UNIT 1 LEGAL AND STRUCTURAL REFORMS

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1.1 INTRODUCTION

Law by itself may not be sufficient to bring about development in urban areas; however, legislative support is absolutely necessary for undertaking various measures for improving infrastructure and governance as well as the conditions of the poor in urban areas. Equally important is that such laws should be implemented effectively. The Constitution of India has assigned the subjects pertaining to the urban areas to the State Legislature. In so far as the urban issues are concerned, the legislative powers of the Union are limited only to the following subjects/areas:

- Delhi and other Union Territories
- Property of the Union
- A subject of the state list which two or more state legislatures authorise Union Parliament to legislate
- Amendment of the Constitution of India

In exercise of these legislative powers, the Parliament of India has enacted the following legislations which are administrated by the Ministry of Urban Development, Government of India.

After studying this unit, you should be able to:

- Explain the significance of legislative support in urban development sector;
- Describe the rationale and benefits of urban reforms specifically legal and structural reforms; and
- Analyze the features of legal and structural reforms in urban sector.

1.2 URBAN REFORMS INITIATIVES

The process of urban reforms which tentatively began in the 8th Plan reached its high point when in December 2005 with the launching of Jawaharlal Nehru National Urban Renewal Mission (JNNURM). The JNNURM is basically a reform linked incentive scheme for providing assistance to state governments and urban local bodies (ULBs) in selected 63 cities, comprising all cities with
over one million population, state capitals and a few other cities of religious and tourist importance for the purpose of reforming urban governance, facilitating urban infrastructure and providing basic services to the urban poor. The total budget of the Mission is estimated to be Rs. 1,26,000 crores out of which the central government shall provide Rs. 50,000 crores. It is thus by far the single largest initiative of the central government in the urban sector. The broad framework of the Mission is as follows:

- Preparation of City Development Plans (CDPs) by respective cities with a 20-25 years perspective.
- Sector-wise detailed project reports to be prepared by identified cities listing projects along with their financial plans.
- A Memorandum of Agreement (MoA) to be signed between the central government, state governments and ULBs containing the time bound commitment on the part of states/ ULBs to carry out reforms in order to access central funds under the Mission.
- Funding pattern in terms of percentages would be 35:15:50 (between Centre, States and Urban Local Bodies) for cities with over 4 million population, 50:20:30 for cities with populations between one and four million, and 80:10:10 for other cities.
- Assistance under the Mission to be given directly to nominated State Level Nodal Agencies, who in turn would give the same to state government/ ULB in the form of soft loan or grant-cum loan or grant.
- The assistance thus provided would act as seed money to leverage additional funds from financial institutions/capital markets.
- Public Private Partnership (PPP) to be the preferred mode of implementing projects.

The Mission is comprised of two sub missions, namely, Sub-Mission for Urban Infrastructure and Governance and Sub-Mission on Basic Services to the Urban Poor. The admissible components under both these sub-missions together include urban renewal, water supply and sanitation, sewerage and solid waste management, urban transport, slum improvement and rehabilitation, housing for urban poor, civic amenities in slums and so on. But the Mission document clearly states that: (a) funds accessed cannot be used to create wage employment; (b) land costs will not be financed (c) housing to the poor cannot be given free of cost; (d) privatisation or Public Private Partnership (PPP) will be the preferred mode of implementing projects; (e) a ‘reasonable’ user fee will be charged from the urban poor for services so as to recover at least 25% of the project cost and (f) the onus of minimizing risks for the private investor would be on state governments/ULBs. The priorities of the government become even clearer when we look at the set of reforms that the state governments and ULBs are supposed to carry out if they wish to avail central assistance under the JNNURM. These reforms have been divided into two parts - mandatory reforms and optional reforms.

1.2.1 Mandatory Reforms

State Level

The state governments seeking assistance under the JNNURM would be obliged to carry out the following mandatory reforms: a) effective implementation of
decentralization initiatives as envisaged in the Constitution (seventy-fourth) Amendment Act, 1992; b) repeal of Urban Land (Ceiling and Regulation) Act, 1976; c) reform of rent control laws; d) rationalisation of stamp duty to bring it down to no more than 5 percent within seven years; e) enactment of a public disclosure law; f) enactment of a community participation law, so as to institutionalize citizens’ participation in local decision making; and g) association of elected municipalities with the city planning function.

Municipal Level

At the municipal level following reforms are proposed: a) adoption of a modern, accrual-based, double entry system of accounting; b) introduction of a system of e-governance using IT applications, GIS and MIS for various urban services; c) reform of property tax so as to raise collection efficiency to 85 per cent; d) levy of user charges to recover full cost of operation and maintenance within seven years; e) internal earmarking of budgets for basic services to the urban poor; and f) provision of basic services to the urban poor, including security of tenure at affordable prices.

Apart from these, there is a set of optional reforms common to both state governments and ULBs, any two of which they are supposed to implement each year. These include: a) revision of bye-laws to streamline the approval process for construction of buildings, development sites etc; b) simplification of legal and procedural frameworks for conversion of agricultural land for non-agricultural purposes; c) introduction of property title certification; d) earmarking of at least 20-25 per cent developed land in housing projects for economically weaker sections and low income groups with a system of cross-subsidisation; e) introduction of computerized registration of land and property; f) administrative reforms including reduction in establishment cost by introducing retirement schemes and surrender of posts falling vacant due to retirement; g) structural reforms; and h) encouraging public private partnership.

In this section you studied urban reform initiatives. Now, you should be able to answer some questions relating to this section given in Check Your Progress-1.

Check Your Progress 1

Note: a) Write your answer in about 50 words

b) Check your answer with possible answers given at the end of the unit

1) What is the broad framework of Jawaharlal Nehru National Urban Renewal Mission (JNNURM)?

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2) What are the mandatory urban reforms at State level under Jawaharlal Nehru National Urban Renewal Mission (JNNURM)?

3) What are the mandatory urban reforms at municipal level under Jawaharlal Nehru National Urban Renewal Mission (JNNURM)?

1.3 URBAN REFORM INITIATIVES: LEGAL AND REGULATORY REFORMS

Some of the legal and regulatory reforms initiated by the government in the urban development sector are narrated below:

1.3.1 Constitution (Seventy-Fourth Amendment) Act 1992

This is a revolutionary piece of legislation by which Constitution of India was amended to incorporate a separate Chapter on urban local bodies, which seeks to redefine their role, power, function and finances. The salient features of this Act are:

- Urban local bodies, to be known as Municipal Corporations, Municipal Councils and Nagar Panchayat depending on the population shall be constituted through universal adult franchise in each notified urban area of the country.
- These shall be constituted for a period of five years and if dissolved earlier, an election to reconstitute it shall be completed before the expiration of a period of six months from the date of its dissolution.
- Not less than one-third of total number of seats in each urban local body shall be reserved for women.
- The Legislature of a State may by law entrust on these bodies such power and authority as may be necessary to enable them to function as institution of local self government, including those listed in the Twelfth Schedule.
- The Twelfth Schedule of the Constitution has listed the following functions of the urban local bodies:
  1) Urban Planning including town planning.
2) Regulation of land-use and construction of buildings.
3) Planning for economic and social development.
4) Roads and bridges.
5) Water supply for domestic, industrial and commercial purposes.
6) Public health, sanitation, conservancy and solid waste management.
7) Fire services.
8) Urban forestry, protection of the environment and promotion of ecological aspects.
9) Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10) Slum improvement and upgradation.
11) Urban poverty alleviation.
12) Provision of Urban amenities and facilities such as parks, gardens, playgrounds.
13) Promotion of cultural, educational and aesthetic aspects.
14) Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15) Cattle pounds; prevention of cruelty to animals.
16) Vital statistics including registration of births and deaths.
17) Public amenities including street lighting, parking lots, bus stops and public conveniences.
18) Regulation of slaughter houses and tanneries.

In order that the urban local bodies can perform the functions assigned to them, the Legislature of a State shall assign them specific taxes, duties, tolls and levies and authorise them to impose, collect and appropriate the same. Each State shall also constitute a Finance Commission which shall review the financial position of the urban local bodies and recommend the principles which should govern the devolution of resources, including grant-in-aid from the Consolidated Fund of the State of these bodies. The superintendence, direction and control of the preparation of electoral rolls for and the conduct of all elections to the urban local bodies shall vest in the State Election Commission. In each district, a District Planning Committee shall be constituted to consolidate the plan prepared by the urban and rural local bodies. Similarly, for each metropolitan area, a Metropolitan Planning Committee shall be constituted to prepare a development plan for the metropolitan area as a whole.

All the State Governments have either enacted new Municipal Law or amended the existing laws to conform these to the Constitution (74th Amendment) Act, 1992. All the States (except Jharkhand and Pondicherry) have conducted the election to the local bodies. All the States (except Arunachal Pradesh) have constituted State Finance Commissions and most of the Commissions have submitted their reports to the State Governments, recommending significant devolution of resources to the urban local bodies. The national Eleventh Finance Commission has also recommended devolution of Rs. 2000 crores as grant-in-
aid from the Central Government to the urban local bodies. Constitution (74th Amendment) Act 1992 has made the urban local bodies into vibrant self governing institutions. This has ushered in a new era of urban governance and urban management in India. Besides this, Government of India has proposed a series of reforms in related areas to create an enabling legal environment for speedier implementation of urban development schemes and for attracting larger participation of private sector. Some of these proposals are:

- Amendment of Land Acquisition Act, 1894 to speed up the process of acquisition and to de-link the process of taking over possession of land from the process of determining compensation.
- Amendment of the Transfer of Property Act, 1882 to bring the concept of categorisation of mortgages in line with recent practices of housing and financial institutions, in particular English Mortgage and Equitable Mortgage, lay down uniform Mortgage documents, introduce speedy and predictable system of foreclosure of mortgages and to give legal shape to rights of owners in multi storied apartments.
- Amendment of the Indian Stamp Act, 1899 and the Indian Registration Act, 1908 to delink the process of registration from the payment of stamp duty, to liberate the registration process from the requirement of various no objection certificates and to rationalise stamp duties on various instruments.

1.3.2 Rent Control Reform

State Level

The rent control laws were initially enacted as temporary acts and short-term measures to overcome transient problems emanating from unusual situations. In many states, these laws incorporated a sunset clause stating the period at which the law will terminate. The provisions in the laws were designed keeping in view the short-term nature of the enactments. Continuation of these acts over a long period without amending such provisions has had adverse consequences like depletion in supply of rental housing, distortions in rental housing market and negative impact on urban finances.

The major provisions of rent laws, which need to be amended, are as follows:

- Control of rents: Under most rent laws, rent is fixed much below the market or economic rent and there is no provision for its revision over time.
- Obligations of landlords and tenants: The landlord is obliged under law to keep the premises in good condition and pay all taxes relating to the property. The tenant is obliged to pay the rent on time, but has no obligation towards even day-to-day maintenance.
- Repossession of the premises by the landlord is permissible only on grounds specified in the law. Main grounds include non-payment of rent; misuse or non-use of premises; requirement of premises by the landlord for repair or for self-use; non-requirement of premises by the tenant; and sub-letting of premises without the permission of the landlord.
- The long judicial process, at times extending over ten to twenty years, denies quick repossession of the property to the landlord.
- Tenancy rights are inheritable under most state (rent) laws. Thus, once a house is let, getting repossession is well next to impossible.
Why is it important to reform the Rent Control Law?

The combination of the provisions listed above leads to the following consequences. Low or negative rate of return from investment in rental housing and decline in supply of rental housing due to:

- Withdrawal of rental housing from existing stock.
- Accelerated depreciation of the premises due to inadequate maintenance.
- Disincentive to new investment in rental housing.
- Reduced supply of rental housing in the “controlled” market segment leads to increased rents in the uncontrolled market segment.
- Ineffective implementation of the rent laws leads to emergence of a black market in rental housing and of unlawful practices like payment of “key money” at the point of entry in tenancy.
- Exclusions of lower income groups from the rental housing market, due to inability to pay high rents in the uncontrolled market and huge deposits as key money in the controlled market.
- Inefficient and wasteful use of scarce resource (rental housing) in the controlled market due to low rents.
- Negative impact on the value of tenanted properties with repercussions on the saleability and/or mortgagability of the premises.
- Contentious relationship between the landlord and the tenant.
- Increased litigation and resort to criminal practices for getting repossession of the house by the landlord and consequent increased administration cost for resolution of disputes.
- Stagnation of revenue from property taxes, which is the major source of revenue for urban local bodies.

1.3.3 Benefits of Reform in Rent Laws for States, ULBs and Citizens:

i) States

- Increased investment in housing will have positive multiplier impact on State Domestic Product (SDP) and will generate additional employment.
- Increased supply of rental housing will lead to reduced rent levels and a decline in number of slums.
- Improved housing situation will reduce the need to allocate government funds for housing and release additional resources for financing other social objectives.
- More efficient allocation of existing housing stock will lead to increased productivity with beneficial impact on economy of the state.
- Decline in the number of rent related litigations.
- Mitigation of social disharmony.

(ii) ULBs (Urban Local Bodies)

Some of the benefits to be accrued to the ULBs are as follows:

- Increased revenue from property tax.
Urban Reforms

- Reduction in the number of sub-standard housing units leading to improved quality of housing stock in the city.
- Reduced burden on municipal finances on account of diminished need to allocate funds for upgradation of dilapidated housing, etc.

iii) Citizens

Some of the benefits of the reform to the common man are as follows:

- Development of a healthy rental housing market.
- Increased accessibility and affordability of rental housing.
- Improved security of tenure.
- Reduction of black money deals on account of unlawful payments (e.g., key money) by landlords or tenants.
- Improved access to housing finance for owners of rented properties.

Recognizing the negative impact and social tensions created by the rent control laws, the Government of India came out with a Model Rent Legislation (MRL) in 1992. Following the formulation of the model rent legislation, many states have repealed their old acts and formulated new ones. These states include Karnataka, Rajasthan, Maharashtra, and West Bengal. Several other states are in the process of reforming their acts.

1.3.4 Repeal of Urban Land Ceiling & Regulation Act (ULCRA)

State Level Reform

The objective of the Urban Land Ceiling & Regulation Act, 1976, (hereafter ULCRA) was to facilitate the availability and affordability of urban land by increasing its supply in the market and by establishing an efficient land market. The ULCRA provided for imposition of a ceiling both on ownership and possession of vacant land; acquisition of excess vacant land by the state government with powers to dispose off the land for the common good; payment of compensation for the acquisition of the excess land; and granting exceptions in respect of certain specific categories of vacant land. The ULCRA came into force in 1976 in 64 urban agglomerations spread over 17 states and three union territories (UTs) and covered towns with a population of more than two lakh as per the 1971 Census.

The implementation of the ULCRA in the states and UTs was, however, dismal mainly due to:

- Absence of clarity and too much discretionary powers given to the state governments for granting exemptions.
- Compensation provided for the acquired land was very little, which often led to lengthy litigation disputes. The maximum compensation was Rs.10 per sq. meter and the total compensation could not exceed Rs.2 lakhs per owner. This made landowners reluctant to declare their vacant land as surplus.
- Absence of a mechanism to encourage the entry of the vacant urban land into the land market through appropriate fiscal measures. Land prices in cities reached astronomical heights due to artificial scarcity of land created by ULCRA.
Legal and Structural Reforms

Since the ULCRA has not met its intended objectives, the Government of India decided to repeal the Act with the passing of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. Various states subsequently repealed the Act. The states yet to repeal ULCRA are Andhra Pradesh, Assam, Bihar and West Bengal. Repeal of the ULCRA has been included as one of the mandatory reforms suggested in the JNNURM. States have to commit to repealing it within a committed time frame. It is envisaged that the repeal of the Act would go a long way in reviving the stagnant housing industry and facilitate construction of dwelling units both in the public and private sector.

Rationale for the reform

The following are the principal reasons why the ULCRA should be repealed:

- Vast tracts of land in cities are expected to be released for development. This will bridge the gap between demand and supply in the real estate sector of various states.
- The housing sector will receive a big boost. The increase in the supply of land will improve accessibility and affordability for the urban poor.
- It will tend to improve transparency and efficiency in land acquisition, which would encourage domestic and foreign investment in the real estate sector.
- The administrative fees payable under ULCRA for getting permission for land development, which are sometime as high as Rs.100 per square feet, would be done away with and the benefits passed on to the consumers.

Some of the specific advantages of repealing the ULCRA for states, ULBs and citizens are as follows:

**States**

- Increased supply of land and investment in housing will have multiple effects in generating direct and indirect income and employment generation, besides, improving productivity levels and the overall social well-being.
- It will ensure faster granting of building permissions and promote real estate development in selected cities, shorten project execution time, and save on interest. These benefits can be passed on to consumers.
- Large tracts of land that earlier would have required urban land ceiling clearance from the government can now be taken up for construction and development of integrated townships and construction of houses for Economically Weaker Sections (EWS)/Low Income Groups (LIG).
- Decline in number of litigation cases.
- New supply of land is expected to have a moderating effect on property prices.
- It will remove the impediments to land supply and free it from obsessive government control.

**ULBs (Urban Local Bodies)**

- Increased housing supply will help in mobilizing property tax.

**Citizens**

- Increased accessibility and affordability of housing for the urban poor.
- Reduced corruption and unlawful payments to get permission for development.
1.3.5 Community Participation Law: State Level Reform

The Community Participation Law (CPL) is aimed at strengthening municipal governments by:

- Institutionalizing citizen participation.
- Introducing the concept of Area Sabhas (consisting of all registered voters of a polling booth) in urban areas.
- Involving citizens in municipal functions like setting priorities, budgeting provisions, exerting pressure for compliance of existing regulations, etc.

JNNURM contemplates the creation of another tier of decision-making in the municipality which is below the ward level, called the Area Sabha. All the Area Sabhas in a ward will be linked to the ward level committee through Area Sabha representatives, who will be representatives of the community. Thus, there will be minimum 3 tiers of decision-making in a municipality, namely, the municipality, the ward committee, and the Area Sabhas. In addition, states may choose to have an intermediary level for administrative reasons, clustering multiple wards into a regional structure between the ward and the municipality.

The CPL is a mandatory reform under the JNNURM and it refers to making appropriate provisions in the state-level municipal statute(s) for the establishment of such a three/four-tiered structure. The JNNURM makes it mandatory for states to either enact a separate CPL or make appropriate amendments to their existing municipal laws. These enactments will need to ensure clear definition of functions,
duties and powers of each of these tiers, and provide for appropriate devolution of funds, functions and functionaries to these levels. The figure above (Fig 1.1) illustrates the proposed structure. Citizen participation is essential for making democratic processes effective and for strengthening them. It provides a platform to citizens to influence policy/program development and implementation. While various platforms and systems for citizen’s participation have developed organically, there is a need to institutionalize them to make them effective and sustainable. The CPL aims to institutionalize such community participation platforms/systems. If implemented in true spirit, it will have the following advantages:

- It will help deepen democracy, facilitate efficiency and sustained socio-economic growth, and promote pro-poor initiatives.
- It will help in improving urban governance and service delivery.
- It will promote transparency and accountability in governance.
- It will improve the quality of decision making, as these would be based on knowledge of local realities and requirements.
- It has significance for regional planning structures like the District Planning Committee and the Metropolitan Planning Committee both of which require citizen participation in planning from the grassroots.
- Citizens will have a say in determining how information is shared, policies are set, resources are used and plans/programs are implemented.

1.3.6 Public Disclosure Law: State Level Reforms

The goal of public disclosure is to institute transparency and accountability in the functioning of municipalities through publication of information pertaining to various facets of municipal governance, namely: personnel, particulars of administrative structure, and finances and operations. The JNNURM envisages the enactment of a Public Disclosure Law (PDL) to ensure release of quarterly performance information to all stakeholders.

The core objectives of the Public Disclosure Law are:

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

The JNNURM reform toolkit clearly states that “JNNURM requires that municipalities and parastatal agencies will have to publish information about the municipality and its functioning on a periodic basis. Such information includes, but is not limited, to statutorily audit quarterly statements of performance covering operating and financial parameters and service levels for various services being rendered by the municipality.”

The enactment of the Public Disclosure Law refers to making appropriate provisions in the state-level municipal statute(s) and/or other state-level statutes to ensure that these disclosures are mandatory.
Rationale for the reform

Public disclosure is essential for accountability within as well as outside the municipal system for the following reasons:

First, this criterion builds a channel between the local, state and the union levels of India’s federal government structure for effective communication through voluntary disclosure of information. This aids the audit of finances and operational performance of ULBs. It also helps create an environment of healthy competition between different ULBs in the delivery of quality of life to their citizens.

Second, by making information accessible to the citizenry, it plays a lead role in enabling them to effectively use the participatory platforms to influence municipal policies. This reform can also be seen as supplementing another key reform criterion of JNNURM, namely, enactment of the Community Participation Law by helping it achieve informed participation. Thus, public disclosure makes ULBs more accountable not only within the federal structure but also to the citizen.

Third, the PDL also allows ULBs to be accountable to a variety of other stakeholders with which it must increasingly interact including lenders, credit rating agencies, donors, private contractors and so on. The creation of a robust platform for the disclosure of municipal finances will facilitate easier evaluation of municipalities in accessing funding from lenders and capital markets, as well as reduce the cost of borrowing over time. This is especially important given that ULBs may need to access market-based financing for at least some portion of their capital investment requirements.

Some of the advantages of a law on Public Disclosure are:

- A PDL will make it mandatory for municipalities to publish information *suo motu*.
- A well drafted PDL will provide clear guidelines to the ULBs/parastatals on the areas and manner of disclosure and hence prevent inconsistencies and conflicts.
- It will enhance transparency and accountability in government processes and in the process check corruption.
- It will help citizens to play an effective role in their local governance through informed participation, thus strengthening citizen-state partnership.
- Access to information will enhance the ability of citizens to exercise a whole range of other rights. In this sense, public disclosure supplements the Right to Information (RTI) Act, 2005, by making available regular information on ULB activities *suo motu* as follows:
  - This will ease the load on the Information Department by reducing the number of RTI requests on such matters.
  - This will ensure the periodicity of *suo motu* disclosure.
  - The reform also provides for the structuring of large volumes of information in an easily comprehensible format.
  - Disclosure of information will bring critical issues to the fore and exert pressure on all stakeholders to resolve them. In other words, such a law will enable an informed and sound analysis of urban challenges, thereby, assisting in identifying and implementing sustainable solutions.
1.3.7 Land Title Certification System: State Reform

Urbanising India urgently requires a robust system to protect land rights. There are two important aspects to land title: the first is the formal recognition by the state of property rights through a system of titles; and second the facilitation by the state, of efficient trade in rights, through a process of registration. Both of these elements exist in India, but in incomplete form.

While Indian law requires compulsory registration of sale of land, the Indian Registration Act of 1908 doesn’t ask the registration authority to verify history of the land or ownership from the seller, weakening the protection to the buyer. Hence, land registration is not registration of title, but of deed of transaction. It is a fiscal instrument for the state, allowing it to collect a “fee”, not providing the statutory support of certainty to title. Neither does the Transfer of Property Act, 1882 require verification of ownership. In addition, Section 18 of the Registration Act does not demand compulsory registration of all land related transactions. State legislation on land acquisition, court decrees, land orders, heir ship partitions, mortgages, agreements to sell, etc, do not require mandatory registration. The provision related to land in the Indian Contract Act of 1872, does not require contracts to be registered.

All of these forces combine to weaken land records and security of tenure. What we have in India today is a presumed ownership to land which is questionable and can be challenged on multiple fronts: ownership, extent of boundaries, clauses, financial encumbrances, inheritance subdivisions, etc. The formation of modern markets has required the replacement of traditional systems of common property rights and development, with a system that provides for individual rights and the ability to trade these rights. In such a scenario, it becomes important to strengthen formal system of registration and title, of individual property rights. For more information, refer to “Ground Rules” published by India Urban Space Foundation and Ministry of Urban Development, Government of India.

Irrespective of one’s misgivings about the long-term implications of modern tenure systems, the edifice of a modern state/market ecosystem is premised on the paradigm of individual land and property rights. Any social or community concerns will have to find answers within this emerging paradigm; for example, the means of protecting group titles, or legal mechanisms of community ownership. Implementing a system of land title certification is one of the mandatory reforms suggested in the Jawaharlal Nehru National Urban Renewal Mission (JNNURM or the Mission hereafter). States are expected to implement the reform within the Mission period.

Rationale for the reform

Guaranteed title certification systems that protect rights to land and property have been developed in most of the democratic developed economies. The essential aspect to guaranteed title is that it relates to so many aspects of the functioning of both state and markets: it helps in social justice programmes like low income housing; it helps in more effective urban planning, in the protection of specified land parcels like environmental or heritage assets; it helps faster implementation of infrastructure projects, it reduces delays in judicial processes and unnecessary litigations; it helps in a more efficient mortgage market, with fewer delinquencies and greater transparency; and so on.
Benefits of the Guaranteed Title reform

Clearly providing security of title through robust records, improved registration and guaranteeing title, are significant next generation reforms on land. After two decades of advocacy and recommendations from Planning Commissions, the country is ready to take a leap towards these reforms. The impact of these reforms will be significant.

Social impact: There will be reliable data on property and land and hence a dramatic reduction in litigations, and encroachments will go down. Government records of land assets that are currently in shambles, will be vastly improved. This in turn will make land available for social development and infrastructure. There will be improved value to property assets, easier access to credit, increasing number of transactions. Transactions on land become simpler, cheaper, quicker, and will be accurate and secure.

Governance impact: Urban planning and management will be immeasurably improved with reliable data of the individual cadastre that will provide the smallest building block on which layers of data can be built. Data at the property level will be the building block for multiple uses, accurate assessment of land market valuation by street, updated voter lists, enforcement of zoning laws, etc. Tax and utilities collection will be better administered and allow fewer loopholes. Infrastructure projects will be done faster with clarity on title, and development policies like Transfer of Development Rights (TDR) will have an enabling environment.

Financial impact: The access to credit through land and property assets is an on-going study. This is especially important for the urban poor, who currently cannot use their property as collateral to access credit, due to lack of certainty of tenure rights. Guaranteed title will unlock the potential of land to generate capital. While the small holdings of the poor might not individually attract credit from formal financial institutions, they could become attractive as aggregated land collateral. For example, the total value of informal urban and rural land Karnataka alone is estimated to be $90 billion, or Rs. 350,000 crores (extrapolated from Hernando De Soto data on Asia in “Mystery of Capital”)

Sources of revenue to the state and local governments -direct and indirect – will increase substantially -property tax collection, stamp duty for registration, building licenses, company and individual taxes with employment generation in an improved land development and construction sector.

Robust records and secure title bring informal land and property holdings into the formal system. The resultant benefits accrue to the property holders, improved sources of revenue to the local and state governments, and efficiency in social programmes of government.

In this section you studied legal and regulatory reforms in the housing and urban development sector. Now, you should be able to answer some questions relating to this section given in Check Your Progress-2.

Check Your Progress 2

Note: a) Write your answer in about 50 words
b) Check your answer with possible answers given at the end of the unit

1) What are the salient features of Constitution (Seventy-fourth Amendment Act), 1992?
2) What are the advantages in implementing the Community Participation Law?

3) What are the core objectives of Public Disclosure Law?

1.4 URBAN REFORM INITIATIVES: STRUCTURAL REFORMS

JNNURM envisages certain structural reforms that aim at making the institutions of urban management at both the State and City levels more effective. These reforms will be effective not merely by notification of changes in rules and Government Orders, but by actually carrying out these change in institutional structures on the ground. These reforms are significant as they bring long-term and sustainable change, even though their impact may not be immediately visible.

Efficiency and effectiveness of institutions to its external stakeholders (front-end) is critically dependant on the internal capacities of the institution at its back-end. In the context of ULBs, internal capacities would be defined by – Structures; People; Systems and Processes. While reforms in people management, systems and processes are addressed under Administrative Reforms, reforms in inter and intra-organisational issues are addressed under Structural Reforms.

Administrative reforms and Structural reforms must go hand-in-hand. Changes in systems and processes must be commensurately followed-up by changes in structures aligned to the processes, and vice-versa. Structural reforms are envisaged to provide an enabling and supporting institutional context for governance improvements to strike roots and sustain them. They include:

- Reforms in the institutional structures of urban management at the State level;
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- Creation of cadre of municipal staff for different disciplines;
- Decentralisation of municipal administration, and synchronisation of internal jurisdictions, organisation structure review and optimisation of staffing patterns;
- Implementation of these reforms requires concurrent actions by both at the State level and ULB level. The Department for Urban Development / Municipal Administration (or its equivalent) in every state should take the lead in enabling implementation of the above mentioned structural reforms.

1.4.1 Rationale, Impact and Benefits of Structural Reforms

1) Rationale for the reform
Strength of an institution lies in its ability to respond to changes in the external environment. The vast and diverse sets of changes that have taken place in the urban context, requires Urban Local Bodies, other civic institutions and State Governments to respond through making long-lasting structural changes. The key rationale for prioritising and undertaking Structural Reforms has been discussed earlier, viz. to enable the accomplishment and sustenance of other reforms under JNNURM in its true letter and spirit. Structural reforms are more difficult to implement, as it creates significant changes in status-quo i.e. it changes hierarchy and reporting relationships, requires realignment of many systems and processes, redefines responsibility, jurisdictions and mandates, and brings in new people into the structure that should be accommodated.

Structural reforms cannot be easily undone or reversed. Therefore, the benefits of such reforms will surely endure beyond the tenure of elected councils, or tenure of elected or administrative leaders who would anchor such changes. One of the key challenges in implementing structural reforms is in managing internal communication, so that all internal stakeholders accept and adapt to the changes.

1) Impact and benefits

<table>
<thead>
<tr>
<th>Reforms in Institutional structures of urban management at the State level should lead to:</th>
<th>Reforms in Creation of cadre of municipal staff for different disciplines should lead to:</th>
<th>Reforms in Decentralisation of municipal administration, and synchronisation of internal jurisdictions should lead to:</th>
<th>Reforms in Organisation structure review and optimisation of staffing patterns should lead to:</th>
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<tr>
<td>- Clear delineation of regulatory, administrative and capacity development support functions rendered by State level agencies. Gaps, duplication and overlaps in mandates of state agencies resolved. - ULBs having issues-specific clear lines of reporting hierarchy to the State Govt. agencies</td>
<td>- ULBs have full time staff with specialised skills, within the hierarchy of the municipal setup. - Clear career growth path is available to staff. - Experiences are shared across cities through movement of personnel.</td>
<td>- Alignment of political, administrative (managerial) and operational accountability. - Costs, revenues and service delivery standards can be matched for each ward. - Better resource allocation decisions - for both capital expenditure and operational improvements.</td>
<td>- Improved alignment of organisation structure to the demands of municipal mandate. - Pockets of staff deficiency and staff redundancy resolved through redeployment and training. - Service delivery through optimal mix of in-house staff, contractual deployment (outsourcing) and PPP.</td>
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2) **Generic set of reform initiatives for each reform area**

To achieve the goals and objectives mentioned above in each area of structural reform, multiple initiatives will need to be undertaken. Each city and state government will need to contextualise and refine the reform initiative as relevant to its context. The priorities too may differ across different cities. However, it should be ensured that such adoption and prioritisation does not compromise on the goals and objectives of the reform.

A generic set of reform initiatives in each area is listed in the table below. Please note that this set is only illustrative and not exhaustive.

<table>
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<tr>
<th>Ref. No.</th>
<th>Reform Area</th>
<th>Generic set of steps / initiatives</th>
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<tr>
<td>A1</td>
<td>Redefining institutional mandates – realigning the functions of multiple institutions that exist at State level.</td>
<td>Mapping functional mandates of all institutions at State level, both as defined in respective acts / articles of association of those organisations, etc. and as practiced in recent past. Identify overlaps and gaps. Classify regulatory, administrative, program management and technical support functions. Evolve revised institutional structure, clearly segregating the above 4 types of functions and eliminating any conflict of interest. Merge entities where appropriate. Reduce administrative redundancies. In large states, decentralise administrative functions (such as that of DLB) to regional offices. Revise the powers, official hierarchy and seniority of heads of the organisations, as per revised institutional structure. Institutionalisate reforms being managed by Program Agencies/SPVs, through mainstream agencies (such as DLB). Draft charters of mutual accountability, defining their roles, inter-linkages and performance accountability to one another. Bring ULB leadership in the governance structures of Program Agencies / SPVs involved in program management and technical support. Prepare a time-bound transition plan from current structure to the revised one. Communicate plan to all stakeholder agencies and obtain their buy-in. Effect changes in staffing structures and patterns aligned to the revised institutional arrangements. Transition plan can be gradual where some functions, staff, commensurate databases and processes are transferred. The time bound transition should be periodically monitored, by senior level (Secretary – UD of State Govt.), and emerging issues addressed immediately.</td>
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<tr>
<td>B1</td>
<td>Creation of Cadre of municipal staff for both Administrative and Technical Functions.</td>
<td>Identify skill gaps – skill areas and number of professionals required. Notify the position vacancies, grade and scale for that position (linked to ULB size, role, etc.). Define qualifications, experience and competencies required. Finalise pay scale, grade (equivalence) with existing cadres, etc.</td>
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Institute a standardised selection process, operated in transparent manner, (for e.g. Govt. of Karnataka’s approach for posting municipal cadre officers through counselling).
Define performance management process for the cadre.
Ensure cadre is able to attract young qualified professionals, with the ability and aptitude to work in public institutions.

Define career growth path for cadre officers. Growth should offer higher responsibilities, learning opportunities, apart from higher emoluments.

Define process and norms for absorbing existing personnel with related qualifications and experience into the cadre at appropriate levels.

Define process that provides balance of authority in cadre management between State level and city level leadership. For all positions, process may be adopted of providing the ULB leadership a panel of at least 3/5 shortlisted names, and final selection by the ULB leadership. Similar balance should be created with respect to transfers, disciplinary action, etc.

Institute processes for intensive training to personnel hired into the cadre, and periodic retraining and learning opportunities.

Institutionalise processes for managing the cadre with regard to all personnel management functions.

All sub-ULB jurisdictions (electoral wards, zones, engineering circles, etc.) should be represented spatially on the city map. Examine the extent of incongruity.

Identify bottlenecks to merging boundaries. For network services (water supply, sewerage, SWM) the network design, and logistics may pose peculiar problems in some places. Resolve these problems one by one (introduce intermediate metering in case of water supply, or club more than one ward to constitute a zone, etc.).

In case of large cities, divide the wards into few zones (3 / 5), define routine service delivery functions to be monitored from these zonal offices. Zonal offices may also be cost centres to recording service delivery costs incurred in that zone. Transfer adequate powers to zonal administrative and engineering heads, to take decisions for uninterrupted operations.

In the event, municipal wards are being redrawn under a delimitation exercise, leverage the opportunity to alter municipal ward boundaries and synchronise with other sub-ULB spatial units.

Review deployment of operations staff, and realign with new jurisdictions. Alter reporting relationships where necessary.

Review flow of information regarding operations from field to Zonal office / Head of Dept. Make appropriate changes.
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<th>D1</th>
<th>Staffing review</th>
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<td></td>
<td>Provide information swiftly to municipal staff, citizens and all other stakeholders about the change in boundaries. Communicate widely through maps and charts, with adequate level of detail (scale not more than 1:1000). Provide training to all municipal staff about the revised structures, reporting lines. Undertake indepth review of staffing patterns in the ULB, covering staff in position, vacancies, sanctioned posts, etc. Examine skill and experience profile. Compare with norms. Examine ageing profile and examine superannuation rate (by department, level and skill base). Conduct interviews, time and motion studies, and undertake other measures to identify number of personnel required for the job. Also project increase / decrease in requirement if any. Focus on field level service delivery functions, citizen interface points and administrative support roles. Analyse skill availability Vs requirement, to lead to identification of gaps and redundancies. Prepare redeployment plan to bridge gaps and eliminate redundancies. Examine span of control, reporting hierarchy and adequacy of decision-making staff at all levels. Many a times, the Commissioner has a large span of control, with some minor departments such as Nursery / Urban Forestry directly reporting to the Chief Executive / Commissioner. These departments never get adequate attention, and consequently performance and effectiveness of the department suffers. Abolish redundant posts, many of which would have lost relevance. If gaps still remain, explore options of outsourcing staff on contract basis, or outsourcing the activity itself. Many functions can be taken up under PPP, reducing the staffing burden of the ULB. Prepare a detailed and timebound transition plan, with small incremental steps being taken up every day. Communicate the plan, and hold detailed dialogue with staff unions, counsel them and all staff being redeployment on individual basis. Take up measures for people to take pride in new role, improve hygiene factors and work conditions such as providing proper working spaces, uniforms, tools and devices, communication devices, etc. Often these minor issues are neglected, which snowball into larger issues, making transition difficult. The time bound transition should be periodically monitored, by senior level (Mayor and Municipal Commissioner), and emerging issues addressed immediately.</td>
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In this section you studied structural reforms- optional reform. Now, you should be able to answer some questions relating to this section given in Check Your Progress-3.

**Check Your Progress 3**

**Note:**

a) Write your answer in about 50 words

b) Check your answer with possible answers given at the end of the unit

1) What are structural reforms?

2) What are the benefits of reforms in decentralisation of municipal administration?

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**1.5 LET US SUM UP**

Administration of urban local self-governments is an important element in the overall realm of public administration. From an urban citizens’ perspective, administration of local governments (Urban Local Bodies – ULBs) impacts their lives far more than any other tier of government. Therefore, legislative and structural reforms institutions of urban local bodies potentially have a significant positive impact on the quality of governance, service delivery and overall quality of life in urban areas. Efficiency and effectiveness of institutions is critically dependant on the internal capacities of the institution. In the context of ULBs, internal capacities would be defined by:

- **Structures** – organisation structures of ULBs, organisation structure of urban development departments of State Government, and hierarchical relationships between the two.
- **People** – human resources who staff ULBs, and systems for developing and managing them.
- **Systems and Processes** – Quality, reliability and effectiveness of systems and processes that are both internal to the ULB, and those that enable the external interface with citizens and other stakeholders.

Technically speaking, legislative and structural reforms cut across various reform elements, and are not a stand-alone reform of a specific aspect of functioning of
ULBs. Reforms in systems/processes have been addressed in a number of reform elements such as –

- Streamlined processes for public disclosure.
- Administration of property taxes under Property Tax reforms.
- Administration of user charges under User Charge reforms.
- Usage of Information Technology under e-Governance, which also requires re-engineering of business processes.
- Implementation of modified accrual based accounting under Accounting Reforms.
- Streamlining processes for building plan approvals.
- Reforms in processes for conversion of land-use, registration of transactions on land and property.

However, apart from all of the above further reforms are required in a few key areas, to enable ULBs function as effective units of urban local governments. Generally, a number of systems and processes for functioning of ULBs are laid down as per Rules notified under the Municipal Acts and Procedures notified through Government Orders, etc. However, many of these systems and processes have become obsolete and redundant over time, and require substantial change. Also for a number of areas procedures are not defined, practices have evolved over time and carried on only on the basis of past-precedence. Therefore, a thorough review of systems and processes is called for in order to address multiple challenges that have emerged over time, such as:

- Municipal boundaries have expanded over time, requiring expansion in the administrative structure of the ULBs to address larger volume of work. Municipal functions have increased and become more complex. Most issues require multi-functional expertise to plan for, develop and manage. Thus the scale and skill requirements of municipal management have changed.

- Information Technology can be significantly leveraged to manage large volumes of data, citizen information, spatial information, etc. Ability of IT software tools to store, transfer and retrieve large amounts of data, makes it possible to simplify and speed up many municipal processes. Information and communication technologies can also be leveraged for easier, faster and more accessible two-way communication with citizens and other stakeholders.

- Many processes have become redundant over time. For e.g. the process of delivery of demand notices for Property Tax is redundant in the changed Self-Assessment System.

- Adding more staff to deal with these changes is not an option, as it is important for ULBs to be cost effective in its delivery of services.

- Citizens have legitimate expectations for higher levels of service and responsiveness by ULBs.

- All the above reasons, therefore require extensive legislative and structural reforms to be undertaken in ULBS.
1.6 REFERENCES AND SELECTED READINGS


1.7 CHECK YOUR PROGRESS – POSSIBLE ANSWERS

Check Your Progress 1

1) **What is the broad framework of Jawaharlal Nehru National Urban Renewal Mission (JNNURM)?**

   The broad framework of the Mission is as follows:
   - Preparation of City Development Plans (CDPs) by respective cities with a 20-25 years perspective.
   - Sector-wise detailed project reports to be prepared.
   - A Memorandum of Agreement (MoA) to be signed between the central government, state governments and ULBs containing the time bound commitment on the part of states/ULBs to carry out reforms.

2) **What are the mandatory urban reforms at State level under Jawaharlal Nehru National Urban Renewal Mission (JNNURM)?**

   a) effective implementation of decentralization initiatives as envisaged in the Constitution (seventy-fourth) Amendment Act, 1992;
   b) repeal of Urban Land (Ceiling and Regulation) Act, 1976;
   c) reform of rent control laws; d) rationalisation of stamp duty to bring it down to no more than 5 percent within seven years;
   e) enactment of a public disclosure law;
   f) enactment of a community participation law, so as to institutionalize citizens’ participation in local decision making; and
   g) association of elected municipalities with the city planning function.

3) **What are the mandatory urban reforms at municipal level under Jawaharlal Nehru National Urban Renewal Mission (JNNURM)?**

   a) Adoption of a modern, accrual-based, double entry system of accounting;
   b) introduction of a system of e-governance using IT applications, GIS and MIS for various urban services;
   c) reform of property tax;
Legal and Structural Reforms

d) levy of user charges to recover full cost of operation and maintenance
e) internal earmarking of budgets for basic services to the urban poor; and
f) provision of basic services to the urban poor, including security of
  tenure at affordable prices.

Check Your Progress 2

1) What are the salient features of Constitution (Seventy Fourth Amendment) Act 1992?

The salient features of this Act are:
• Urban local bodies, to be known as Municipal Corporations, Municipal
  Councils and Nagar Panchayat shall be constituted through universal
  adult franchise in each notified urban area of the country.
• These shall be constituted for a period of five years .
• Not less than one-third of total number of seats in each urban local
  body shall be reserved for women.
• The Legislature of a State may by law entrust on these bodies such
  power and authority as may be necessary to enable them to function as
  institution of local self government, including those listed in the Twelfth
  Schedule.

2) What are the advantages in implementing the Community Participation law?

It will help deepen democracy, facilitate efficiency and sustained socio-
  economic growth, and promote pro-poor initiatives and will help in improving
  urban governance and service delivery.
  ▪ It will promote transparency and accountability in governance.
  ▪ It will have citizen participation in planning from the grassroots.
  ▪ Citizens will have a say in determining how information is shared,
    policies are set, resources are used and plans/programs are implemented.

3) What are the core objectives of Public Disclosure Act?

The core objectives of Public Disclosure Act are:
  ▪ To provide appropriate financial and operational information on various
    municipal services to citizens and other stakeholders.
  ▪ To promote efficiency and consistency in the delivery of public goods
    and services by the municipality.
  ▪ To disseminate information in a structured, regular and standardized
    manner for and through urban local bodies.

Check Your Progress 3

1) What is structural reforms?

Structural Reforms include:
• Reforms in the institutional structures of urban management at the State
  level
• Creation of cadre of municipal staff for different disciplines
• Decentralisation of municipal administration, and synchronisation of internal jurisdictions
• Organisation structure review and optimisation of staffing patterns

2) **What are the benefits of reforms in decentralisation of municipal administration?**

The benefits of reforms in decentralisation of municipal administration are:

- Alignment of political, administrative (managerial) and operational accountability
- Costs, revenues and service delivery standards can be matched for each ward
- Better resource allocation decisions - for both capital expenditure and operational improvements