



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## **WRONG-HEADED POLICIES *IN THE NAME OF THE POOR*: CASE OF MUMBAI'S CESSED-BUILDINGS**

**ABHAY PETHE, RASHMI SHARMA**

Mumbai School of Economics and Public Policy (MSE-PP),  
University of Mumbai, India  
rashmis0102@gmail.com

**Paper prepared for presentation at the  
“2019 WORLD BANK CONFERENCE ON LAND AND POVERTY”  
The World Bank - Washington DC, March 25-29, 2019**

*Copyright 2019 by author(s). All rights reserved. Readers may make verbatim copies of this document for non-commercial purposes by any means, provided that this copyright notice appears on all such copies.*



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## **Abstract**

This paper is based on the premise that good governance and policy design must be informed by sound economic principles since, policies create incentives that influence behavior of the agents and agencies leading to take actions that in turn lead to outcomes. Such outcomes, when undesired, can distort the respective markets. Indeed, policies in the name of the poor have often led to repositioning of the ‘agents and agencies’ that lead to situations that ultimately harm the interests of the poor. Hence, we believe that, upon noticing the undesired outcomes, a critical evaluation of the underlying policy framework is paramount to deal with the root cause instead of symptomatic treatment. As an illustration of the above argument, we scrutinize the case of an important segment of housing market in Mumbai viz., cessed-buildings that came about as an outcome of the Rent Control Act 1947 and its surrounding offshoots/tributaries.

## **Key Words:**

Affordable Housing, Cessed-buildings, Mumbai, Policy Evaluation, Rent Control.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## Introduction

More than 30,000 buildings in Mumbai are in dilapidated condition that requires critical attention. Of these buildings, cessed-buildings are the centrally located and densely populated neighborhoods on privately-owned lands in the upmarket Island City of Greater Mumbai that numbered 19642 when the Mumbai Building Repair and Reconstruction Act was passed in 1969. Covering a meagre 71.4 sq. kms (15% of the Greater Mumbai) of land, Island City is situated on the south of Greater Mumbai as a peninsula, accommodating a density of 48000 people per sq.km. Because of the limited availability of developable land, there exists a *huge contestation of valuable land* causing land market distortion. With 27% of Island City's population staying in slums (MCGM, 2013a) and 64% residing in slum-like chawls/ cessed-buildings (Mahishi, 2015), barely 9% housing market is governed formally by the extant laws<sup>1</sup>. Indeed, the shortage of affordable houses may be considered as an outcome of policies adopted in the name of the poor that counter productively worked against them. As most of Mumbai's land is occupied/ developed already, the scope of increase in effective land space lies primarily in incremental vertical redevelopment of old buildings or slums settlements where additional floor space can be garnered by the developers in lieu of rehabilitating existing occupants in new constructions *in situ*. A sizeable scope of such redevelopment besets in the old buildings called chawls/ cessed-buildings, in Old Mumbai (Island City) that were capped under the draconian Rent Control Act (RCA) 1947. The thought behind the act was firstly to protect the poor tenants by freezing rentals and providing tenure security and secondly to provide an unhindered supply of labour force to the nearby industries, mainly Cotton Textile Mills. *Having the interest of one group (tenants) protected, the consideration of losses to other (landlords) were consigned to oblivion.* An estimate suggested that in 1970's three-fourth of the landlords were dependent solely on rents for their livelihood (Padamanabhan, 1998). One can safely assume cases where the tenants stand better-off than the landlords (Tandel, Patel, Gandhi, Pethe, & Agarwal, 2016). In the absence of wherewithal to invest in the upkeep, low returns to property could not hold landlord's interest towards the maintenance or improvements of these buildings as any investment in their betterment and the consequent rise in property value would not have led to any increase in returns accruing from it. Apart from this, reasons like change of use from residential to commercial/ industrial, unhygienic lanes, poor maintenance by the tenants and compositely constructed structures using conventional technology were equally

---

<sup>1</sup>The proportion of formal unprotected houses vis-à-vis chawls and slums together (9%: 91%) closely confirms with the bigger picture of organized versus unorganized sector in India (7%: 93%). Implying that the housing solutions of the low income groups (mostly involved in informal and low paying jobs) in Mumbai are slums and chawls.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



responsible for the dilapidated state of these buildings (Mahishi, 2015). Following the act, Mumbai Building Repairs and Reconstruction Board (MBRRB) was formed in 1971 to engage in maintenance of these buildings upon charging a nominal annual Repair Cess, hence the name cessed-buildings.

The arrest of this segment of housing activity switched off the supply side for any more affordable ownership or rental housing stock to the city (Patel, 2013). That is, against the stated objective, the RCA created a twofold deterioration in housing stock quality: firstly, by creating cessed-buildings that became slum-like over time and secondly by adding to the slums and providing an environment where slums became an *optimal solution for the not so well off*. Hence, the vested interests of the group of tenants protected under the RCA are thus far appropriating the benefits of rental housing whereas the rest of the city is either doling out overwhelming rents/ home loan instalments or living outside the formal space in slums. For this reason, Mumbai has three highly segmented parallel housing markets: formal, slums-informal, chawls-formal/ informal, wherein all three markets operate on the basis of different set of 'rules of the game'.

Starting with an Introduction in the first section, the paper progresses to the second section with an international and local narration of the RCA. The third section discusses the policies that facilitated the creation of cessed-buildings and affected their redevelopment later. Fourth section analyses, if the rent control in Mumbai was for poor or against them in the hindsight. Fifth section sheds some much needed light on the impact of redevelopment of cessed-buildings in the Island City. Some policy recommendations are listed in section six and the paper is concluded in the last section.

## **Rent Control Act: A Narrative**

Cities across the globe have adapted and reformed rent control at different times, for different duration (Fallis, 1988) with varying potency as per their local needs. However, the blanket regulations have more or less been similar that fundamentally focused on protection of the tenant and the landlord interest concurrently. Alongside specifying the clauses for maintenance of the building, key money<sup>2</sup>, tenant eviction, cut-off date for tenancy etc., RCA primarily lays a limit on the maximum rent that can be

---

<sup>2</sup> Key Money/ *Pagdi* Money is the cost of tenancy rights paid by the new tenant when the tenancy changes hands and is usually shared between the landlord and the outgoing tenant upon realization (In Mumbai, prior to the implementation of rent control act, an initial deposit taken by the landlords while hand over of the tenement to the tenant was called *pagdi*. Post the act implementation it holds a different meaning where the incoming tenant pays a lump-sum amount as a buyout cost of tenancy rights. 2/3<sup>rd</sup> of the *pagdi* money is appropriated by the existing tenant and remaining 1/3<sup>rd</sup> goes to the landlord).



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



charged from a tenant along with the provision of a reasonable tenure security. The international *savoir faire* of the said act is annotated subsequently using a United Nations report that epitomized the adaptation of RCA in 34 developing countries (United Nations, 1979). The synopsis of the report is presented in Table 1 (pg.29) and the highlights are as follows. The very first developing country to implement the said act was Chile in the year 1906. The method of standard rent determination has varied with countries where some had the government/ rent-controller fix the standard rent, some countries limited it to the existing rent at the time of act enactment, or to a percentage of cadastral value/ tenant's income, some others used the roll back formula that pulled down the extant rents to a percentage of their own. As an inducement to provide basic services to the rented premises, Tunisia exercised a policy of reduced standard rents for every missing basic service. Amongst all, the most granular rent determination model based on the singular characteristics of a building was pursued in Malaysia. Commonly, rent increases were often not allowed during the lease period and were mostly linked to increase in utility prices, additional or new taxes or repair work. In Buenos Aires, rents were indexed to wages which were revised every six months. Anomalies in regard to the coverage of the act were mostly seen in high rental premises, informal houses and premises rented with the government bodies. Panama was the only country to cover the informal settlements under the rent act with the help of organizations working at grass root level. Few cities/ countries exempted new constructions from control for certain initial years. Notwithstanding the protection provided to the tenants under the act, most acts had eviction clauses on grounds like non-payment of rent, non-occupancy of the premises, employment ceasing to exist in case of employment linked tenancy, rent control building undergoing redevelopment/ renovation/ demolition for public works or safety reasons, recovery of the premises established on requirement of the landlord for his personal stay/ setting up a new business or for parking purposes, retirement of the landlord, inflammables being stored in the premise, illegal subletting of the premise by the tenant, conduct of unlawful practice or nuisance/ damage created at the premise by the tenant. Although exchange of key money has not been a common practice, it is accepted legally for long leases in a few countries. In Hong Kong, the tenant is provided a five year tenure security if the landlord is unable to prove the non-acceptance of key money.

India too has its history with RCA. Starting World War I till the end of World War II, mostly all major towns and cities had their acts in place. Since housing is a subject matter of state jurisdiction, there is no central act for rent control in India *en masse*. 28 states had employed distinct acts in their territories (Dev, 2006). The idiosyncrasy of the Mumbai's version of the act can be best understood against the background of city geography and regulations for starters. As stated above, Mumbai City, also known as the Island City or SoBo (South Bombay informally) and a future city (Moir, Moonen, & Clark, 2014) , is



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



a peninsula situated in the southern part of Greater Mumbai. The geography, that acted as a port and facilitated trade once, turned into a restraint when the blooming city created employment opportunities and attracted workforce from all over the country. Rising demand for land and housing necessitated the city sprawl to the only possible direction, north. Geographical oddity and dearth of developable land may be gauged by the basis that 66% of the land within 25 kms radius from the City Centre, Churchgate, is covered with water bodies (Bertaud, 2011). Besides the geographic sparseness of land, plan after plan downward revision of Floor Area Ratio<sup>3</sup> (FAR) exacerbated the horizontal dearth of space by restricting the effective land supply too, in the city (R. Sharma, 2018). Due to consequent unaffordable property rates, 42% of Greater Mumbai's (Island City and Suburban Mumbai) population shelters in Slums covering barely 6% of the land (MCGM, 2010) and 94% of the population cannot afford to buy a house (Gandhi, 2012). Amongst other policies, one of the primal causes for the aforementioned crack in the housing market of Mumbai is the RCA 1947 that continues to be followed till date with a few marginal and dated changes. The gravity of the problem created by the act may be gauged by the following fact-list.

Cessed-buildings located in Island city are as old as 60 to over 150 years with more than four-fifth of the buildings constructed before 1940 (Mahishi, 2015). According to the Census report 1911, 80% of the city's population was living in chawls at the beginning of the 20<sup>th</sup> century (Pendse, Adarkar, & Finkelstein, 2011). A field study conducted in 1980's reported that 80% of the cessed-buildings needed either heavy structural repairs or demolition followed by reconstruction (Muttagi, 1988). As of 2010, 92% of the rental housing in Island city is protected and out of the total residential buildings constructed before 1961, 50.3% are protected under the act (Tandel et al., 2016). In the past four decades, 3212 cessed-buildings have collapsed causing over 800 casualties and approximately 2000 injuries (Mahishi, 2015).

Most of the buildings identified as rent controlled Buildings in 1947 were constructed either by textile mill owners (for employees), government (BIT and BDD chawls) or private investors/ landlords (as an investment opportunity) (Pendse et al., 2011) to provide for the growing housing demands in the city around and post 1860's (Karandikar, 2010). Great majority of such buildings were load-bearing that were constructed using wood and concrete. Such buildings lacked a robust foundation. These buildings mostly comprised of ground plus two levels; however due to the increasing demand and absence of any FAR restriction then, more storeys (up to six) were added subsequently. These buildings open at the pedestrian

---

<sup>3</sup> Floor Area Ratio is a planning tool to keep the density under check. It is measured as a proportion of the constructed area on all floors on a given plot and the area of that plot



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



walkway/ road and mostly share a common wall with the adjacent buildings without any conception of setbacks such that the number of floors in the building can be conveniently taken as an approximate FAR exercised on the respective plot. These buildings, popularly known as Chawls, are typically linear constructs with identically designed floors, constructed primarily with the thought of housing the masses. They are best described as congested yet accommodating; grumbling yet complacent social residences that lack privacy. Each floor comprised single room tenements that open to a common corridor/ balcony (used for storage and sleeping purposes too) with common toilets at the end of the corridor. Evident from the design itself, tenancies created in chawls were never meant for families but were mostly employment linked for males who lived and worked singularly in the city (Bhatt, 2017). Nonetheless, with regular incomes and consistent jobs, workers brought their families as well from the villages that changed the definition of '*residences*' in Mumbai (Khedkar, 2018).

With the onset of textile mills closure, mass retrenchment resulted in manifold increased live-load (footfall) in Chawls. Small tenements, of carpet area of 200 sq. ft. on an average (the size of the rent controlled tenements varies from 50 to 1700 sq. ft. where, 79% of the premises are smaller than 323 sq. ft. (Tandel et al., 2016)), were no more exclusively residential but their use for setting up of small businesses, subletting the premises exclusively or sharing the same tenement with the sub-tenants etc. became a common practice for earning survival income by the tenants. As per a Maharashtra Housing and Area Development Authority (MHADA) official, the congestion in these buildings had increased to an unsustainable level. He remembered coming across one such tenement where 12 people took shifts to sleep on a train berth like/ dormitory arrangement in a tenement of 120 sq. ft. Weak buildings bearing higher load than they were planned to bear was an ideal recipe for collapse and casualties. Even though the act does not explicitly mention the tenure of the tenancy, the two spotlights of the act viz. rent freeze and no eviction explicitly announces that the nature of tenancies created under the act is perpetual. Other than the eviction clauses that could manage to evict a few tenants so far, the only feasible way to end tenancy is the redevelopment of the building with a free tenement entitlement that converts tenancy into ownership.

## **Policies on and around rent control in Mumbai: A Chronology**

The following section expounds the chronological contribution of policies, along with the RCA itself, which fostered the dilapidation of the cessed-buildings both openly and diffusely.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



- **The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947** (GOM, 1947): The said act was implemented on private property in Bombay (now Mumbai) with a pre-decided expiry date of 21<sup>st</sup> March 1986. As per section 3(3) of the act, Section 7 of the General Clauses Act, 1904, shall apply after the repeal of the act in 1986 that prohibits the creation of new tenancies post 1986 but permits the existing ones to stay. The rents of all the rental premises were frozen at September 1940 level. Subsequently, the rent could be increased on pretext of increased rates up to a maximum of 5% or on pretext of heavy repairs up to a maximum of 25% of the standard rent. The landlord is obliged to maintain the premises in good and tenantable condition. Alongside inheritable nature of the tenancy, no eviction is allowed if the tenant is paying or is willing to pay the standard rent, except a few exceptional cases of which the tenants are mostly cautious. It needs to be noted here that the act affected more buildings than the ones called cessed-buildings of Island city today. The cessed-buildings are only the privately owned tenanted buildings whereas the act was applicable on buildings on institutional lands too.
- **Implementation of the 1<sup>st</sup> Development Plan of Mumbai, 1967** (MCGM, 1967): The first Development Plan of the city came into force in the year 1967. It restricted the FAR from unrestricted (exercised around 4 on an average) to a variable cap that varied from 1 to 4.5 for different areas of the city. The revised cap was applicable on new constructions as well as on the redevelopment of old buildings. The new regulations brought about by the Development Plan (DP) in 1967 created hurdles for the redevelopment process of more than 15000 buildings with an average FAR of 4 constructed before 1940's, by threatening a loss of FAR.
- **Formation of Mumbai Building Repair and Reconstruction Board on recommendation of Bedekar Committee, 1971**: The political inconvenience caused by building collapses acted as a major incentive for the government to step in. Wherefore, Mumbai Repair and Reconstruction Act was passed on the recommendation of Bedekar Committee in 1969 and subsequently in 1971 the Mumbai Building Repair and Reconstruction Board was formed to take responsibility of the repair and reconstruction of these buildings. By design, a small part of the board's funding was to come from the *Cess levied on these buildings, based on the date of construction of the building and the rent paid, to be paid by the tenants and landlords (in the proportion of 90:10) whereas significant funds were promised by the Government.* The rents were frozen, but a major part of the rental bill was now cesses and surcharges. Not to mention, the cess collected was not rational and so miniscule along with insufficient contributions from the government that no real dent was possible to be made on the issue at large. The 19642 identified buildings were categorized as



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



category as A, B and C based on their year of construction (refer Table 2, pg.37). Instead of being an imperative for the safety of the occupants of these buildings, periodic technical inspections are suggestive more of formality than a requirement, mostly based on the visual judgement of the Inspector. The benefaction of 29,756 structural repairs undertaken by MBRRB in over 15000 buildings (till April 2017) cannot be denied, but in light of the age and state of these buildings, maintenance has become a secondary issue highlighting reconstruction as the only resolution.

- **Amendment to the Rent Control Act, 1973:** Section 15A was inserted in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, in the year 1973 that increased the coverage of premises under rent control by stating: *“Notwithstanding anything contained elsewhere in this act or anything contrary in any other law for the time being in force, or in any contract, where any person is on the 1<sup>st</sup> day of February 1973 in occupation of any premises, or any part thereof which is not less than a room, as a licensee he shall on that date deemed to have become, for the purpose of this act, the tenant of the landlord in respect of the premises, or part thereof, in his occupation”* (GOM, 1947,p.2540C). According to the said amendment, all contractual licenses were hereby converted to statutory licenses that would enjoy protection under the RCA. This created a serious credibility crisis with the government intervention not just for the present but also for future actions by violating the principle of *dynamic consistency*.
- **Amendment to Bombay Rent Act, 1986:** Acknowledging the limited capacity of the state and lack of interest shown by the developers to undertake redevelopment, the stated amendment permitted the tenants of any cessed-building to come together and form a co-operative that would be eligible to acquire the building from the state and undertake repairs and even reconstruction of the cessed-buildings constructed before 1<sup>st</sup> September, 1940 (Category A) upon payment of 100 times the monthly rent to the owner with the consent of 70% of the tenants. The scheme allowed a payment of 30% of the 100 times monthly rent at the time of registration and rest 70% at the time of transfer of the ownership (Sharma, Raju, & Reddy, 1987). Nevertheless, no acquisitions took place under this amendment (MTSU, 2006). Permissible FAR here was increased from the prevailing zonal FAR to 2 or consumed FAR in the building. It is noteworthy that the group of tenants who were protected under the RCA since four decades were suddenly expected to afford a lumpy investment of reconstruction of their building. *Either the prolonged protection can be questioned here or the above amendment.*
- **Implementation of the second Development Plan of Mumbai, 1991** (MCGM, 1991): The second DP of Mumbai came into force in 1991. The accompanying regulations that steer the



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



implementation of a DP are known as the Development Control Regulations (DCR). The DCR 1991 reduced the basic zonal FAR cap in the City further to 1.33, once again without any spatial coordinates that could be increased upon payment of a premium and certain other tools up to a maximum of 2. *This clearly goes against the 'one price principle' and is thus wrongheaded with an in built certainty to create a chaotic city morphology with the concomitant management and service nightmare.* Restrictive development rights policy was adhered to decongest the Island City. To this, the Existing Land Use Report (2012) did confirm a negative population growth (7.57%) in the city. Having said that, despite the fact that majority of the Island city needed redevelopment, the FAR was uniformly reduced across the board. It could be either seen as a formal announcement by the local authorities that decongestion is more crucial than the redevelopment of cessed-buildings or the incentives were strong enough to create further shortage of effective floor space in the city to make the land even more valuable that would attract the attention of the private developers towards redevelopment of these buildings<sup>4</sup>. According to DCR 33(7) and 33(9), the regulations governing the redevelopment of cessed building(s)<sup>5</sup>, any such building undergoing redevelopment requires the consent of 70% of the occupants. The DCR 1991 maintained the permissible FAR of 2 or consumed FAR in case of redevelopment of cessed-buildings. DCR validated all tenancies created before 13.6.1996. For DCR 33(9), Urban Renewal Scheme, the permissible FAR for cessed-buildings redevelopment was 2.4 times the consumed FAR. After 28 years of the constitution of the MBRRB, the failure to attract private investment in cessed-buildings redevelopment led to the formation of Sukhthankar Committee by the government to inspect the matter and make appropriate recommendations.

- **Sukhthankar Committee report, 1997** (MBRRB, 1997): The premise of the committee was to put minimal burden on the government and try to disburse FAR for functional reasons neglecting the 'spatial planning feature' which is the primary aspect of FAR. Along with the eased participation of private entities since the economic reforms of 1991, the recommendations made by Sukhthankar group played a key role in engaging private developers in cessed-buildings redevelopment projects. The sanctioned recommendations of the group that made it to the DCR in

---

<sup>4</sup> This is clearly wrong-headed on several counts. First, the presumption that FAR is a tool for density control is mistaken. Also, given the incremental and pent up demand for housing, this would lead to even more density, not to talk of the unintended side effects of crowding and creation of slums. This is especially true in an economy with low incomes and pronounced inequality.

<sup>5</sup> Higher rehabilitation entitlement for the tenants and higher incentive FAR as the free sale component is offered to developers if 2 or more buildings are developed together (DCR 33(7)) or if a minimum plot of size 4000 sq.mt. is to be undertaken for redevelopment under the Cluster Development Scheme (DCR 33(9)).



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



the year 1999 were the following: *first*, an increase in the carpet area entitlement to a tenant from a minimum of 180 sq. ft. to 225 sq. ft., per tenement if the said building undergoes redevelopment. *Second*, in order to make the redevelopment reasonably profitable, the concept of Incentive FAR was proposed wherein upon redevelopment, the co-operative housing society/ appointed developer would be entitled for an FAR equivalent to a minimum FAR of 2.5 or the required FAR for rehabilitation plus additional FAR (50% to 70%), whichever is higher (compared to the previously allowed FAR of 2 or consumed FAR) as an incentive that could be used for open market sale as a cross-subsidization design. The provision of minimum FAR was later amended to increase from 2.5 to 3 in a notification dated 21.05.2011. *Third*, in view of the higher minimum carpet area entitlement and the incentive FAR, committee recommended a higher FAR for cessed-buildings redevelopment projects that could be utilized in-situ, minimizing dislocation. *Fourth and final*, against the earlier norm of continuation of tenancy and rent payments after being rehabilitated in the redeveloped building (Muttagi, 1988), the group recommended termination of the tenancy when rehabilitation takes place by converting the tenancy status to that of ownership. It was advised that of the total cessed-buildings, close to 15000 buildings should be considered for redevelopment urgently and funds should not be wasted on their repair considering their state of major disrepair. *Some recommendations that were crucial to create a balance could not make it to the DCR. For instance, as a cost for change of footing from being a tenant to an owner, it was advised that one-third cost of the construction of the tenement must be recovered from the tenant. More importantly, the committee strictly recommended a maximum ceiling on the final FAR as 4 that must not be exceeded under any circumstances.*

- **Cluster Development Scheme, 1999:** To promote planned development and expedite redevelopment of cessed-buildings, a change in FAR provisions under DCR 33(9) was introduced. Earlier permissible FAR of 2.4 times the consumed FAR was replaced with a minimum FAR of 4 or the FAR required for rehabilitation plus incentive FAR, whichever is higher. DCR 33(9) as Urban Renewal Scheme was later known as Reconstruction or Redevelopment of Cluster(s) of Buildings in 2009 and Cluster Development Scheme in 2018. The scheme shall be undertaken after conducting an Impact Assessment Study on amenities, environment, traffic and overall infrastructure. It permits redevelopment of multiple buildings with a minimum project area of 4000 sq.mts with the option of exercising the complete admissible FAR within the project area. The incentive FAR under the cluster development varies



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



between 55%-80% compared to 50%-70% in case of non-cluster redevelopment of cessed-buildings, along with higher additional carpet area entitlements for tenants.

- **Maharashtra Rent Control Act, 1999 (GOM, 2000):** After nearly 20 (Padamanabhan, 1998) extensions, the second generation RCA was approved in 1999 that came into force in the year 2000. Unlike the previous act, this act is applicable to the whole state of Maharashtra. Besides a few petty changes, the previous RCA was advanced further as the Maharashtra Rent Act, 1999. Two focal points of the new act were an increase in the rent at the rate of 5% in the first year and 4% per annum thereafter and legalization of the practice of *pagdi* money. The 4% increase (on standard rent fixed at 1940 level) is barely adequate for covering the rate of inflation, let alone giving a positive return on an investment that has borne negative returns since over five decades. Instead of gradual deregulation of the tenanted properties and abolition of the *pagdi* system, the stance taken was otherwise, leaving gap between protected properties and others beyond bridging. Another development that took place in the year 1999 was the extension of the exemptions for slum rehabilitation projects to cessed-building redevelopment projects. Even though the act exempts the premises under 11 months leave and licenses agreement from control, it should not come as a surprise if the control is extended to these premises questioning the word by the government, not unlike what happened in 1973 (Tandel et al., 2016).
- **Increase in the minimum rehabilitation carpet area and introduction of additional development cess, 2009:** In March, 2009, government passed some modifications with regards to DCR 33(9) vide notification no. TPB 4308/3224/CR-268/08/UD-11 (GOM, 2009). The said notification sanctioned an increase in the minimum carpet area of residential tenements from 225 sq. ft. to 300 sq. ft. It also obligated developer/ owner/ society to pay INR 5000 per sq.mt as an additional development cess for the built up area over and above the permissible FAR.
- **Extension of Minimum FAR rule to all cessed-buildings, 2013:** According to the existing DCR, the redevelopment of category 'A' cessed-buildings attracted either a minimum FAR of 3 or the rehabilitation FAR plus incentive FAR, whichever is higher. The FAR for redevelopment of category 'B' and 'C' cessed-buildings on the other hand were governed by the rehabilitation FAR plus incentive FAR only, with no minimum FAR rule. In 2013, the minimum permissible FAR of 3 for the redevelopment of 'A' category cessed-buildings was extended to category 'B' and 'C' to make redevelopment of chawls on small plots feasible. The change was made by the government under notification number TPB 4312/CR5/2012/UD-11 dated 14<sup>th</sup> August, 2013 (GOM, 2013).



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



- **Third Development Plan 2014-34, 2018:** The Development Control and Promotion Regulation (DCPR), previously DCR, 2014-34 reduced the consent requirement of the existing occupants for redevelopment from 70% to 51% under DCPR 33(7) and 51% in each building and 70% for the overall scheme under DCPR 33(9). The DCPR also increased the maximum rehabilitation entitlement from 753 sq. ft. to 1292 sq.mt. The entitlement for minimum carpet area has been increased from 225 sq. ft. to 405 sq. ft. for cessed-buildings tenements on Cotton Textile Mills. The DCPR mandates the creation of a corpus fund, a minimum of INR 50000 per tenement, by the developer that will be utilized to fund the maintenance of the rehabilitation building for 10 years.
- **Tenancy extension in BDD chawls, 2018:** The Bombay Development Directorate chawls were built by the British as tenements of 180 sq. ft. spread over 91 acres, 207 three storey buildings that served as the low income houses in 1920's. These chawls, once used by British as jails for keeping Satyagraha prisoners, houses nearly a hundred thousand people today (Joseph, 2003). The state recently announced an extension of the tenancy creation cut-off date in BDD chawls from an earlier 1996 to 2017 such that all the tenancies created before June 2017 will be eligible for a tenement in the redeveloped building provided the tenants pay a fine of INR 22,500 for residential and INR 45,000 for commercial premises (Gadgil, 2018).

Tweaking the rules of the game every now and then is pretty apparent in the above elaboration. The preparatory studies conducted for DP 2014-34 acknowledges rent control as the primary cause of the dilapidated cessed-buildings (MCGM, 2013b). Evacuation of the dilapidated buildings for undertaking redevelopment is considered similar to eviction by the tenants, especially after the involvement of private developers, and hence they prefer to stay back in their houses waiting for the buildings to collapse rather than shift to transit camps that are seen as filthy and slum-like places where some tenanted families have spent a lifetime waiting for the re-possession of a formal premises after redevelopment (Koppikar, 2005). As a root cause, rent act stimulated actions and choices made by the agents and the agencies which lead to the first sequence of undesired outcomes. Being a part of a democratic society, such outcomes are themselves seen as a core problem and search for their remedy takes the centre-stage in the political agendas especially if the elections are round the corner. Measures taken in the second half of the term of a political party/ politician are usually beheld to be ones with quick results. Doubtlessly, there are constitutional cracks in the RCA adopted by Mumbai that remains mostly untouched. Instead of filling up these cracks by rethinking the structure of the policy and more importantly deregulating it gradually, the second generation remedial policies focus symptomatically on outcomes of the first generation policy and



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



not the original policy. There have been third generation measures too, but again, their focus needs alignment. In policymaking, it is close to impossible to rectify a policy that had a devious start unless there exists a strong political will, since the dealing here is not with an individual, but a large group of people getting affected by it whose vested interest developed in the course acts as a wedge between what is and what ought to be. In other words, any policy that is not intrinsically modelled to be dynamic, lacks the foresight to envision the future course, and is not seen as a part of a bigger plan would inevitably disturb the exchange. Table 3 (pg.38) exemplifies the above point keeping the cessed-buildings as the focal point.

## **Bombay Rents, Hotel and Lodging House Rates Control Act, 1947: Whither the poor?**

Rent outside the umbrella of rent protection have been significantly more than the rent in cessed-buildings (except for pavement dwellers as that kind of a dwelling is assumed to be free of cost as compared to the almost free of cost cessed buildings), be it high rise apartments, MHADA societies, MMRDA<sup>6</sup> blocks, Slum Rehabilitation buildings and even slums themselves. So much so, that the rents in tenanted buildings maybe as low as one-thousandth or less of the unprotected formal market rents (Tandel et al., 2016), and one-twentieth or lesser of the rents in slums within the same neighborhood. This substantiates the potential/ notional loss to a landlord on the part of devaluation of currency and inflation. Not to forget the virtual losses in terms of increasing return to investment due to increased property value. *This again brings out the wrong headed policy of rent control which ignores the basic principle of stock flow equilibrium.*

According an MBRRB unpublished report, the rent control was enforced to avoid exploitation of tenants at the hands of the landlords that would have led to proliferation of slums (Mahishi, 2015). It is undeniable that the increase in and at the least continuation of the slums and manifold rise in the prices of the formal houses is somewhat due to the arrest and possible demise of the rental segment of housing that would clearly have served as an affordable housing solution to the population. Low rents have perverted the living conditions in these buildings close to that of slums, except for the security of tenure which is pre-eminently present for tenants in cessed-buildings. Unlike slums, cessed-buildings are formally recognized and enjoy a reasonable supply of basic services from the local authority which makes them more like *serviced-slums*. However, slums (un-serviced/ underserviced) fetch the slum owner say the least

---

<sup>6</sup> Mumbai Metropolitan and Regional Development Authority (MMRDA) is over ten times the size of Greater Mumbai. It encompasses eight Municipal Corporations, of which Greater Mumbai is one, and nine Municipal Councils.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



twenty times rent per sq. ft. vis-à-vis the chawls (assuming an average rent of cessed buildings to be Rs.250 for a 200 sq. ft. tenement / Rs.1.25 per sq. ft., including cesses that form almost 80% of the total payment made by the tenant, against Rs.5000, on a lower side, for a 200 sq. ft./ Rs.25 per sq. ft. in slums). A comparison between slums and the slum-like chawls is catalogued below in Table 4 (pg.41). Of the 3 million population of the Island city, slums account for 27.88% and chawls account for 64.82%. Unsurprisingly, the chawls are not added to the slum population of the city as 92.7% (27.88 plus 64.82) of the Island city population categorized as slums would not paint a pretty picture for the financial centre of the country.

The derangement in the city's housing market is evident from the high unsold and vacant inventory of houses on one hand and high demand for affordable houses on the other. Due to the prevalence and preservation of the said act, there exist not two, but three segments in housing market supply: formal housing, informal housing (slums) and the buildings protected under rent act (cessed-buildings, formal but slum-like). Of these three sub-markets catering to different income groups, none seem to be functioning efficiently. In formal housing market, the unprotected segment housing supply is more than its demand. This is both due to reality prices per se as well as the type and area of construction (2/3 bedrooms etc.). *The supply of formal houses is increasing, but due to exorbitant costs and premium charged, it mostly stays out of reach for more than nine-tenth of the population.* This, to again emphasize, is in a segment of housing sector that is quite irrelevant to the current discussion of cessed building and affordable low cost housing. The gap between the demand and supply sides seems apparent in the informally formed slums as well, that serve as the affordable houses in the city. *Slums appear to be an equilibrium situation where due to illegality of their existence, new supply of houses is constrained by laws, regulations and exorbitant land cost, and is thus not responsive enough to quickly adjust to any increase in demand.* Incidentally, it also shows that the informal housing sector mimics the market principle closer than the formal housing sector. Perhaps, formal sector has something to learn here from the informal one. Alternatively, everyday challenges associated with complete/partial absence of basic services in these slums increases the struggle of slum dwellers and lessens their quality of life and increases inefficiency (Tandel, 2019). Contrastingly, the protected formal houses (rent controlled tenements) have a perfectly inelastic supply, unless the government increases coverage of the act. According to Tobin's (1970) argument, this would imply that the current consumption by tenants is at the cost of potential consumption by households outside the purview of control (Fallis, 1988). However, at the given fixed rent, the demand is perfectly elastic in the housing market under protection, though outlanders (unprotected demand side) are required to pay a lump-sum charge called key/*pagdi* money as



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



an entry tax. Even though the rents would be extremely low in rent controlled premises vis-à-vis others, the principal amount and the interest earned by the outgoing tenant and the landlord on key money received from the incoming tenant may be taken as a proxy of fair rent for new entrants. Thereby, when a protected tenant sells his tenancy rights to an unprotected party, the latter effectively pays a rent close to that prevalent in the market and benefits on tenure security and effective quasi-ownership of the tenement. Furthermore, these new entrants too can expect a decent capital gain in future.

It has been argued that the rent control has always been a response to curb the gap between demand and supply of middle-income and low-income housing (Ramachandran & Pillai, 1972) but on the industry level it has resulted in further widening of the gap, as experienced in Mumbai. The property prices are the highest in the formal unprotected segment, followed by the chawls/ cessed-buildings that fetch two-third price of the unprotected counterparts on an average depending on the state and location of the building. The slums fetch the least price to the owner of the slum. The rents fetched in these segments, on the contrary, are the highest in the formal unprotected, followed by slums and then the rent control protected cessed-buildings. That is to say, the return on a lesser investment is higher. *The violation of fundamental economic principles, namely, stock and flow, one-price (no arbitrage), stock and flow equilibration, rational behavior based on opportunity cost, goodness of law, general equilibrium/ Quine thesis, principle of time consistency or credibility, the goodness of law or the epsilon-truthfulness and most importantly people respond to incentives, have been discussed in an elaborate fashion elsewhere at least a couple of time by us and need not detain us here. Save to underline that such policies based on faulty premises are bound to bring home unacceptable and chaotic outcomes* (Pethe, 2018)(Pethe, 2010)(Pethe, Tandel, & Gandhi, 2018).

It is clear that the striking segmentation of the housing market where one segment has no sync with what is prevalent in the other segments, has to be recognized right up front, recognizing that tractability or otherwise of 'housing for all' as a macro issue is not a meaningfully posed question. The understanding of the deformed housing market of Mumbai is not just limited to what seems apparent, but is rather an in-depth scrutiny of the housing market concoction viewed in light of the political and geographical confinements.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## Impact of redevelopment of cessed-buildings on cityscape

Presently, close to 14000 cessed-buildings are standing quavering in the Island city. We hope that the pace of redevelopment accelerates and all the cessed-buildings residents are moved to safe new houses. A similar desperation is witnessed in the reckless policy stance taken by the authorities to attract private developers for the job. In wake of decongesting the city through reduced uniform FAR of 1.33<sup>7</sup> (DCR 32), the redevelopment scheme (DCR 33(7), 33(9)) on the table does not look harmonious with the bigger plan. Before liberalization (1991), policy measures with limited capacity and conservative FAR policies led to obvious failures and in the meanwhile, the scarce land that we sit on became dearer with every passing day that made redevelopment a gold mine than just an attractive scheme. This section elucidates the collateral damage capacity of the cessed-buildings redevelopment scheme.

The maximum existing FAR of the cessed-buildings is six such that 21% of buildings have an FAR within 1.33, 23% have an FAR between 1.33-2.00, 18% have an FAR between 2.00-3.00, 19% have an FAR between 3.00- 4.00 and 18% having an FAR over 4. Table 5 (pg.43) enlists the permissible FAR for the cessed-buildings redevelopment under DCR 1991. Regulations provide for variable incentive FAR for cessed-buildings redevelopment based on the number of plots redeveloped under a single project. The resulting FAR post redevelopment varies between the minimum of 3 to over 9.72 (Table 6, pg.44). Island city is divided into nine wards, of which, the concentration of higher FAR cessed-buildings is the most in wards A, B, C & D (82% of the cessed-buildings in Island city with an existing FAR of over 3 are situated in these wards) (refer Table 7, pg.45). If all cessed-buildings in ward A, B, C & D undergo redevelopment, the permissible FAR of 3<sup>8</sup> + fungible FAR<sup>9</sup> would be applicable in 40% of the cases, whereas the rehabilitation plus incentive FAR plus additional carpet area entitlement (in case of composite development) + Fungible FAR would be applicable in about 60% of the cessed-buildings. Nearly 28% of cessed-buildings in these wards, having current FAR of 3 to 4, would require 6.08 to 9.72

---

<sup>7</sup> There can be three possible reasons for a consistently low FAR cap in Mumbai. Firstly, the propagated reason of decongesting the Island City. Second, the inordinately low FAR in a functional city could be accorded to a planned strategy to pocket benefits from the realisation of the foresighted demand for development in the city. Finally, may be the provision of infrastructure in a given area is based on the densities derived from the FAR cap and not the actual FAR. In this way, a lower FAR cap than the actual consumed FAR obliges the local authority to provide less infrastructure and services than actually required.

<sup>8</sup> Minimum FAR of 3 is applicable for cases where rehabilitation FAR plus Incentive FAR is less than three.

<sup>9</sup> Fungible FAR is the development right that may be purchased at a premium from the local authorities that can be exercised over and above the maximum permissible FAR. It is limited to 35% of the maximum permissible FAR for residential and 20% for commercial and industrial uses at a premium of 60%, 80% and 100% respectively of the stamp duty ready reckoner rate.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



FAR for rehabilitation as per the formula. About 31.42% of the Cessed Buildings in these wards, having current FSI of greater than 4, would require an FAR of greater than 8.1 to 9.72, depending on the number of plots being developed as composite redevelopment. Where the DCR states the maximum permissible FAR under various exceptions, cessed-buildings redevelopment is the *sui generis* scheme that permits the minimum permissible FAR without any upper limit on the FAR that can be exercised in-situ.

Using the above calculations, it can be inferred that if the density remains similar after redevelopment, number of people residing per building will increase by a factor of 2.43 and so will the pressure on infrastructure. Realistically speaking, the density would not simply multiply since the additional floor space meant for free sale will be occupied by the upper income groups (chances of such space being bought out by lower income groups who live in high density conditions is not much likely due to affordability constraints) whose household size is comparatively smaller and per capita space consumption is higher. In a scenario where decongestion of the island city is being envisioned since past 28 years by keeping the FAR extremely low, an increase in density that will come with an increase in demand for infrastructure is certainly paradoxical. It is noteworthy that the said increase in load in Island city will be gradual, unplanned and probably the absorption will happen with an unchanged/ marginally increased per capita infrastructure capacity. Even though developers are charged with an additional development cess of INR 5000/ sq.mt on FAR consumed over and above the basic zonal FAR, there is no substantiation of a binding constraint that this fund is used exclusively for infrastructure enhancement in the city, let alone specifically in the generating ward. It may well be the case that in absence of a corresponding increase in infrastructure, the not so well off population might be side-lined to an even more compromised state in order to serve the elite of the city better. Shirish Patel argues that if at all the density has to be increased, it should be in the rich areas and not the poor localities since poor localities are already *crowded* with extremely low per capita space (Patel, 2013). It cannot be overlooked that the densities may increase in the rehabilitation buildings as well since the tenants are used to congested living conditions and hence the additional area entitlement per tenement in case of composite/ cluster development, might even lead to increase in-house density along with the overall increase in crowding. This is contrary to the Alain Bertaud argument that an increase in FAR historically and worldwide results in a decreased or at least unchanged densification (Bertaud, 2011). Whilst the historical argument may be true, the missing link appears to be the state of development and incomes. At low incomes this may not be true and Patel's argument will prevail. Just increasing the FAR is unlikely to help. Further, unless there is an impact assessment study before the sanctioning and implementation of a project that indicates the



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



impact on supporting infrastructure and the requirement for additional infrastructure, along with an honest will to fill the required gaps, the sustainability of such models is questionable.

The ironical part is that in this entire process of redevelopment with private partnership, there is no creation of affordable housing for outright purchase or rental. The increase in the number of people being accommodated in the redeveloped buildings is based on the presumption that the existing occupants are not so well off that they can afford the increased per capita space. In the case of Mumbai, where the basics are not in place for most of the population, it is a distant reality for tenant households (mostly low-income and middle-income groups) to think of investing in higher floor space. Indeed the unequal distribution of income almost certainly precludes such a possibility. Buyout of these tenements by slum dwellers, who resorted to slums due to unavailability of formal affordable housing options, is unlikely as well due to a deliberate effort by the developers to hold the real estate prices above a certain threshold. The downward correction of these prices highly hinge upon the capacity of the vested interests to survive the losses in the hope of grand profits in future. This outcome is apparently contrary to the demand and supply laws where an increase in supply of a commodity should lead to a fall in its prices. This is because of the market structure in the highly segmented market as well as tacit and explicit nexus between the builder/ developer lobby and the politicians which has a great deal of holding power.

Many of the cessed-buildings tenements are unoccupied. It might well be the case that even the free sale component under the redevelopment scheme may lead to vacant houses. Either sold and vacant or unsold and vacant. In case of unsold and vacant premises, the completion of the project might get jeopardized due to disrupted flow of funds to the developer. From another perspective, bearing in mind the reducing population in the island city, redevelopment of a major slice of the pie resulting in increased floor space availability would lead to an increase in the supply of houses in an area where population is falling. Does this mean a better quality of living? But for whom? Because the upper crust of the society can afford the new stock of houses, the outcome of this policy could be gentrification as well. Luxury housing is globally exempted from rent control (Coleman, 1988). Conservatively, the developers in Mumbai are into the business of creating luxury 2, 3 and 4 bedroom houses possibly with a similar anticipation. Understanding the gap between the demand of the segmented product (affordable small houses) and its supply (luxury gated communities), the behavior of the market is plausible. Nevertheless, the point of concern here is that *why do we not have a good revenue model for small and low cost affordable houses? Can the disincentives created by the rent control be partially blamed for the same?* Surely, delving into the extant policies that hinder such incentives is the fruitful way to go.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## **Recommendations: for redevelopment of cessed buildings, and policymaking**

Government interference is inevitable in cities having sizeable deprived and vulnerable population. In other words, market cannot be a provider (Pendse et al., 2011) since they fail. Nevertheless, the regulations and policy environment pertaining to housing in India comes across as being at cross purposes to the stated objective of the current and preceding governments i.e. Housing For All. Decision on what policies to approve and what to discard (Schill, 2004) becomes a political decision where stakeholders might want to push through the regulations favorable to them. In case of rent control implementation in Mumbai, the intentions were doubtlessly good, but the lack of foresight and planning for dynamical adaptation and a single segment approach created havoc at the overall housing-industry equilibrium plane. This leads us to some discernible endorsements.

First, *every social scheme must have a date-check and beneficiary-check arrangement*. That is to say, a pre-decided date or state of maturity should be a pre-requisite before the announcement of any policy that brings clarity about the life of such benefits to the beneficiaries too. Even if the social scheme continues to exist, the beneficiaries should change in the new term giving everyone a fair chance and opportunity, with complete documentation and progress reports commensurate with the capacity to implement. Having said that, a gradual deregulation plan needs to be chalked-out as per a pre-specified sunset clause which could be time or state dependent. A limit could be placed on the number of generations that can inherit the tenancy, post which the premises would be decontrolled, like in the case of Britain (Coleman, 1988). The positives of this might not be seen right away, and the welfare graph may look like a ‘J Curve’ where the welfare will drop initially, reflecting the adjustments made by the previously protected tenants, but with overtime spill-overs to the other segments of housing market, the general welfare will rise with assured greater inclusivity. With decontrol, the increase in the property tax revenue may make a decent impact on the treasury too. Furthermore, the allotment system of tenements under the act is independent of the rent paying capacity of the tenant (Muttagi, 1988). There is a perennial problem of free riding when it comes to public good usage. In case of rent control, due to the blanket coverage, tenants who do not require protection are reaping the benefits as well. For this reason the deserving ones resort to slums. The tenanted buildings occupied by better off households may be gauged by their possessions or the better condition of their buildings owing to higher contribution towards maintenance fund, i.e. a means test ought to be devised with some ingenuity.

Second, even though tweaking of policies at the inception stage to manipulate the incentive structure such that the deviation in desired and the actual outcome is the minimum is the first best, *planning need with*



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



*respect to cessed-buildings themselves and the supporting infrastructure should be obvious at all times and not just during polls.* Formation of the MBRRB in 1971 was an intelligent plan, but the board without much financial support will soon become dysfunctional. The miniscule cess levied along with insufficient funds from the government (a matching grant) is barely sufficient for repairs, precluding the urgent reconstruction requirement of these buildings. Apart from the MBRRB, there has not been any significant policy action towards maintenance of cessed-buildings, required amenities, provision of services or an increment in overall infrastructure. In Mumbai, unless we are talking about the residential gated communities, all wards are under mixed land use. It would be good to look at the footfall in all wards since the day time density and night time density might be different in wards having higher proportion of commercial space and hence the standards for amenities should be higher in such wards.

Third, *the government must be dependable in the sense of credibility and continuity* at all times, irrespective of the political party in power. Keeping aside the party political agenda of the respective parties, there needs to be an essential continuity in State/ Government policy in certain areas, especially those affecting welfare of the poor. In order to create a credible government, the fundamental rules of the game need to be followed by one and all where the play needs to be conducted within certain pre-set boundaries drawn by the constitution. For reference, the under scrutiny Draft Model Tenancy Act, 2015, proposed under the Central Government (against the earlier State Government act), clearly circumscribes the rights and responsibilities of a tenant and a landlord along with endorsing a free market play. As per section 1<sup>10</sup> of the act, it is only evident that the said act will not cross roads with the rent controlled premises in Mumbai. However, in view of the case history, the 1973 episode of over-ruling the extant acts and regulations to extend the coverage of the RCA upon converting the contractual tenancies to statutory tenancies, expecting fair rental policies is inexpedient. That is to say that evidently the Model Tenancy Act would not be covering the rent controlled premises in Mumbai, but at the same time, RCA must not encroach upon the space created by the former and to ensure the same, government needs to be credible enough for the people to believe in the regulatory structure created by it. Otherwise, there will be a perverse incentive for the home owners to withdraw their rentable tenements from the market (Dev, 2006). The opportunity cost here is not the rent that the house could have earned otherwise, but the cost/ investment in the house that might be forgone if the premise is absorbed under the RCA. Establishing

---

<sup>10</sup> Section 1(2) of the Draft Model Tenancy Act states that even though the act shall extend to all urban areas, ‘the Central/ State/ UT Government through notification may exclude any area or units or class of buildings from operation of this act or any provision thereof’.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



dynamic consistency in its policy making and hence credibility in its pronouncements and action is a difficult albeit a crucially essential task.

Fourth, we suggest an *innovative incentive structure to re-strategize redevelopment through private developers*. It needs to be recognized that there needs to be a better model for the redevelopment of cessed-buildings, since the existing one is/ will further lead to densification and unacceptable crowding of the city. The authorities may provide a serviced and a well-connected land outside Mumbai, within Mumbai Metropolitan Region, that will provide a bigger canvas to paint on, where the developer can exercise the incentive FAR earned by redeveloping the cessed-buildings in the Island City. All development rights exercised here must be earned as incentives through redevelopment of cessed-building. This newly developed land should have some commercial space as well to minimize the travel time to work. The other than work needs of the residents should be available at a 'walkable distance'. This way, providing a better and safe accommodation to the tenants can be undertaken without an added pressure on the already crowded land. In order to incentivize the developers enough, the incentive FAR may be increased from its present levels. *Government credibility will play a key role* here as well. Furthermore, any kind of information leak from the important government offices that may alter people's decisions about investments, if at all, should be out in public domain for all to avoid any individual gains accumulated because of asymmetric information. More importantly, the fate of the housing industry at micro level and of the city from a bigger lens depends greatly on the investment in new and existing infrastructure. We believe that at least in the short to medium term and given the political economy at play and other entrenched interests it will not be possible to provide a solution for this veritable mess that 'cessed buildings' present, within the city limits. We are thus calling for the State to adopt a metropolitan lens in attempting to solve the problem (Pethe, 2018). A happy perhaps unintended consequence will be that there will have to be DCRs in the peripheral areas that will thwart haphazard development as seems to be happening now.

Fifth, the use of black money in real estate is not unknown. Since creation of small sized tenements for rental use is the need of the hour, *use of black money towards this cause with no questions asked* may be a fruitful idea as was exercised once in Belgium (Ramachandran & Pillai, 1972). Of course, this turning away of the eyes will come with some well specified and observable caveats so as to limit the latitude. Sixth, the *use of technology to facilitate the selection of redevelopment buildings/ projects to expedite the redevelopment process is a no brainer*. For starters, the coordinates of cessed buildings, along with



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



granular details on consumed FAR, services, amenities etc. needs to be mapped on GIS<sup>11</sup>. On the basis of this detail, feasible clusters for redevelopment may be catalogued to be offered to the interested developers as the available projects for redevelopment. These projects may vary in size and required investment such that the developer will have enough options to choose from according to his investment plans. Furthermore, the consent required from the existing occupants for redevelopment for each project may be undertaken after the identification of the clusters, before the finalization of the developer, as this process takes the longest time leading to the unavoidable project delivery delays. Both GIS and consent taking exercise may be conducted by the MBRRB<sup>12</sup>. Benefits of this approach are threefold. The developer will be saved from hassle of project-selection and consent-process. Besides saving his costs and time, the whole scheme will lead to a planned development that can be possibly in-sync with the Development Plan of the city instead of random uncoordinated redevelopment projects throughout the city. Finally and most importantly, comprehensive planning which is at once strategic and minimalistic may be made possible based on the data warehouse this scheme will build.

A policy book published by Praja Foundation recommended the use of direct benefit transfer or rental vouchers to the beneficiaries from the government such that the subsidy to the tenants is borne by the government and not landlords. Use of rental vouchers is suggested by the 'Task force on policy and interventions to spur growth of rental housing in India' as well. It is hence advisable to link the rent control benefits to the occupants and not premises to avoid misuse of the policy (Praja Foundation, 2015). Additionally, excessive time taken for policy action makes a won battle lost and hence causes policy failures. A concoction of appropriate policy move, at the right time, for the deserving beneficiaries with minimum leakages needs to be addressed with true political will followed by conclusion.

## Conclusion

Like for any other policy, there exist advocates and critics for rent control too, with the latter being seemingly overwhelming. Despite the liberal version of the act adopted by some countries, it is in common consensus that RCA is principally an inefficient way to institute equality through redistribution of income from landlord to the tenant. Nearly lifelong/ perpetual protection, naming it good for the poor (Ramachandran & Pillai, 1972), from inflation and market fluctuations is criticized too. It results in

---

<sup>11</sup> GIS data has been created for the Mumbai Metropolitan Region, but is not available in public domain

<sup>12</sup> The exercise of mapping cessed-buildings using GIS was conducted by MBRRB a few years back, but was left unfinished. MBRRB had prepared dotted markings of cessed-buildings on paper maps that were given to an external agency for GIS mapping. As of today, MBRRB has no information/ GIS maps (maybe due to lack of follow-up) that should have been the outcome of the exercise.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



deterioration of housing stock, reduced tenant and hence labor mobility, initially diminishing and eventual cut off of investment in rental housing (Block, 2009). Weighing against benefits to the tenants, it takes away much more from the city in the form of centrally located housing stock by positioning it outside the scope of market forces. Ministry of Housing in Britain named it as a “unique, self-inflicted wound” (Coleman, 1988).

In retrospect, three policies may be held accountable for the current state of dilapidated cessed-buildings: First, RCA 1947 that froze rents at 1940 level, second, downward revision of FAR hindering the redevelopment of these buildings due to the fear of loss of FAR upon redevelopment and last of all, redevelopment of cessed-buildings by private developers in lieu of Incentive FAR where inspite of increasing density and the consequent pressure on infrastructure, no stock of affordable housing is being created in the process. The paper enunciated some of the basic economic principles that must inform ‘well designed’ policy frameworks and how some basic principles are violated in the above stated policies.

Policies, regulations, strategies and measures brought about to create fairness in the society often lose their course mid-way to serve vested interests engaged in collusion, conspiracy, counterplotting and corruption. *Consistency and credibility are the two obvious casualties.* More importantly, further changes become difficult as a consequence of perverse incentives that set in. Not much study is required to understand the rent control still exists because of the personal interests of both tenants and the politicians (including their influential support groups) (Fallis, 1988) (D’Souza, 2005). The resentment towards change, even where a new policy dominates an extant one, becomes a major roadblock. To resolve the policy muddle around rent control in the Island City, it is suggested that before anything else, the government needs to be credible and consistent. There needs to be a date-check and beneficiary-check for any social policy. The redevelopment too can be expedited using GIS and completion of the consent of the tenants’ procedure even before the developer enters the scene. It is also suggested that the incentive FAR earned through redevelopment of cessed-buildings may be exercised at a distant serviced land. Amongst all, the investment in infrastructure needs foremost attention. Optimistically speaking, it is noteworthy that if nine-tenth of the city population is living in crowded conditions, it might be a model from which to learn and adaptively replicate in the formal space.

Conclusively, the housing policy quandary developed in Mumbai over time has conceived more questions than it has solved and so has the draconian rent control policy that has probably created more suffering to the city populace than relief to a given set of tenants in the long run. The low-income and middle-income



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



groups have been driven out of the city centre<sup>13</sup>, unless they are protected under the said act, for the same reason (Shenvi & Slangen, 2018). It is dismal to see a city that could have been world class, only if it was built with a foresight instead of an ex-post facto planning approach. If the root cause of this conundrum is revisited and the RCA is sensibly reformed keeping in mind the earlier emphasized sanctity of basic economic principles, the housing market may get and give support to solve the problem to a certain extent and enable it to function better. At this juncture, one needs to stop and rethink the heading and reset the goals that should guide the further course of reform and development policies for Mumbai.

---

<sup>13</sup> Those that are not driven out have been forced to indulge in practice of elite capture of the wrongheaded policies and schemes meant for the lowest strata.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## References

- Bertaud, A. (2011). Mumbai FSI conundrum: The perfect storm: the four factors restricting the construction of new floor space in Mumbai, (May), 1–20. <https://doi.org/August 10, 2004>
- Bhatt, P. (2017). Here's How Mumbai Has Abandoned Its Landmark Mills That Were Once Full Of Life And Productivity. Retrieved 2 January 2019, from <https://www.indiatimes.com/news/india/here-s-how-mumbai-has-abandoned-its-landmark-mills-that-were-once-full-of-life-and-productivity-325410.html>
- Block, W. (2009). A Critique of the Legal Case and Philosophical for Rent Control. *Journal of Business Ethics*, 40(1), 75–90. Retrieved from <https://link.springer.com/content/pdf/10.1023%2FA%3A1019952703506.pdf>
- Coleman, D. (1988). Rent control: The British experience and policy response. *The Journal of Real Estate Finance and Economics*, 1(3), 233–255. <https://doi.org/10.1007/BF00658919>
- D'Souza, D. (2005). Nobody Touches the Act. Retrieved 5 October 2018, from <http://www.indiatogether.org/rentact-op-ed>
- Dev, S. (2006). Rent Control Laws in India: A Critical Analysis. *Ssrn*. <https://doi.org/10.2139/ssrn.926512>
- Fallis, G. (1988). Rent control: The citizen, the market, and the state. *The Journal of Real Estate Finance and Economics*, 1(3), 309–320. <https://doi.org/10.1007/BF00658923>
- Gadgil, M. (2018). Govt extends cut-off date for BDD tenancy rights. Retrieved 23 October 2018, from <https://mumbaimirror.indiatimes.com/mumbai/civic/govt-extends-cut-off-date-for-bdd-tenancy-rights/articleshow/63918341.cms?>
- Gandhi, S. (2012). Economics of Affordable Housing in Indian Cities: The Case of Mumbai. *Environment and Urbanization Asia*, 3(1), 221–235. <https://doi.org/10.1177/097542531200300112>
- GOM. (1947). *The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947*. Government of Maharashtra. Retrieved from <http://www.lawsofindia.org/pdf/maharashtra/1947/1947MH57.pdf>
- GOM. (2000). *Maharashtra Rent Control Act, 1999*. Government of Maharashtra (Vol. 1). Retrieved from [https://housing.maharashtra.gov.in/Sitemap/housing/pdf/actsrules/THE\\_MAHARASHTRA\\_RENT\\_CONTROL\\_ACT.pdf](https://housing.maharashtra.gov.in/Sitemap/housing/pdf/actsrules/THE_MAHARASHTRA_RENT_CONTROL_ACT.pdf)
- GOM. (2009). *Notification No. TPB 4308/3224/CR-268/08/UD-11*. Government of Maharashtra. Retrieved from <http://www.mahafireservice.gov.in/Site/PDFs/Circulars/Notification-UDD-Modification in DCR-Greater Mumbai-2.3.2009.pdf>
- GOM. (2013). *Notification No. TPB 4312/CR-S/2012/UD-11*. Government of Maharashtra. Retrieved from [http://www.peataindia.org/CIR\\_UD/Sanction\\_to\\_the\\_Modification\\_to\\_Regulation\\_No\\_33\(7\).pdf](http://www.peataindia.org/CIR_UD/Sanction_to_the_Modification_to_Regulation_No_33(7).pdf)
- Joseph, M. (2003). How Many Legs in a Square Foot? Retrieved 5 October 2018, from <https://www.outlookindia.com/magazine/story/how-many-legs-in-a-square-foot/221104>



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



- Karandikar, P. N. (2010). *Chawls: Analysis of a middle class housing type in Mumbai, India*. Retrieved from <https://lib.dr.iastate.edu/cgi/viewcontent.cgi?article=2819&context=etd>
- Khedkar, A. R. (2018). CLOSING DOWN OF TEXTILE MILLS : A BREAK-THROUGH BREAK THROUGH IN THE REAL \* Ar . *International Journal of Current Research*, 10(August 2018), 72641–72648. Retrieved from <http://www.gmferd.com/journalcra.com/sites/default/files/31724.pdf>
- Koppikar, S. (2005). Thereby Hangs A Storey. Retrieved 5 October 2018, from <https://www.outlookindia.com/magazine/story/thereby-hangs-a-storey/228540>
- Mahishi, P. (2015). *Study on Impact of Structural Repairs and Redevelopment of Cessed Buildings in Island City of Mumbai*. University of Mumbai, Mumbai.
- MBRRB. (1997). *Sukhthankar Committee Report*. Mumbai Building Repair and Reconstruction Board.
- MCGM. (1967). *Development Control Regulations*. Municipal Corporation of Greater Mumbai.
- MCGM. (1991). *Compilation of Development Control Regulations 1991*. Municipal Corporation of Greater Mumbai. Retrieved from [https://portal.mcgm.gov.in/irj/go/km/docs/documents/MCGM Department List/City Engineer/Deputy City Engineer \(Planning and Design\)/City Development Plan/Compilation of DC Regulations 1991.pdf](https://portal.mcgm.gov.in/irj/go/km/docs/documents/MCGM%20Department%20List/City%20Engineer/Deputy%20City%20Engineer%20(Planning%20and%20Design)/City%20Development%20Plan/Compilation%20of%20DC%20Regulations%201991.pdf)
- MCGM. (2010). *Mumbai Human Development Report 2009*. Oxford University Press, New Delhi. Municipal Corporation of Greater Mumbai. Retrieved from [http://mohua.gov.in/upload/uploadfiles/files/6Mumbai HDR Complete.pdf](http://mohua.gov.in/upload/uploadfiles/files/6Mumbai%20HDR%20Complete.pdf)
- MCGM. (2013a). *PREPARATORY STUDIES\_PART\_2\_A.pdf*. Municipal Corporation of Greater Mumbai. Retrieved from [https://portal.mcgm.gov.in/irj/go/km/docs/documents/MCGM Department List/Chief Engineer \(Development Plan\)/Preparatory Studies Report/PREPARATORY STUDIES\\_PART\\_2\\_A.pdf](https://portal.mcgm.gov.in/irj/go/km/docs/documents/MCGM%20Department%20List/Chief%20Engineer%20(Development%20Plan)/Preparatory%20Studies%20Report/PREPARATORY%20STUDIES_PART_2_A.pdf)
- MCGM. (2013b). *Preparatory Studies Part I*. Municipal Corporation of Greater Mumbai. Retrieved from [https://portal.mcgm.gov.in/irj/go/km/docs/documents/MCGM Department List/Chief Engineer \(Development Plan\)/Preparatory Studies Report/PREPARATORY STUDIES\\_PART\\_1](https://portal.mcgm.gov.in/irj/go/km/docs/documents/MCGM%20Department%20List/Chief%20Engineer%20(Development%20Plan)/Preparatory%20Studies%20Report/PREPARATORY%20STUDIES_PART_1)
- Moir, E., Moonen, T., & Clark, G. (2014). What Are Future Cities? Origins , Meanings. *Future Cities Catapult*, (June).
- MTSU. (2006). Cessed Buildings - Malady of the Island City (pp. 32–48). Mumbai Transformation Support Unit.
- Muttagi, P. K. (1988). Rehabilitation in Bombay. *Habitat International*, 12(4), 71–87. [https://doi.org/10.1016/0197-3975\(88\)90010-0](https://doi.org/10.1016/0197-3975(88)90010-0)
- Padamanabhan, R. (1998). A Rent Act Under Review. Retrieved 5 October 2018, from <https://frontline.thehindu.com/static/html/fl1508/15081080.htm>
- Patel, S. B. (2013). Life between Buildings: The Use and Abuse of FSI. *Economic & Political Weekly*, XLVIII(6), 68–74. Retrieved from [https://www.jstor.org/stable/23391397?seq=1#page\\_scan\\_tab\\_contents](https://www.jstor.org/stable/23391397?seq=1#page_scan_tab_contents)



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



- Pendse, S., Adarkar, N., & Finkelstein, M. (2011). Overview. In *The Chawls of Mumbai: Galleries of Life* (pp. 1–11).
- Pethe, A. (2010). COLLUSION, CONFLICTS, INFORMAL SYSTEMS, & RENT SEEKING: THE GREAT PROTOTYPE INDIAN STORY OF URBAN LAND MANAGEMENT IN MUMBAI. Synthesis report of a study undertaken for World Bank presented at Urban Design and Research Institute, Mumbai on 10th December.
- Pethe, A. (2018). Understanding the Various Narratives on Mumbai: View from the Perspective of Facts and Principles. Based on the Key Note address in the Conference: Mumbai talks: Issues in Mumbai organized between 20 th and 22 nd March 2018 by the Department of Politics, University of Mumbai.
- Pethe, A., Tandel, V., & Gandhi, S. (2018). On Matters Urban: Back to Basics. In A. Bhide & H. Bhurte (Eds.), *Urban Parallax: Policy and the City in Contemporary India* (pp. 40–52). Yoda Press.
- Praja Foundation. (2015). *Handbook on Urban Laws and Policies that Impact Housing, Vol-II*. Mumbai.
- Ramachandran, P., & Pillai, D. S. (1972). *The Bombay Rent Act and Housing Production* (24). Bombay.
- Schill, M. H. (2004). *Regulations and Housing Development: What We Know and What We Need to Know*. Retrieved from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.507.3928&rep=rep1&type=pdf>
- Sharma, R. (2018). Understanding Floor Area Ratio: Case of Mumbai. In *Boston Conference Series* (pp. 20–29). FLE Learning Ltd.
- Sharma, R. N., Raju, S. S., & Reddy, I. U. B. (1987). *Transfer of Ownership Scheme: Its Feasibility in the Context of Tenants' Affordability of the Cost of Repairs and Reconstruction of the Cessed Buildings*. Bombay.
- Shenvi, A., & Slangen, R. H. (2018). Enabling Smart Urban Redevelopment in India through Floor Area Ratio Incentives, (58). <https://doi.org/DOI: http://dx.doi.org/10.22617/WPS189452-2>
- Tandel, V. (2019). Legitimise informal rental agreements in slums. Retrieved 12 February 2019, from [https://www.hindustantimes.com/analysis/legitimise-informal-rental-agreements-in-slums/story-FQaBWz7Gb65DlopTcoO5TJ.html?fbclid=IwAR3CTkY82i2\\_KSWBofRsNMeP0JGZBgfZHFvrOSoWdIKoNOL\\_8Mh9snlHYso](https://www.hindustantimes.com/analysis/legitimise-informal-rental-agreements-in-slums/story-FQaBWz7Gb65DlopTcoO5TJ.html?fbclid=IwAR3CTkY82i2_KSWBofRsNMeP0JGZBgfZHFvrOSoWdIKoNOL_8Mh9snlHYso)
- Tandel, V., Patel, S., Gandhi, S., Pethe, A., & Agarwal, K. (2016). Decline of rental housing in India: the case of Mumbai. *Environment and Urbanization*, 28(1), 259–274. <https://doi.org/10.1177/0956247815620316>
- United Nations. (1979). *Review of Rent Control in Developing Countries*. New York.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## TABLES

Table 1: International experience of rent control act

City/ Country	RCA adoption year	Method of Setting Standard Rent	Coverage	Rent Increase	Additional clauses
Argentina	-	Rent Indexation to counter inflation effects on landlords	-	In Bueno Aires, the rents are indexed to wages with rents revised every six months which if found too low, can be adjusted to an amount that yields 6% rate of return on the premises to the landlord but must be limited to 20% of the income of the tenant	Property can be recovered by the landlord if the existing building undergoes redevelopment and the new building either (i) trebles the surface (FAR) of the premise or increases the dimensions of the building by five times or if the new building is not used for residential rental premises (ii) trebles the number of dwellings on constructing the maximum covered space allowed.. Substandard tenements must not be leased. Landlord must undertake regular maintenance and improvement works. If the landlord wishes to sell the premise, the first option is given to the occupying tenant with a time of 30 days to make an offer
Bangladesh	1942	Fixed by the rent controller within six months of the start of tenancy. Could be set to a maximum of 15% of the market value of the premises	-	-	Key money is validated for long leases of 20 years or more
Brazil	1922	Rent Indexation to counter inflation effects on landlords	-	Rents could be increased biennially	1964 rent law initiated gradual deregulation of RCA in Brazil
Burma	1927	Either frozen rents at 1939 levels or fixed by the rent controller on appeal made by the landlord or the tenant	In case of vacant protected premises, the rent controller may refer a tenant to the landlord who must be accepted. In failure of the rent controller to do so, the landlord may find a suitable tenant himself. Housing policy discourages creation of private rental premises and encourages house construction meant for ownership and subsequently, public sector builds houses for rentals		



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Ecuador	-	Determined by the registry office at not more than 10% of the latest cadastral assessment value	-	Rent control lease should be of a minimum of four years and rent increase is not allowed for low rental premises during this period.	The landlord must register his property with the local authorities and premises deemed fit (with basic utilities and deemed hygienic) may be rented out.
El Salvador	1948	-	Exempts premises built or first rented after 1973 and the ones with higher monthly rentals	Rent to be raised only on pretext of repairs undertaken by the landlord or if tenant has sublet the premises on a profit	-
Guatemala	1961	Frozen rents at 1960 level. For premises built or rented out first after 1960 or with rents higher than 20000 quetzals are exempted from rent control protection	Exemption of high rental premises and informal housing from control.	-	The premises can be recovered by the landlord when the subtenant is paying higher rent than the tenant himself. Landlord needs a certificate stating minimum sanitary standards before leasing the premises. If tenant believes the rent to be too high, he can request for the assessment of the premises and new rent may be fixed at 7.2, 8.4 or 9.6% depending on the assessed value of the premises.
Honduras	1949	Rent freeze on all buildings erected before 1966. For premises let after 1966, rent ceiling would depend on the construction material used i.e. Wood houses: 12.8%, Adobe houses: 9.6% and Brick and mortar: 9% of annual return on investment.	Exemption of high rental premises (valuing more than 40000 Lempira) and informal housing from control	-	If the premise is not equipped with water, electricity and sewerage, 25% roll back on rent would be applicable for each absent service
Hong Kong	1945	The 1952 act amended in 1963 provides protection to tenants who paid key money. Landlord has to prove that he hasn't accepted any key money and the tenants who claim to have paid the key money are provided with a security of tenure for 5 years			



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



India (overview)	After 1st World War	Rents on older buildings are frozen and the rents on new premises is calculated on the basis of fair rate of return to the investment in the building	New buildings are free of control for 5-7 years	Land being a state subject in India, almost all states have a separate rent control act in place	
India (Delhi)	1939	Frozen rents for older and low rental premises. Post 1955 constructions to be rented as per the agreement between landlord and the tenant for 5 years	-	Not more than 7.5% of the cost of improvements, alterations or additions	Special provisions made for recovery of vacant land forming a part of rental premises
India (Mumbai)	1918, 1939, 1947, 1973	Rents frozen at 1940 levels and set by the parties or the court if let post 1940	All rented premises on private land parcels up to 1973	No rent increase is allowed other than temporary increase on pretext of heavy repairs subject to a maximum limit and upon increase in the charges	-
India (Madras)	1941	Fair rents calculate at 9% of the cost of investment	Exemption of high rental premises and informal housing from control (exempts new constructions for 5 years and properties with more than Rs.400 rent)	Rents may be increased on pretext of alterations and when taxes and utility charges are raised	Property can be recovered in case of landlords retiring or being released from the armed services
India (Kolkata)	1920	Decided between the landlord and the tenant and fixed for the next 8 years	-	Revisions in the fair rent is made if there is an increase or decrease in the market value once in 5 years	-



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Indonesia	1949	For Jakarta, housing bureau decides on the rent to be charged at the beginning of each year	Covers pre-1962 constructions in Jakarta whereas premises built after 17th Dec. 1960 are free of controls, as is government housing	-	Landlord must inform housing bureau while letting out the premises and pay 10% of the rent to the bureau
Iraq	1973	Annual rents may not exceed 7% of the assessed value of the premises	Exemption of high rental premises and informal housing from control. New constructions exempted for 3 years	Reassessment of rents every 5 years which if less than 20%, can be appealed against	The property can be recovered by the tenant if the tenant owns another house in the same city. If the landlord refuses to rent the premises, ministry of finance may do it instead
Kenya	1940	Standard rents may not exceed 10% per annum of the cost of the premises and 5% of the cost of the site at the time of construction	Exemption of high rental premises and informal housing from control	Rents may be increased on pretext of alterations and when taxes and utility charges are raised	Key money is prohibited unless the tenancy is of long duration
Lebanon	1954	Extended leases concluded after 1943 without altering the terms of the leases	Luxury premises and premises built after 1967 (although rents were frozen at 1970 level for high income premises and allowed to increase by 3% for eight years for luxury premises) premises built after	Due to excessive rent fluctuations, rent was reduced by 15% for premises rented out after 1967, 12.5% increase for premises let out between 1943 and 1953, and a 25% increase for premises rented out before 1943 (spread over a four year period)	The premises can be recovered by the landlord if the tenant owns a vacant residential premises or builds one in the same city.. Landlord is obliged to provide services specified in the lease else, unlike other cases, landlord pays the tenant 2-6 months rent for each failure



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



			1974 are free from control. New constructions exempted from estate taxes for 5 years		
Libyan Arab Jamahiriya	1951	1969 act adopted Roll back formula: 10% reduction if lease date is before 1955, 15% for 1955-59, 20% for 1960-64, 25% for 1965-67, 30% for 1968-69. For premises not let before 1969, annual rent is calculated as 7% of the cost of land and premises plus 2% of the cost of premises (for depreciation)	Does not apply to all of Libya, nor to furnished premises	Once determined, cant be increased under any circumstances	Notifications of vacancies to be made within a month of vacancy. No premises may remain vacant for more than 2 months
Malaysia	1919	As per the control of rents act, the fair rents are determined based on the floor area, its location, its age, and the state of repair and the public utilities of the premises. For a furnished flat, the rent may be increased by 50% vis-a-vis the unfurnished flat or equivalent to 1/16th of the value of the furniture, whichever is less	Premises built after 1948 and thereafter or premises rented with board, any government or municipality are exempted from control	Rent increase allowed if the utility prices go up or the landlord undertake improvements to the premises	Premises cease to be under control once either the lease period expires or the tenant vacates the premises, whichever is earlier.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Mexico	1946	Froze rents for 1 year and made tenancies statutory. 1947: rent increase was made possible on a selective basis. 1948: premises with rents less than 100 pesos had their rents frozen for continuously tenanted premises.	Exemption of high rental premises and informal housing from control	1948: 10% increase for premises with rent 100 to 199 pesos and 15% increase for premise with rent of 200-299 pesos	No rental increase due to improvements made by the landlord to the premises. Subletting is illegal
Pakistan	Under 2 RCA's	Landlord or tenant may file an application with the rent controller to fix fair rent within 4 months of tenancy creation.	-	Rent increase on behalf of additional or new taxes, rates is allowed	-
Panama	1973	Rents frozen at 31st December 1972 level to a minimum of 15% annually of the cost of the premises	Only country to include slums and squatter settlements under rent control with the help of community groups	-	If landlord needs the place for his family or to rebuild, the compensation to the tenant would be one months rent for every year they stayed in the premises. Minimum lease period is 3 years. The rent control act forms an inherent part of the comprehensive national housing policy. If the owner decides to sell his premise, 1st option is given to the tenant with a time of 3 months to decide. Landlord cannot sell the premise at less than what was quoted to the tenant. Interest free loan programme to help destitute tenants pay their rents usually not exceeding six consecutive months.
Singapore	1917	1953 rent ordinance: all premises constructed before September 1947 are subject to rent control at 1939 rents	President of the republic is free to make absolute or conditional exemptions. High rental premises and informal housing from control are exempted	If landlord makes improvements, or municipal taxes increase, or if the premises is furnished, an increase up to 50% of the rent or 1/60th of the furniture value , whichever is less, is allowed	-



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Srilanka	1942	Standard rent is fixed on the basis of cadastral assessment	government institutions as the Commissioner of National Housing and the local authorities	Rent increases from 6 to 10% is allowed in case of improvements, alterations and repair	In case of non payment of rents, eviction can be withdrawn if the tenant furnishes a satisfactory guarantee by other person for the payment of arrears and future rents. Provision 1972: eviction from a part of the premise made easy where other part is occupied by the landlord. this encourages such tenancies. Encouragement for property improvements by loan programmes for repairs. Enabling tenants to buy the occupied premises. Conversion of a large house into small house is encouraged by giving tax concessions on the corresponding rental income for 6 years
Sudan	1921	Rents frozen at 1951 levels for Premises constructed before 1947. For post 1947 constructions, 12% of the cost of construction + 6% of the value of land at the beginning of the construction. Rents have been revised downwards twice after the above enactment	Exemption of high rental premises and informal housing from control	Rent increase on account of improvements, reconstruction, increases in utility rates	Deprivation of the landlord to the right to regaining possession of the premises for the occupancy of his sons or parents. Key money prohibited unless for a long lease of minimum 10 years
Tunisia	1918	Must not exceed 1500 francs per square meter. Area used for calculation is half of the area inside walls, balconies, basements and garages and at 25% of the area for outside walls and garden space (rents are reduced wherever applicable in lieu of absence of amenities and services)	-	If premises is constructed before 1954, a 5% increase in annual rents is allowed	Tenancies are not fully statutory. Act of 1976 prohibits conversion of a residential premises to commercial unless permitted by the rent control board



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Uganda	1943	Rents paid in 1945 or 10% of the cost of the premises Plus 5% of the value of the site if the premises is rented for the first time after that date	-	On account of repairs or increase in utility rate	Tenancies are statutory. Key money prohibited for leases shorter than 7 years
United Republic of Tanzania	1945	Acquisition of buildings Act 1971 provided for the transfer of privately owned rented premises from wealthy owners of two or more residences to the government. Tenants were now government tenants with rent stabilization and tenure security	-	-	Landlords to maintain a rent book for recording standard rent, cost of construction, cost of repairs, value of land at time of construction etc
Uruguay	-	Rent control came to a end in 1974 and was replaced by rent indexation. Rent Indexation to counter spiralling inflation effects on landlords	Does not apply to tenants with high earnings nor to tenants having another residence in the city	-	Evictions may be stayed for up to an year for tenants who are members in either of the many heads (Banks, Funds, Co-operatives etc.). Tenancies are not fully statutory. Act of 1976 prohibits conversion of a residential premises to commercial unless permitted by the rent control board
Venezuela	1960	12% of those whose value is less than B 75000, 10.8% if the value is between B 75000-150000, 9.6% if the value is between 150000-2,25,000	Rental Premises valued more than B 2,25,000 are exempted. Exemption of high rental premises and informal housing from control	Premises that are unhygienic and insufficiently habitable are not to be rented. Hence tenants are not required by the law to pay rent when living in substandard slums/shanties	

Source 1: Compiled by author from 'Review of rent control in developing countries, United Nations, 1979



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Table 2: Cessed-buildings categories and redevelopment progress

Period of Construction	Cess Category	No. of existing cessed-buildings	
		1969	2017
Up to 1 Sept 1940	A	16502	11850
1 <sup>st</sup> Sept 1940 to 31 <sup>st</sup> Dec 1950	B	1489	863
1 <sup>st</sup> Jan 1951 to 30 <sup>th</sup> Sept 1969	C	1651	1284
<b>Total</b>		<b>19642</b>	<b>14207</b>

Source 2: [Mumbai Building Repair and Reconstruction Board, Information booklet, March 2017](#)



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Table 3: The cause and effect sequel policies following the implementation of rent control act in Mumbai.

<b>Policy Framework/ Root Cause</b>	<b>Actions and Choices made by the agents and Agencies base on the incentives created by the policies/ Symptoms</b>	<b>Bad Outcomes (1<sup>st</sup> Generation)</b>	<b>Cure</b>	<b>Bad Outcomes due to adopted cure (2<sup>nd</sup> Generation)</b>
Rent Control Act  -No attempt to deregulate the Act over time	The act holds landlord to be responsible for the upkeep of the building wherein the landlord either has no interest or no means (due to low rents)	Chawls turned into Slum like Structures	Formation of Mumbai Repair and Reconstruction Board in 1971 to undertake repair work in such buildings upon charging a miniscule annual cess	Unreliable assessment of buildings along with low cap on the amount that can be spent annually on each building's repair
-Tenancies are not linked to the incomes of the households	Dilapidated buildings beyond repair		Allowing the tenants to come together to form a cooperative and undertake redevelopment of the building	No acquisitions took place under this scheme
-Separate rental housing market for protected formal houses, unprotected			Inviting private developers to undertake redevelopment in lieu of Incentive FAR at a high cost to the city as a whole	Multiple undesired outcomes, namely, increased FAR on the same plot, reversal of policy of decongestion of Island City, increased load on existing



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



formal houses  
and slums

-drawing a line  
between the use  
and misuse of a  
policy  
instrument is  
important

infrastructure and Crowding  
without any addition to  
affordable housing

---

Perpetual protection to one  
section of the population

Switch off of supply side  
for Affordable Housing/  
rentals

-Rajiv Awas Yojana (Now  
Pradhan Mantri Awas  
Yojana/ Housing For All)

Location of such projects may be  
far with only low-income groups  
and economically weaker  
sections as the beneficiaries.

---

In absence of affordable  
housing outside protected  
buildings, slums became  
an optimal solution

Creation of Slum  
Rehabilitation Authority to  
rehabilitate slum dwellers in  
free of cost formal housing  
with basic services.  
Developer-favourism has  
been observed in certain  
cases

Creation of an additional  
planning authority in Mumbai.  
Free housing as a reward for  
having a slum in the city  
increased the market price of  
slums and hence the rentals.

---

No indexation of rentals

Rents in the following  
markets: Chawls< Slums

Maharashtra Rent Control  
Act (1999): Increase in Rents

---



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019




---

	<p>&lt;Unprotected Formal Housing. Market Price of Properties in the following markets: Slums&lt; Chawls&lt; Unprotected Formal Housing (Property fetching a higher market price has lower returns reflecting irrational behaviour)</p>	<p>frozen at 1940 level by 4% where the value of rupee has fallen by a 100 times at least</p>
<p>Neither will nor incentive for tenants to move out of the protected tenements (Due to the act, the rentals and Market prices of unprotected properties were no longer affordable, hence tenants have no other option but to stay in the protected buildings.)</p>	<p>Pagdi System: When a tenant leaves the tenement for a new tenant, the incoming tenant pays a lump sum amount, known as Pagdi, shared between the outgoing tenant (2/3<sup>rd</sup>) and the landlord (1/3<sup>rd</sup>) (sharing of the pagdi amount is as per the power structure)</p>	<p>Maharashtra Rent Control, 1999: Pagdi System legalised</p>

---

Source 3: Author's creation



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Table 4: Comparison between slums and cessed-buildings

Attributes	Slums	Cessed Buildings
Rent	Rs.25/ sq.ft	Rs.1.25/ sq.ft
Access to Services	Unserviced/ Underserviced	Serviced
Obligation for maintenance by the landlord	Nil	Fully present
Long-term capital returns to the owner	Possibility of a serviced and free of cost formal house under the Slum Rehabilitation Scheme (windfall gain)	Landlord gets one-third of the Pagdi money whenever the tenancy changes. At the time of redevelopment of building, the landlord may negotiate for a few tenements in the redeveloped building or a lump sum amount from the developer depending on who (developer or the landlord of the building) has an upper hand in the negotiations
Genres of occupants (based on income)	The occupants belong to mixed income groups where the tenants belong to the below poverty line (BPL) segment, low-income group (LIG) and middle-income group (MIG) whereas the owners of slums are mostly from the low, middle and higher-income groups (HIG)	At the time of enactment of the act the tenants mostly belonged to the LIG, MIG and a few from HIG.  Over time, due to the rising property prices in Mumbai causing the stock and flow mismatch, the tenants who moved out with a godsend amount received as a share from key money



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



		paid by the incoming tenant, can be considered to be wealthier than before
Toilet	Makeshift arrangement either inside or outside the house (mostly gifted by the local politicians at the time of elections) with problems like irregular water supply in case of former and lack of maintenance, cleanliness and per trip cost in case of the latter	Common and serviced toilet blocks situated at the end of the corridor on each floor as per the initial design of these buildings. Many families have created small toilets inside their tenements along with small water tanks.
Tenure Security	Nil for tenants and conditional for slum owner. Conditions being, firstly, the slum have to undergo redevelopment for the slum owner to exercise the free tenement entitlement. Secondly, 70% of the slum occupants have to consent for redevelopment. Thirdly, if the redevelopment is not in-situ, slum dwellers might not be interested in taking possession or else might take possession, sell the premises illegally, and resettle close to their workplace in a new slum. Occasionally, malpractices at the SRA have impeded slum dwellers from taking possession of their entitled tenement.	Tenancy created is statutory and inheritable with no eviction possible other than a few exceptional cases like non payment of rent, requirement of the premises by the landlord for his personal use, nuisance caused by the tenant, end of the employment if the tenancy was linked to employment, damage caused by the tenant to the property etc.
Rate of rent increase	Depends on tenant and slum owner relation and market forces	Nil till 1999 unless there is a previous agreement on the increase of rent. With the enactment of the Maharashtra Rent Control Act, 1999, the rents could be increased by 5% and 4% per year after that

Source 4: Author's creation



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Table 5: Permissible FAR for cessed-buildings redevelopment

Scale of redevelopment project	Permissible FAR
Cessed Buildings	3 or Rehab + 50% Incentive FAR, whichever is higher
Composite Redevelopment of 2-5 plots	3 or Rehab + 60% Incentive FAR (+ 5% additional rehab carpet area s.t.max. limit), whichever is higher
Composite Redevelopment of more than 6 plots	3 or Rehab + 70% Incentive FAR (+ 10% additional rehab carpet area s.t. max. limit), whichever is higher

Source 5: : Development Control Regulations, 1991



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



**Table 6: Post redevelopment FAR of cessed-buildings**

Scale of Redevelopment Project	Permissible FAR	FAR					Existing FAR
		1.33	2	3	4	>4	
Individual plot	3 or FAR required for rehabilitation + 50% Incentive FAR	2.69325	4.05	6.075	8.1	<8.1	Post redevelopment FAR
Composite redevelopment of 2-5 plots	3 or FAR required for rehabilitation + 60% Incentive FAR + 5% additional rehab carpet area	2.916025	4.455	6.6825	8.91	<8.91	
Composite redevelopment of more than 6 plots	3 or FAR required for rehabilitation + 70% Incentive FAR 10% additional rehab carpet area	3.2319	4.86	6.94	9.72	<9.72	

Source 6: Author's creation

\*Post redevelopment FAR is calculated using the ratio given under permissible FAR ratio and a 35% extra FAR allowed over an above the permissible FAR as Fungible FAR



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



**Table 7: Existing FAR of cessed-buildings in Island city as on January, 1995**

Ward	Number of Buildings as on June, 1995	FAR within 1.33		FAR within 1.33 - 2.00		Buildings having FAR of more than 2					
						2 to 3		3.01 to 4		4.01 and more	
		NOB	in %	NOB	in %	NOB	in %	NOB	in %	NOB	in %
A	1111	120	10.80	309	27.81	224	20.16	203	18.27	255	22.95
B	1386	7	0.51	50	3.61	127	9.16	294	21.21	808	58.30
C1/2	1633	19	1.16	96	5.88	335	20.51	538	32.95	645	39.50
C/3/4	1905	28	1.47	90	4.72	333	17.48	687	36.06	795	41.73
D-1	1869	186	9.95	541	28.95	577	30.87	409	21.88	156	8.35
D-2	1605	82	5.11	128	7.98	489	30.47	577	35.95	329	20.50
Total (A)	9509	442	4.65	1214	12.77	2085	21.93	2708	28.48	2988	31.42
E-1	923	447	48.43	212	22.97	164	17.77	65	7.04	35	3.79
E-2	1865	682	36.57	786	42.14	0	0.00	247	13.24	150	8.04
FG-(N)	2016	165	8.18	548	27.18	712	35.32	467	23.16	124	6.15
FG-(S)	4077	2098	51.46	1442	35.37	455	11.16	82	2.01	0	0.00
Total (B)	8881	3392	38.19	2988	33.64	1331	14.99	861	9.69	309	3.48
Total (A)+(B)	18390	3834	20.85	4202	22.85	3416	18.58	3569	19.41	3297	17.93

\* 1: NOB: Number of Buildings

Source 7: Sukhthankar Committee Report, 1997



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019

