government as enabler with Consumer equity :**

3.1. **Private Sector Failure :**

It is argued upon by the builders and developers and the Union Minister of Housing Mr. Ram Jethmalani that more land will be available for housing and infrastructure development with the scrapping of the ULC. It is commonly believed that land which have been locked up and unavailable for development, if released will lead to reduction in real estate prices, thereby making housing affordable. Private sector participation is absolutely essential in furthering investments in housing, it is argued, government which has not been very successful in providing housing would rather play the role of a facilitator.

These pronouncements are a bluff that is being perpetrated on the people of this country. Firstly we must realise that even before the ULC Act was promulgated in 1976, land and real estate prices were beyond affordable limits, not only for the poor but also for the middle class. When there were no restrictions, the private sector carried out unscrupulous developments without caring to build mass housing schemes for the poor nor expressed any concern of social responsibility. Speculation in real-estate had reached the sky, Land was being captured for business interests, and even kept unutilised for speculation and trading.

In recent times we have seen how schemes such as the SRD in Mumbai has been a total failure, wherein the government has completely entrusted the responsibility of mass housing to private builders while shirking its own responsibilities. Schemes such as these have further alienated the vast majority of our cities population from the main stream of development. The SRD scheme has hardly taken-off and the builders have not taken-up the responsibility.

We must not forget that the private sector will always compete, even amongst each other, to control production, capture resources and regulate market conditions, in order to monopolise and maximise profits. Housing for the poor and welfare schemes cannot figure in their programme. **Even if more land is available they won't get developed and built upon immediately. These would be controlled, production regulated, thus denying access to the poor to housing. Thereby the shortfall in housing or the gap between demand and supply will continue to increase. If more land is available, there will surely be more construction, but the question is not of merely building more but building more for whom ?**

We must also remember the fact that the formal and the organised construction industry has its own capacity and limitations in the production of housing units. Formal housing finance too is restricted. Hence beyond a certain number (for example about 25,000 to 30,000 housing units are built per year in Mumbai by both the private and public sector), the private sector cannot undertake the responsibility of dealing with this colossal task.

Concepts such as Land-Assembly (as proposed by Mumbai Metropolitan Regional Development Authority (MMRDA), as well as the policy of privatisation, with-ways of luring (FAR bonus, tax rebates etc.) land owners and developers in coming to undertake the responsibility of developing social infrastructure and mass housing will only subvert the social and developmental priorities of our cities and towns.

3.2. Consumer Equity And Housing :

Instead, with the governments initiatives and with equity, (equity of large numbers of poor and middle class, individually and as cooperatives) it will be possible to build mass housing schemes and

social infrastructure. The enormous human resources and the financial investment in the informal sector in housing (people building their own homes in cities) have to be given due recognition and tapped as equity in the housing finance outlay. If tenure^{at} rights to the poor and the middle class is guaranteed by government, the finance mobilisation at individual and co-operative level for investment in housing will be enormous.

Individuals will also raise their contribution ^{by} personal borrowings. For this purpose the government has to enable and facilitate projects by providing land directly to the consumer. It becomes therefore necessary to strictly implement the Urban Land Ceiling Act with necessary amendments and modifications along with a strong will and commitment by the government.

3.3. Government as enabler :

To encourage private investment in mass housing programmes, the government must provide with incentives directly to the consumers through fiscal concessions. These may include tax benefits, low interest loans directly from financial institutions, subsidised building materials and more importantly land tenure^{at} rights. These incentives must be offered to individuals as well as to consumers societies.

C) **PROPOSED AMENDMENTS AND MODIFICATIONS TO THE ULC ACT :**

The Urban Land Ceiling Act with modifications and amendments will encourage a stronger government and private partnership with a high level of public participation. The strength of this partnership will enable sustainable housing development programmes and projects.

1. **Plug Loopholes :**

It is necessary to cut-down exemptions, eliminate unintended concessions and thereby plug loopholes for corruption.

Sections 19-1 (iv), 19-1 (iii), 20, 21, 23 have to be radically altered and or scrapped for enabling the government to acquire land under this Act for social development.

- 1.1. In Section 19-1 (iv) the State Government may exempt vacant land owned by any public charitable or religious trust and or if the same land is required for any public charitable and or religious purposes. This exemption should be deleted.

Landlords have formed charitable trusts sighted reasons of undue hardship and got away. Builders and Developers have built apartment buildings of smaller areas to get exemptions and have subsequently clubbed the apartments and or have sold multiple units to the same person, thus getting away from the ULC.

- 1.2. Section 20 allows extra ordinary powers to the State Government to exempt surplus land from being acquired, in the interest of the location of the land, and in consideration of the purpose for which the surplus land is proposed to be used whereby acquisition would cause undue hardship to the land owner. These powers should be withdrawn from the State Governments.

- 1.3. In Section 21, the State Government may also exempt surplus vacant land from being acquired if the land owner declares that such land is to be utilised for construction of dwelling units for accommodation of weaker sections of society (each dwelling unit should not exceed 80 sq.mts. area). This exemption should be deleted.

- 1.4. Identification of vacant land is carried out by voluntary disclosures. As a result we do not have a correct assessment of vacant lands, thus subverting the very purpose of the Act. Instead the government should carry out surveys for identification of vacant land.

All these above provisions provides loopholes in the implementation of the Act. It also provides the State Government with extra-ordinary power to favour the landlords and exempt them, thereby encouraging corruption.

2. **Creating Land Banks :**

Necessary provisions must be made to build 'Land Banks' for easy availability of urban land for mass housing and for services and infrastructure development required for the city.

3. **Land Disbursement Policy and Development Regulations :**

The modified and amended Urban Land Ceiling Act must include a comprehensive Land Disbursement Policy (for disbursement of land from the land banks) and Development Regulations for those lands.

- 3.1. Land Disbursement Policy and the Development Regulations must enforce sustainable developments i.e. in due consideration of finances availability, technological capability, trained labour and manpower availability, services and infrastructure support systems, environmental and social desirability including setting out standards for open spaces. The ULC must outline procedures for assessment of a sustainable development on land under ULC.
- 3.2. The disbursement of land from the Land Banks must have controlled prices (as we have controlled prices for essential commodities). Hence the impact of land cost in the overall value of real-estate including in housing schemes, would thereby be restricted, making housing schemes more affordable.

- 3.3. Land that will be sold by the government from these Land Banks must carry conditions for its development, such as for the land use, time frame for its development (as in the case of CIDCO land in Navi Mumbai, 50% FAR has to be built within two to three years and 100% FAR utilised within four or five years), financial capability of the developer, project feasibility etc. In the event of failure or shortcoming in any of the above conditions, the government could acquire back the allotted land or impose substantial penalty in proportion of the original land cost (again as in the case of CIDCO), whereby high-cost urban land is not under-utilised.
- 3.4 Land could be made available from Land Banks for re-construction of large parts of areas within cities. Rehabilitation schemes (due to reconstruction of old and dilapidated buildings as well as for vacating encroachments on important sites and reservations) and slum redevelopment projects have come to be an important aspect of urban development, needless to say that the quantum too in these cases is phenomenally high.
- 3.5. Land could as well be made available to middle and upper class housing co-operatives and to builders and developers for HIG housing and commercial projects. This will indeed allow for active participation of the private sector in housing and real-estate development programmes. Land sold for these purposes may have higher price thereby, cross-subsidising cost of land for other larger social interest projects.

The quantum of land to be disbursed for various purposes may be proportionately fixed, based on the ratio of their needs and demands established by way of social surveys and as per the development plans of the cities.

4. **ULC Act - A National Policy :**

Extra-ordinary and discretionary powers provided to the State government must be withdrawn, while uniform and firm directions be issued under the Act (as in the case of the CRZ notification) *to all States.* Necessary legal amendments must be initiated ^{on} ownership rights for enacting land policies as a National policy and not consider it merely as a State subject. It should be withdrawn from the State List.

5. **Transparency and Public review :**

Numbers of exemptions have been very high in the records of the ULC. There has been no public information available nor has there been any follow-up investigation to check whether the exempted land has been utilised for its exempted purposes. Public scrutiny of the various exemptions is simultaneously required. Regular public reviews of the implementation of the Act must be carried out and acquired-land utilisation plan published for public scrutiny and information.