

Urban Land Ceiling Act, 1976
A Critical Analysis of impact on Housing

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Introduction

This research paper is an attempt to understand the relevance of the Urban Land Ceiling Act, 1976¹, in today's scenario keeping in mind the fact that India is striving to be a market driven economy and the reasons for which it should be repealed. To answer the first question the history of the Act being passed has been looked into and the intention of the legislators understood and then a comparison with the present day functioning of the Act has been done in order to understand whether the goals have been met.

To answer the second question the researcher has looked into the reasons given by the states that repealed the act and the subsequent developments in those states in terms of land use and its positive impacts on the economy, to see whether the repeal of the Act was a prudent move.

Role of State

India is a welfare state, where under the state is not only to discharge its primary duty of security and protection of the territory of India and its citizens but also, as pre Art. 47 of the Constitution, to provide an adequate standard and climate of living. This places a duty upon the state to ensure every citizen has a place to live and a congenial environment to develop his/ her potentials².

The courts have interpreted right to life under Art. 21 to include the right to live in proper dwellings and have humane living conditions. It is a lot more than a mere survival or animal existence. It has to be read along with dignity of person³. In the case of *Francis Coralie v. Administrator, Union Territory of Delhi*⁴ the Supreme Court held that expressing oneself and the magnitude and context of the same depends on the economic development of the country. *Bandhua Mukti Morcha's* case also carries forward the theme of human dignity within right to life⁵.

In the case of *Olga Tellis v. Bombay Municipal Corporation*⁶ the court took a favorable stance towards slum dwellers and said that the problem of slum dwellers arises because of

the excessive migration to cities and therefore, they also need just and fair warning and procedures before they are removed from the pavements. Therefore, right to shelter is enshrined in the Indian Constitution and a duty upon the government.

Land markets in the urban economy

Designing city spaces is conventionally about managing growth and development within a city through a set of long-term plans and regulations that control the development. Urban planning is about constructing urban spaces to create a flowing network of long term economic needs of people, requirements of housing and basic infrastructure - streets, sewers, water lines, electricity, transport services, etc. and the preservation of environmental resources which stands the test of time and demands of development. On a larger scale, the land market is one of the three markets that have direct impact on the urban economy and therefore, its regulation is imperative to prevent capital markets from collapsing⁷. Distortions in the land market often lead to land speculation which is a scenario in which the value of land is artificially raised beyond actual price and after this bubble of inflation bursts, investors in land lose out on capital as prices in market fall⁸. This is more disastrous in urban areas because land is already in short supply there and speculation only drives out of the affordability range for the majority. To prevent this often urban peripheral areas are placed under extremely strict zoning procedures⁹.

The main constraints to efficient land markets are often more political than technical. Land in and around urban areas are either owned by the government, or by the private sector.¹⁰ Obviously these large landowners, be they governmental, communal or private, have a vested interest in maintaining the status quo, which goes in their favor. While they profit from the status quo the prime losers are the urban residents, particularly urban poor¹¹. Their choice of a legal ownership of land is restricted as they can't afford housing in the main city and the peripheral area, because it's not in market, offers no cheap housing options and therefore, they are pushed into the illegal market sector.¹² This leads to longer commuting time and costs, very poor living conditions, caused by a lack of adequate infrastructure and services, causing poor health and greater expenditure, thereby

entrenching the cycle of poverty¹³. This vicious circle a product of mismanagement and greed negates the development process itself. Therefore, the Government of India also felt the need to pass a legislation that strikes at the root of all these problems and that is excessive land holdings by individuals.

The Asian Experience

The cities of Asia are growing at an unprecedented rate because the sudden spurt of development has brought with it rural-urban migration and high urban population growth rates¹⁴. The cities are expanding both vertically in the forms of high rises and horizontally claiming all lands, whether waste lands or agricultural around them to create what have come to be known as "satellite towns"¹⁵.

In most Asian cities suitable land exists but it is not available for development¹⁶. These restrictions on development exist because of speculation, government actions (such as for example land banks), shortage of infrastructure provision and mostly, bureaucracy which makes the application of provisions of law riddled with loopholes, which in reality really negate the law altogether because too many people escape through bribery etc. But land development is extremely important because that's the way new lands can be added to the existing city to fulfill requirements. Cities need to expand. Its inevitable. Infact its necessary because for an economy to be fed constantly the cities which are the financial units of any countries must constantly be in a flow and should not come to a standstill, the economy within it needs to expand and that will only happen with the influx of resources like manpower, new industrial set- ups and all of these things have a core requirement of land. Therefore, importance of land cannot be underestimated at all.

An important problem is that the municipal governments often lack up-to-date information on the land markets in their cities¹⁷. In fact there is a growing recognition that a major reason why municipalities have not coped with urban population growth is because they are "flying blind" - they simply do not know what is going on in their local land markets. Accurate information of how the land market operates is vital for adopting

appropriate strategies to improve the performance of the land market. Land market assessment is a tool developed to assist governments in adopting more appropriate strategies¹⁸. In countries, such as China, India and Pakistan, the public sector has an extensive role not only in implementing plans and regulations but also in land development.

India can serve as an example of a country, which is attempting to reduce the role of the public sector and encourage links with the private sector. For. e.g. the Bangalore City Water Supply Corporation has been considering the option of water supply being privatized¹⁹. Also the government has taken the initiative to control private land holdings through acts which place ceilings on the same.

Our development policies have been very haphazard with either too much focus on land policies or too relaxed an attitude to encourage industrialization. Post liberalization in 1992, government actively started encouraging private sector funding and the interaction with the private sector in the phase of formulation of the policies went up. However, while agreeing with increased private developer participation in the delivery of serviced land in principle, the process of reaching consensus on concrete actions was slow²⁰.

In most Asian cities, the price of land has increased substantially faster than the consumer price index, making land inaccessible for low-income groups²¹. In some cities the increase has been higher because of special circumstances, such as a shortage of land not subject to flooding (Dhaka), purchases by nationals returning from work in the Middle East (Dhaka and Karachi) as well as the existence of a large green belt (Seoul) (Brennan, 1994).²² Other special circumstances in Seoul included excessive land and building regulations causing high land development costs leading to a rise in land values from 1974 to 1989 of 1400 per cent. For residential land, price increases were even steeper, on average 24.2 per cent per annum, which would equal a rise of 25.7 times during the same time period.²³ The number of cities that have reached high levels of development are very less in number in the Asia pacific region when seen in comparison to the number of people and

therefore, the influx of population into these centers in phenomenal leading to the obvious outcome of soaring land prices. The only solution to this is to encourage growth in other areas consciously to divert some of the population to these places.²⁴ Land speculation is very difficult to tackle, especially as government officials themselves are often involved in land speculation²⁵. Most of the methods implemented to reduce speculation have not been successful as indicated by the continued fast rate of land value increases. The methods include limitations on land ownership, capital gains taxes, legalizing land tenure (thereby increasing the availability of land), excess land holding tax and increased property taxes on vacant land²⁶. Therefore, artificial inflation has been prevalent in these markets also.

Housing Policy and Urban Policy in India

The policies of urban development and housing in India have come a long way since 1950s. The pressure of urban population and lack of housing and basic services were very much evident in the early 1950s. In some cities this was compounded by migration of people. But the urban sector had yet to establish itself as the predominant sector in the country so the policy makers were yet to understand the gravity of problems being faced by the sector.

First Five Year Plan (1951-56):- The emphasis was on “institution building” and on construction of houses for “Government employees and weaker sections”. The Ministry of Works & Housing was constituted and National Building Organization and Town & Country Planning Organization were set up²⁷. An Industrial Housing Scheme was also initiated²⁸.

Second Plan (1956-61):- The scope of the housing programme was increased. The Industrial Housing Scheme was widened to cover all workers. Three new schemes were introduced, namely, Rural Housing, Slum Clearance and Sweepers Housing. Town & Country Planning Legislations were enacted in many States and necessary organizations were also set up for preparation of Master Plans for important towns²⁹.

Third Plan (1961-66):- The needs of the low- income groups were seriously considered.

A Scheme was introduced in 1959 to give loans to State Governments for a period of 10 years for acquisition and development of land in order to make available building sites in sufficient numbers.³⁰

Fourth Plan (1969-74):- Urban Growth was specifically looked at. The Plan stressed the need to prevent further growth of population in large cities and need for decongestion or dispersal of population³¹. Housing & Urban Development Corporation (HUDCO) was established to fund the remunerative housing and urban development programmes, promising a quick turnover. A Scheme for Environmental Improvement or Urban Slums was undertaken in the Central Sector from 1972-73 with a view to provide a minimum level of services, like, water supply, sewerage, drainage, street pavements in 11 cities with a population of 8 lakhs and above.³²

Fifth Plan (1974-79):- The pressure on urbanization was sought to be reduced and population increase in urban centers was seriously considered. This was to be supplemented by efforts to augment civic services in urban areas with particular emphasis on a comprehensive and regional approach to problems in metropolitan cities. The Urban Land (Ceiling & Regulation) Act was enacted to prevent concentration of land holding in urban areas in the hands of a few builders and few governmental agencies by placing upper limits on the land that could be held individually, by a family, by a group and making sure that all surplus beyond this is put back into the market and is made available for construction of houses for the middle and low-income groups³³.

Sixth Plan (1980-85):- Housing for the poor was considered extensively. The Integrated Development of Small and Medium Towns (IDSMT) was launched in towns with population below one lakh for provision of roads, pavements, minor civic works, bus stands, markets, shopping complex etc. Positive inducements were proposed for setting up new industries and commercial and professional establishments in small, medium and intermediate towns.

Seventh Plan (1985-90):- Introduction of private sector into the field of housing policies to share the burden was considered. A three-fold role was assigned to the public sector, namely, mobilisation for resources for housing, provision for subsidised housing for the poor and acquisition and development of land. The National Housing Bank was set up to expand the base of housing finance. NBO was reconstituted and a new organisation called Building Material Technology Promotion Council (BMTPC) was set up for promoting commercial production of innovative building materials. A network of Building Centres was also set up during this Plan period. The Seventh Plan explicitly recognised the problems of the urban poor and for the first time an Urban Poverty Alleviation Scheme known as Urban Basic Services for the Poor (UBSP) was launched³⁴.

National Housing Policy (NHP) was announced in 1988, as a consequence of Global Shelter Strategy (GSS). The long term goal of the NHP was to eradicate "houselessness"³⁵, improve the housing conditions of the inadequately housed and provide a minimum level of basic services and amenities to all³⁶. Government began focusing more on urban poor and their needs.

Eighth Plan (1992-97):- Disparities between urban and rural economies were understood. Growth rate of employment in the urban areas averaged around 3.8% per annum, while it was just 1.6% in the rural areas. Therefore, the urban areas have to be enabled to absorb larger increments to the labour force and therefore, reach a faster development rate.

The Plan identified the key issues in the emerging urban scenario³⁷:

- The widening gap between demand and supply of infrastructural services badly hitting the poor, whose access to the basic services like drinking water, sanitation, education and basic health services is shrinking
- Unabated growth of urban population aggravating the accumulated backlog of housing shortages, resulting in proliferation of slums and squatter settlement and decay of city

environment

- high incidence of marginal employment and urban poverty as reflected in NSS 43rd round that 41.8 million urban people lived below the poverty line.³⁸

Ninth Five-Year Plan (1997-2002): - The regional disparities on the basis of infrastructure were sought to be resolved and the housing of poor once more became a concern³⁹. The ULCRA was repealed on the passing of resolution by the states of Haryana and Punjab. Together with¹ public investment, private initiative was to be encouraged to in creating infrastructure like power, communication services, roads, bridges, housing, industrial estates, etc. Roads and electricity were also be given to private sector as options. Urban Slum Development and poverty alleviation programmes were to be given more priority.⁴⁰

The Tenth Five-Year Plan (2002-2007) aims at repealing the Urban Land Ceiling Act, 1976 in all states that have not done so already. It also seeks at improving infrastructural standards in all urban agglomerations and for the same has taken new zoning procedures and is also encouraging Foreign Direct Investment (FDI) in the real estate sector⁴¹. NURM has been pushed forward as a sample of the kind of development policies the government seeks to undertake.

History of the Urban Land Ceiling Act, 1976

The Urban Land ceiling Act (ULCRA) was introduced during Prime Minister Indira Gandhi's regime as a means for lower income sections to fulfill their dreams for a home. The main purpose of the Act was to prevent hoarding or excessive holding of land in urban agglomerations by few people so as to facilitate proper distribution and uniform development of all sectors of urban areas⁴². It had been noticed that private dealings were leading to speculation and profiteering and prevention of this kind of trade was one of the objectives of the UCLRA. The Act applied to large cities because the shortage of land was felt more grievously there as there was a constant influx of population.⁴³ Urban

Agglomerations were covered in their entirety by the Act and the peripheral areas were specially considered to prevent haphazard growth⁴⁴. The statement of objectives of the Act reads as follows: -

“ The Repeal Act is intended to achieve the following objectives:-

- (i) to prevent concentration of urban property in the hands of a few persons and speculation and profiteering therein;
- (ii) to bring about socialization of urban land in urban agglomerations to subserve the common good by ensuring its equitable distribution;
- (iii) to discourage construction of luxury housing leading to conspicuous consumption of scarce building materials and to ensure the equitable utilization of such materials; and
- (iv) to secure orderly urbanization.”

Even though government took over a considerable amount of land, it did nothing at all to meet these objectives. The land that was easily available earlier became scarce because it completely went out of circulation and the buying process came to a standstill, creating shortage in housing. The bureaucrats/ politicians and builders came together and the government gave the land as 10 per cent from the chief minister's quota to take care of the problems of shortage in housing⁴⁵. The land was either being exempted under Sec. 20/ 21 altogether or being acquired under Sec. 6-14 but not being used for the purposes of the Act and therefore, not affecting the housing market favorably. Thus the Urban Land Ceiling Act (1976) distorted land markets in urban areas, exacerbated the growth of slums and limited the growth of private enterprises by creating an artificial shortage of land where none existed and this led to land rates shooting up beyond their actual value. This completely defeated the objectives of the Act, as the land was further out from the reach of the marginalized sections of the society than before the Act was passed.

The Central Government repealed this 1999, but the state governments have not followed the lead. States like Punjab, Uttar Pradesh, Madhya Pradesh, Rajasthan, Gujarat and Haryana have repealed this act but states like Maharashtra and Bihar, Delhi are still favoring the ULC Act.

Components of the 1976 Act

Genesis of the Act

As already discussed, the Act has its genesis in resolutions passed by 11 states already enlisted. The Act received the assent of the President on February 17, 1976. subsequently, the Act was adopted by the states of MP, Bihar, Meghalaya, Assam, Manipur bringing the number of states to which its applicable to 17. It was applicable to urban agglomerations i.e. cities having a population of 2 lakhs or more. The count was 64 when the Act was repealed in 1999⁴⁶. It classified the cities it was applicable to into four categories and placed different limits upon them. It classified them as A, B, C and D level agglomerations⁴⁷.

1. Ceiling limit on vacant lands for urban agglomerations of metropolitans of Delhi, Bombay, Calcutta and Madras which fall under the category 'A' is 500 sq. meters.
2. At 1,000 sq. meters for urban agglomerations with a population exceeding ten lakhs and above. This forms category 'B'.
3. At 1,500 sq. meters for an agglomeration having population between three to ten lakhs, in category 'C'.
4. And at 2000 sq. meters for agglomerations having population between two to three lakhs under category 'D'.

The primary purpose of the Act was to acquire the land so that it could be used to prevent hoarding and bring about equitable distribution of the land in the urban economy.

Constitutional Validity

Under Art 246 the Parliament has the exclusive power to make laws with respect to matters enumerated in Union List of the seventh schedule. Under Art. 249 and 250 Parliament can legislate with respect to matters in the state list for national interest and during the period when emergency as been declared⁴⁸. Now under Entry 18 of List II, land whether agricultural or non- agricultural falls under the purview of state's jurisdiction.

Therefore, if the centre wants to make a law on the same, then as per Art. 252, at least two states have to pass a resolution stating that they want the centre to make law on the point for them. On this point it self there have been conflicts, with the state of Andhra Pradesh claiming that the centre was given power to enact a law on ceilings on immovable property whereas they went ahead and enacted a law placing ceilings on urban land. But the Supreme Court said that ceilings on immovable property are wide enough to include ceilings on urban land⁴⁹. So far as the state of Madhya Pradesh was concerned it was contended by a resolution passed before the enactment to the Act by various states, Parliament derived power to legislate for those states and that as the legislature of the State of MP had not passed any such resolution, the centre had no power to pass the legislation for MP. But the High Court held that the Parliament has jurisdiction under Art. 252(1) of the Constitution to enact the legislation for the state of MP.⁵⁰ In a recent case, it was held that when two or more state legislatures resolve under Art. 252 that a particular state list item would there forward be regulated by the Parliament by law and such a law is enacted by the Parliament, then the states concerned for the period for which the Act is applicable would have no jurisdiction to amend or repeal the Act⁵¹. The constitutional validity of the Act was also considered in *Maharao Sahib Shri Bhim Singhji v. UOI*⁵². The Act itself was constitutionally valid but Sec. 27(1) of the same which deals with restrictions on transfer of any urban land which was within the ceiling area as invalid. The case of *Dattatreya v. State of Maharashtra*⁵³ also declared the Act to be constitutionally valid.

Sec. 2 of the Act is the definition section. As per Sec. 2(o), 'urban land' is 'any land situated within the limits of the urban agglomeration and referred to as such in the master plan'. If there is no master plan, or if it does not make any such references, then the case of *UOI v. Valluri Basaviah*⁵⁴ held that any land within the limits of the municipality and not used for agricultural purpose will be included within the definition. Therefore, it includes peripheral lands also. This is the main focus when it comes to application of the Act as there is more scope for regulation here to due to availability of free lands.

'Urban Agglomeration' is an important term. It has been defined in Sec. 2(n). Agglomeration means a cluster of urban area. Such clusters have been identified by the Act under Schedule I. There are also provisions for the central government to identify new agglomerations due to demographic changes and add them to schedule I. The categorization under the Act has already been discussed. For category A areas, peripheral area is 8 kms., for category B areas and category C areas it is 5 kms and it is 1 km for category D areas⁵⁵.

The definition of 'vacant land' is more important as the ceilings under the Act have been imposed only on vacant lands. As per clause 2(q), vacant land includes lands which are in urban agglomerations and not being used for agricultural purposes but does not include⁵⁶:

1. land on which construction of a building is not permissible under the applicable building regulations, or,
2. land in an area where building regulations are in force occupied by any building which was constructed before the appointed day by the approval of the appropriate authority i.e. even though it was vacant on the day of survey construction work on the same had started
3. The land situated in a village (described as a village in the revenue records) within an urban agglomeration whereon any person ordinarily keeps his cattle (other than for the purpose of dairy farming, breeding, livestock) immediately before the appointed day.

'Appointed Day' is the day on which the Act first becomes applicable to the state. 'Land Appurtenant' is an additional or adjunct land to a building. For the purpose of this Act it includes⁵⁷: -

1. If the building is situated in an area where there are building regulations- the minimum extent of land required to be kept as open space for the enjoyment of such building under the regulations upto a maximum of 500 sq. meters.

2. If building is in an area where no building regulations are applicable then 500 sq. meters of land contiguous to the land occupied by such building.
3. If the building appurtenant was constructed before the appointed day then land appurtenant under categories (i) and (ii) plus 500 sq. meters contiguous to the land under the above mentioned categories.

Application of the Act

The Act made necessary provisions for achieving the objective of ceiling, acquisition and development of urban lands which can be basically understood by the following major actions undertaken to achieve the objectives⁵⁸:-

1. Imposition of a ceiling on both ownership and possession of vacant land in urban agglomerations, the ceiling being on graded basis according to the classification already discussed.
2. Acquisition of excess land by the State Government, after making the payment of an amount, with powers to dispose of the vacant land to subserve the common good.
3. Regulation of the transfer of vacant land within the ceiling limits
4. Restricting the plinth area for the construction of future residential buildings.

Imposition of Ceilings

The ceiling limits have been prescribed by the Act with the direction that no person can hold urban land more than the limit prescribed under the various categories. Those holding vacant land in excess of the limits are under an obligation to declare the same⁵⁹. Sec. 3 provides that no person is to hold more than the ceiling limits⁶⁰. The following clarifications are attracted to the same:

1. the date of the commencement of the Act is necessary to ascertain vacant land as per the definition already discussed
2. the term person under sec. 2(i) of the Act includes a family, a firm, a company, or an association/ body of individuals apart from natural persons. The artificial persons may be incorporated or not⁶¹.

3. the location of the surplus lands is relevant because they do not depend upon the residence of the owner but the area where they are situated. Therefore, the residence might fall under jurisdiction but vacant land might be exempted as it falls in the agricultural belt.
4. The vacant land must not be protected under the special exemptions under the Act.⁶² Sec. 19 to 21 make special provisions, referred to under Sec. 3 whereunder the vacant land beyond the ceiling limits can still be held by the person despite the Act being applicable to the region. But section 21 states that such lands have to be used for the construction of dwelling houses for the weaker sections of the society. The person holding such lands has to declare the intention to use them for the construction of such dwelling units. Sec. 2 (j) states that the time limit within which such units are to be constructed must be prescribed along with the application.. there are some statutory conditions that need to be fulfilled before such an exemption is allowed:

- (a) The person should hold the land in excess of the ceiling limit prescribed
- (b) The said person should make a declaration before the competent authority that such land is to be utilized for the construction of dwelling units for the accommodation of the weaker sections of the society. The declaration must be within such time, in such manner as is prescribed from time to time in the rules.
- (c) The plinth area of such houses should not exceed 80 sq. meters
- (d) The dwelling units are to be constructed in accordance with the scheme approved by such authorities as the state government specifies in the official gazette.

As per clause (2) of Sec. 21, if a person violates any of the above conditions, then the competent authority may give an opportunity of being heard and declare such land to attract the provisions of the Act and not be exempted. In addition, Sec. 4(3) also provides for holding vacant land for group housing scheme sanctioned by a competent authority immediately before the commencement of the Act. According to the sub-section, group housing means⁶³: -

- (a) constructed or to be constructed
- (b) with one or more floors
- (c) each floor consisting of one or more dwelling units
- (d) having common service facilities

For the purpose of group housing, a person can hold only that much vacant land which would be on the satisfaction of the above conditions, for one dwelling unit for one person and extent of vacant land not exceeding the ceiling limit per dwelling unit or the one sanctioned under the scheme, whichever is less⁶⁴. After the statement is received from the person concerned, the competent authority makes enquiries regarding the same. If he is satisfied then the land will be exempted, otherwise the provisions under Sec.6- 14 will apply.

How is vacant land ascertained?

The definition of vacant land is precise enough to decide whether the land is vacant for the purpose of this Act. But suppose that the land of a person falls under more than categories, then the calculation is to be made as per permissible limit on each category i.e. 1 sq. meter of category A vacant land= 2 sq. meters in category B, 3 sq. meters in category C and 4 sq. meters in category C. this is because the ratio difference between category A:B:C:D = 1:2:3:4⁶⁵.

The formula is one category/ ceiling limit in order⁶⁶. Accordingly the calculations are made and vacant land placed under one category is decided to be surplus or not. Under Sec. 4(1) of the Act if the transferor is made by the way of sale, mortgage, gift or lease of vacant land by the transferor after 17/2/1975 but before the appointment day are also to be considered as vacant lands under the Act and this prejudices the rights of the transferor and not the transferee.

Formalities for Surplus Land Holders

In case a person is holding vacant land in excess of the ceiling limits , the following formalities need to be complied with:-

- (1) A statement declaring the same has to be made under Sec. 6 of the Act. This is done before the competent authority under the Act. The statement should specify the location, extent, value and nature of the title held by the person concerned.
- (2) A draft statement in compliance with Sec. 8 of the Act needs to be made. This contains the name, address of the person concerned along with all particulars regarding the vacant land and again, the nature of the title.
- (3) A final statement under Sec. 9 has to be made. This is a draft prepared by the competent authority and altered in the light of the arguments raised by the person concerned and orders passed thereon.
- (4) A notification is issued under Sec. 10. After the final service statement as been made, the competent authority shall issue a notification under Sec. 10(1) of the Act. This notification gives out all the particulars regarding the person concerned and the vacant land. A statement to the effect that the land is to be acquired by the state government. And also a statement asking all persons who might have a claim in the said land may be personally or through their agents giving particulars of the nature of their interest in the land.

Acquisition and Disposal of Lands

After the determination of claims, the competent authority shall publish another notification, under clause (3) in the Official Gazette, declaring the excess vacant land as per specifications in the earlier notifications under Sec. 10(1) as being acquired by the state. And on the publication of such a statement, the land shall be deemed to vest absolutely in the state government. As per clause 4 of sec. 10(1), after notifications under sec. 10(1), no person can transfer such land. This was done by people in the hopes of retaining ownership of some sorts over their lands, but the courts declared such transfers void⁶⁷. During the period aforementioned, the use of such vacant lands cant be altered in a manner so as to affect its categorization as vacant lands⁶⁸.

Sec. 11 to 14 deal with making of compensation for the acquisition of the excess lands. The quantum is decided by first seeing whether any income is derived from the vacant lands or not. when there is an income derived from the vacant lands, then compensation is $8\frac{1}{3}$ multiplied by the net average income derived from the acquired lands during five years consecutively preceding the date of publication of notification under Sec. 10(1). For the calculation of the net average income, the competent authority has to first determine the gross income actually derived by the person during five years before publication of the notice. After which taking $\frac{1}{5}$ th of the income so calculated derives average income. 60% of this is taken as the net average income⁶⁹. When no income is derived then if the land is situated in category A or category B agglomerations then the compensation rate is Rs. 10 per sq. meter and if its in category C or D agglomerations then its Rs. 5 per sq. meter⁷⁰. In any case the compensation is not to exceed Rs. 2 lakhs even by using the above criteria for calculation. The competent authority determines the amount to be paid. The order makes the amount known to the person concerned.

Since, under Sec. 10(3) the acquired land vests with the government absolutely and free of all encumbrances, therefore, Sec. 11(10) provides that if any claim or liability is enforceable against any vacant lands thus acquired, it can only be enforced against the amount payable under Sec. 11 in respect of the said vacant lands and against the property of the owner of the said vacant lands. Sec. 14(1) makes a mandatory provision that the state government shall make the payments, as finally determined after appeal under Sec. 12/ 13 within 6 months from the date of the final order. As regards mode of payment, clause (2) of sec. 14 lays down that:

- (1) 25% of the amount or Rs. 25000 (whichever is less) shall be paid in cash immediately.
- (2) The balance amount shall be paid in negotiable bonds redeemable after the expiry of 20 years. These bonds shall carry an interest @ 5% pre annum with effect from date on which vacant lands are deemed to have been acquired.

The Repeal Act, 1999

Savings clause - Its scope

By virtue of Section 1(3) of the Repeal Act, it has come into force in the States of Haryana and Punjab and in all Union Territories from the date of promulgation of the Repeal Act⁷¹. Section 3 of the Repeal Act saves certain actions which are clearly listed out thereunder.⁷² The main drawback is Sec. 3, which is under the fallacious assumption that all the grounds for savings clause have been exhaustively covered under it. Therefore, unless your cause of action can be defined under Sec. 3 of the Act, the suit becomes fallacious as the parent Act has been repealed.

As to the scope of a savings clause, Sabyasachi Mukharji, J. (as his Lordship then was), in *CIT v. Shah Sadiq and Sons*⁷³ ruled:

"... the 'savings' provision in the repealing statute is not exhaustive of the rights which are saved or which survive the repeal of the statute under which such rights had accrued. In other words, whatever rights are expressly saved by the 'savings' provision stand saved. But, that does not mean that rights which are not saved by the 'savings' provision are extinguished or stand *ipso facto* terminated by mere fact that a new statute repealing the old statute is enacted. Rights which have accrued are saved unless they are taken away expressly. This is the principle behind Section 6(c) of the General Clauses Act, 1897."

In *Bansidhar v. State of Rajasthan* also, M.N. Venkatachaliah, J. (as he then was) for a Constitution Bench observed that "a saving provision in a repealing statute is not exhaustive of the rights and obligations so saved or the rights that survive the repeal".

But the only repercussion is that rights, which are not saved by the repeal Act will involve extensive litigation as the parties will have to prove the same from scratch and the courts do not *per se* recognize them and this only adds to the woes of the parties.

When an Act is repealed, all actions under it become nugatory as they have no legal basis. When this Act was repealed same would have happened had there been no savings clause. The savings clause was introduced because here the property of the person was acquired by the state and it would be against rule of law, to not restore it to the person, if the shelter of law, under which the action was taken by the state is removed. The Act, as per proviso 1 to clause 3(a), proposed that where the use of the acquired land for the purposes of the principal Act has not commenced, there the State Government shall restore such land to the person from whom it has taken over and the amount paid shall be liable to be refunded. As per the available statistics, the Government could physically take possession of 19,082.22 hectares of land during the last 22 years. Out of that, 10,909.85 hectares of land was put to use for the purposes of the Act i.e. providing dwelling units, while the remaining 8172.37 hectares of land could not be put to use and is still vacant⁷⁴. Therefore, this remaining land must be restored. The problem with the language of the Act is that it says that land that has not been used for the purpose of the Act and the issue here is what if this land has been acquired and then sold of by the state for other uses apart from housing of the poor? In an interview with Mr. Ravi of APSA, an organization in Bangalore that works with the Urban Poor, I was told that 1000 acres were given to Infosys, from the acquired lands. In such cases the land has not been used for the purposes of the Act. Therefore, it should be returned to the owners. But so far no action has been taken on the same.

Rationale For Repeal

"The Urban Land (Ceiling & Regulation) Act has failed to achieve its objectives due to its poor performance. Out of 2,20,675 ha⁷⁵. Of estimated excess vacant land, 50,046 ha. of vacant land vested in the State Governments⁷⁶. Physical possession was acquired only of 19,020 ha. of vacant land by the State Governments. There has been a demand to repeal this Act so that the stock of urban land increases and development of urban land for

various sectors, namely, housing, transport, industry, etc. may be available. ... The Government has decided to repeal this Act. Repeal of this Act will also facilitate the availability and affordability of urban land, by increasing supply of urban land....", was stated by the Minister of Urban Affairs and Employment in the Rajya Sabha.⁷⁷

The figures given in the above statement show that though 23 years elapsed since the ULCRA came in force in 64 towns, no effective results could be achieved. Its dismal performance was attributable to a plurality of reasons. Amongst them, one of the main reasons was the illusory amount of compensation (Re 1 to Rs 10 per sq. mt.), evidencing its confiscatory nature i.e. it was almost amounting to a fine people paid for owning excess land instead of proper reimbursement and therefore, no feeling of coercion. The Act was penalizing people for holding excessive lands. This is a problematic idea because land- holding is a perfectly legal right and if your title is good then no one can question the amount being held by you. But here the state was questioning it in the basis of public interest and taking it away for so small a compensation that it was forcing people to not agree to their land holdings. In fact state was exploiting its position and trying to impose charitable intentions upon people.

Also the ULCRA "institutionalized" corruption. Sec. 20/ 21 were subjective in nature and allowed for exemptions under the Act and this was being utilized by all bureaucrats to earn favors and majority of land was exempted under one pretext or another.⁷⁸ The repeal of the ULCRA was also necessitated to accelerate the growth rate of the housing stock. As per the 1991 Census, 162 million households were living in 131 million usable housing stock, indicating a backlog of about 31 million, which is to rise to 41 million in 2001⁷⁹.

The ULCRA froze the building activity substantially by proving to be regulatory impediments to housing and land development⁸⁰. The acquired land was outside the jurisdiction of builders and entrepreneurs and the state itself was not doing any construction work. So the remaining land became extremely expensive firstly, because

people were not keen on parting with it and secondly because demand was constantly increasing, anyways.

With the repeal of the ULCRA, the greater availability of land would naturally push down the price effectively. The market forces would govern the prices without there being artificial scarcity. The worst victims of the ULCRA were the marginal and small farmers, who had their holdings in the peripheral areas of the urban agglomerations. Their lands were acquired for such low compensation rates that they were pushed into lower social strata as they were technically out of work.

The competent authorities also misused their powers while determining excess vacant lands. The definition was ambiguous. The exemption granted to agricultural lands was being exploited on the basis of zoning laws, as if lands were situated there, then they couldn't be acquired, even if in reality they were actually super malls or some other commercial set-up. The determination of excess vacant land, though theoretically looked simple, was found to be most tedious in practice. The procedural hassles of the ULCRA including right to appeal (vide Section 33) and the right to revision (vide Section 34) against every order had also led to endless innings of litigation. There was no one common authority whose orders were considered to be final.

The concern for the urban poor felt by the antagonists to the repeal can be well appreciated. But their interest can be effectively served by other means also. One of the ways can be to legislate a special law for the shelter to the poor. In retrospect, the Supreme Court has upheld such law. To illustrate, the Tamil Nadu Acquisition of Land for Harijan Welfare Scheme Act, 1978 and the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 were upheld in the *State of T.N. v. Ananthi Amma*^{B1} though they provided lesser amount of compensation. Other means can be by creating "shelter fund", imposing stiff taxes on vacant land, higher rate of capital gains arising from transfer of such lands, higher stamp duty, tariff etc. From various standpoints, the view taken by the Standing Committee as well as the decision of the Government for the repeal reflects a

well-considered policy decision, which deserves to be commended as a pragmatic and progressive step in the right earnest. Also, Sec. 21 is a major loophole that allows land owners to get exemptions on the grounds of constructing dwelling houses and then starting construction but delaying completion, or selling them off to builders who even though comply with the requirements, make houses which are well beyond the reach of the marginalized sections of the society.

And the compensation rates are unrealistically low, almost amounting to fines and therefore, discouraging people from declaring excess land and therefore, the objectives of the Act are not being fulfilled. Unless by mistake excess land was found, it was not possible to detect it on paper.

An argument often taken as a counter against repeal is to introduce stricter rent control laws, but this works on the presumption that adequate dwelling units are already available just not affordable, while in reality there is not enough land available to construct more dwelling units to reduce the pressure on the available supply. Therefore, ceilings are good and assure supply of land. But this supply is not governed by the private sector and the red-tapism of the bureaucracy just clogs up the markets more. With the ceilings removed the private sector can move in and claim these lands at adequate prices from land owners and build cheap housing units at a considerable profit thereby achieving the objectives of the Act faster than it could⁸².

Also, the government has hardly anything to show of the lands it acquired under the Act and there has been little or no reconstruction for the weaker sections. Infact the bureaucracy has exploited these lands to earn more money by selling them off to MNC's and industrialists as the peripheral lands are best for new set-ups. Therefore, the Act should be repealed on a cost-benefit analysis, as a profit driven private sector will be more conscientious than the government has been and the government can encourage reconstruction for the poor by providing private sector subsidies in other areas, or by offering builders FSI's in other buildings for construction of a particular number of dwelling

units. Also safety can't be sacrificed at the altar of profit and therefore, strict checks need to be undertaken. The government should feel embarrassed and ashamed of its own failure and now consciously undertake measures to rectify the damage it has perpetuated for two and a half decades by allowing the poor an opportunity to live.

Endnotes

¹ Hereinafter referred to as the ULCRA.

² Subhas C Sharma, *Introduction to Urban Land Laws*, (Jalandhar, ABS Publications, 1992), at p. 33.

³ M.P. Jain, *Indian Constitutional Law*, (5th edn., Nagpur, Wadhwa and Co., 2003), at p.1309.

⁴ AIR 1981 SC 746.

⁵⁵ *Bandhua Mukti Morcha v. UOI*, Air 1984 SC 802. Also see *Chameli Singh v. State of UP*, AIR 1996 SC 1051 and *CERC v. UOI*, AIR 1992 SC 922.

⁶ AIR 1986 SC 180.

⁷ http://www.unescap.org/huset/land_policies/index.htm. "Most cities in developing countries of the region suffer from land market distortions caused by poor land development and management policies including poor planning, slow provision of infrastructure and services, poor land information systems, cumbersome and slow land transaction procedures, as well as under regulation of private land development, leading to unplanned or corridor development of land in the urban periphery."

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* These vested interests gain more by keeping the land markets fragmented, without proper controls and by keeping the dealings in the land market non-transparent.

¹¹ *Id.*

¹² Which are slums, squatter settlements and illegal sub-divisions, mainly in the periphery of cities. Urban India Population 1901-1991

	Population (million)	Percentage of Urban to total Population	Decade growth rate (per cent)
1901	29.9	10.8	-
1911	25.9	10.3	0.4
1921	28.1	11.2	18.3
1931	33.5	12.0	19.1
1941	44.2	13.9	32.0
1951	62.4	17.3	41.4
1961	78.9	18.0	26.4
1971	109.1	19.9	38.2
1981	159.5	23.3	46.1
1991	217.6	25.7	36.4
2001	306.9	30.5	41.0

¹³ *Id.* It must be remembered here that the Act has provisions of dwelling units to marginalized sections as one of its objectives and therefore, the term land and house markets have been used interchangeably.

¹⁴ http://www.unescap.org/huset/m_land/chapter7.htm

¹⁵ "The cities often have a densely populated city centre, a mostly residential area surrounding the city core and a number of developed traffic corridors extending into the typically agricultural periphery. Within the residential areas and between these traffic corridors, there are typically extensive land areas available either for agricultural purposes or lying vacant." *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ http://www.bwssb.org/urban_poor.html.

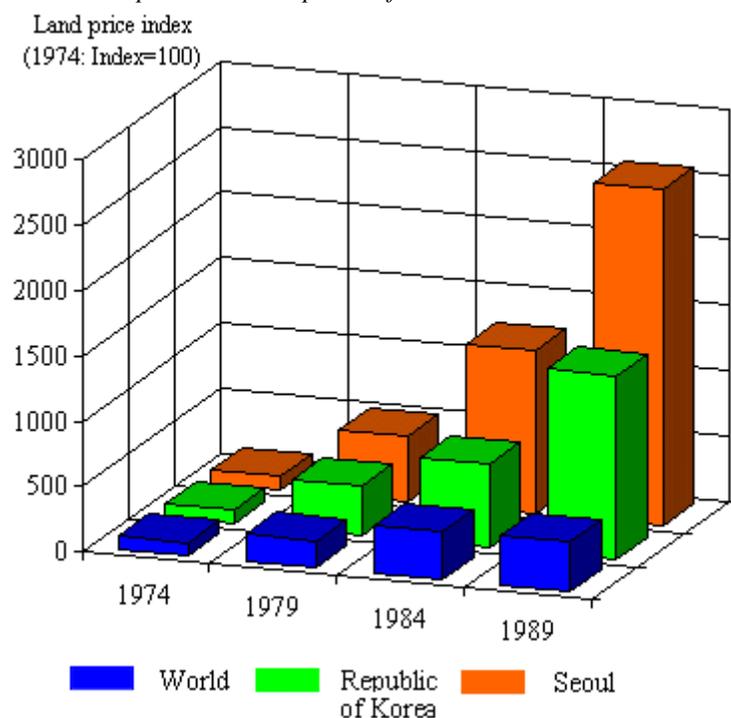
²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id. Land prices in the Republic of Korea*



²⁵ *Id.*

²⁶ *Id.*

²⁷ A sizeable part of the plan outlay was spent for rehabilitation of the refugees from Pakistan and on building the new city of Chandigarh. See < <http://www.indiacore.com/urban-infra.html>>.

²⁸ The Central Government subsidized Scheme to the extent of 50% towards the cost of land and construction. <http://muepa.nic.in/policies/hupi.htm>.

²⁹ *Id.*

³⁰ *Id.* Master Plans for major cities were prepared and the State capitals of Gandhi Nagar and Bhubaneswar were developed.

³¹ This was envisaged to be achieved by creation of smaller towns and by planning the spatial location of economic activity.

³² *Id.* The scheme was later extended to 9 more cities.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Tenth Five Year Plan 2002- 2007.

³⁸ *Id.* Plan Outlay in Housing and Urban Development Sector can be summed up as follows:-

Rs. in million

Plan	Total Outlay	Housing & Urban Development	Percentage share in the total
First Plan	20688	488	2.1
Second Plan	48000	1200	2.5
Third Plan	85765	1276	1.5
Annual Plan (1966-69)	66254	733	1.1

Fourth Plan	157788	2702	1.7
Fifth Plan	394262	11500	2.9
Annual Plan (1977-80)	121765	3688	3.0
Sixth Plan	975000	24884	2.6
Seventh Plan	1800000	42295	2.3
Annual Plan (1990-92)	1338350	3001	2.2
Eighth Plan	4341000	105000	2.4
Ninth Plan		158800	
Tenth Plan		405000	

³⁹ <http://www.mp.nic.in/planning/summary.htm>.

⁴⁰ *Id.*

⁴¹ Tenth Five Year Prog.

⁴² The Urban Land (Ceiling and Regulation) Act, 1976 came into force on 17.02.1976. The States of Andhra Pradesh, Haryana, Gujarat, Himachal Pradesh, Karnataka, Maharashtra, Orissa, Punjab, Tripura, Uttar Pradesh and West Bengal initially adopted the Act. Subsequently it was adopted by six more states namely Assam (25.03.76), Bihar (01.04.1976), Madhya Pradesh (09.09.76), Manipur (12.03.76), Meghalaya (07.04.76) and Rajasthan (09.03.76). The Act was being implemented in the urban agglomeration having population of more than two lakhs as per the 1971 Census (64 urban agglomerations). *Id.*

⁴³ Adarsh B. Dial, *Ramersshwar's Dial's Law of Urban Land Ceiling*, (2nd edn., Bangalore, Bharat law House, 1990), at p.4.

⁴⁴ *Id.*

⁴⁵ <http://www1.economicstimes.indiatimes.com/articleshow/msid-1581961,curpg-2.cms>.

⁴⁶ T.N Shukla, *Urban Land (Ceiling and Regulation) Act, 1976*, (Calcutta, Kamal Law House, 1988), at p.5.

⁴⁷ These are as per Sec. 4 read with Schedule 1 of the 1976 Act. Sec. 4 reads as follows:-

Ceiling limit.- (1) Subject to the other provisions of this section, in the case of every person, the ceiling limit shall be,--

(a) where the vacant land is situated in an urban agglomeration falling within category A specified in Schedule I, five hundred square metres;

(b) where such land is situated in an urban agglomeration falling within category B specified in Schedule I, one thousand square metres;

(c) where such land is situated in an urban agglomeration falling within category C specified in Schedule I, one thousand five hundred square metres;

(d) where such land is situated in an urban agglomeration falling within category D specified in Schedule I, two thousand square metres.

(2) Where any person holds vacant land situated in two or more categories of urban agglomerations specified in Schedule I, then, for the purpose of calculating the extent of vacant land held by him,--

(a) one square metre of vacant land situated in an urban agglomeration falling within category A shall be deemed to be equal to two square metres of vacant land situated in an urban agglomeration falling within category B, three square metres of vacant land situated in an urban agglomeration falling within category C and four square metres of vacant land situated in an urban agglomeration falling within category D;

(b) one square metre of vacant land situated in an urban agglomeration falling within Category B shall be deemed to be

equal to one and one-half square metres of vacant land situated in an urban agglomeration falling within category C and two square metres of vacant land situated in an urban agglomeration falling within category D; and

(c) one square metre of vacant land situated in an urban agglomeration falling within category C shall be deemed to be equal to one and one-third square metres of vacant land situated in an urban agglomeration falling within category D.

(3) Notwithstanding anything contained in sub-section (1), where in respect of any vacant land any scheme for group housing has been sanctioned by an authority competent in this behalf immediately before the commencement of this Act, then, the person holding such vacant land at such commencement shall be entitled to continue to hold such land for the purpose of group housing;

Provided that not more than one dwelling unit in the group housing shall be owned by one single person:

Provided further, that the extent of vacant land which such person shall be entitled to hold shall, in no case, exceed-

(a) the extent required under any building regulations governing such group housing; or

(b) the extent calculated by multiplying the number of dwelling units in the group housing and the appropriate ceiling limit referred to in sub-section (1),

whichever is less.

Explanation.- For the purpose of this sub-section and sub-section (10),--

(i) "group housing" means a building constructed or to be constructed with one or more floors, each floor consisting of one or more dwelling units and having common service facilities;

(ii) "common service facility" includes facility like staircase, balcony and verandah.

(4)(a) In any State to which this Act applies in the first instance, if, on or after the 17th day of February, 1975, but before the appointed day, any person has made any transfer by way of sale, mortgage, gift, lease or otherwise (other than a bona fide sale under a registered deed for valuable consideration) of any vacant land held by him and situated in such State to any other person, whether or not for consideration, then, for the purposes of calculating the extent of vacant land held by such person the land so transferred shall be taken into account, without prejudice to the rights or interests of the transferee in the land so transferred:

Provided that the excess vacant land to be surrendered by such person under this Chapter shall be selected only out of the vacant land held by him after such transfer.

(b) For the purpose of clause (a), the burden of proving any sale to be a bona fide one shall be on the transferor.

Explanation.- Where in any State aforesaid, there was or is in force any law prohibiting transfer of urban property in that State except under the circumstances, if any, specified therein, then, for the purposes of this sub-section, any transfer by way of sale of such property, being vacant land, made by any person under a registered deed for valuable consideration in accordance with the provisions of such law or in pursuance of any sanction or permission granted under such law, shall be deemed to be a bona fide sale.

(5) Where any firm or unincorporated association or body of individuals holds vacant land or holds any other land on which there is a building with a dwelling unit therein or holds both vacant land and such other land, then, the right or interest of any person in the vacant land or such other land or both, as the case may be, on the basis of his share in such firm or association or body shall also be taken into account in calculating the extent of vacant land held by such person.

(6) Where a person is a beneficiary of a private trust and his share in the income from such trust is known or determinable, the share of such person in the vacant land and in any other land on which there is a building with a dwelling unit therein, held by the trust, shall be deemed to be in the same proportion as his share in the total income of such trust bears to such total income and the extent of such land apportionable to his share shall also be taken into

account in calculating the extent of vacant land held by such person.

(7) Where a person is a member of a Hindu undivided family, so much of the vacant land and of any other land on which there is a building with a dwelling unit therein, as would have fallen to his share had the entire vacant land and such other land held by the Hindu undivided family been partitioned amongst its members at the commencement of this Act shall also be taken into account in calculating the extent of vacant land held by such person.

(8) Where a person, being a member of a housing co-operative society registered or deemed to be registered under any law for the time being in force, holds vacant land allotted to him by such society, then, the extent of land so held shall also be taken into account in calculating the extent of vacant land held by such person.

(9) Where a person holds vacant land and also holds any other land on which there is a building with a dwelling unit therein, the extent of such other land occupied by the building and the land appurtenant thereto shall also be taken into account in calculating the extent of vacant land held by such person.

(10) Where a person owns a part of a building, being a group housing, the proportionate share of such person in the land occupied by the building and the land appurtenant thereto shall also be taken into account in calculating the extent of vacant land held by such person.

(11) For the removal of doubts it is hereby declared that nothing in sub-sections (5), (6), (7), (9) and (10) shall be construed as empowering the competent authority to declare any land referred to in sub-clause (ii) or sub-clause (iii) of clause (q) of section 2 as excess vacant land under this Chapter.

Explanation.- For the purposes of this section and sections 6, 8 and 18 a person shall be deemed to hold any land on which there is a building (whether or not with a dwelling unit therein) if he-

(i) owns such land and the building; or

(ii) owns such land but possesses the building or possesses such land and the building, the possession, in either case, being as a tenant under a lease, the unexpired period of which is not less than ten years at the commencement of this Act, or as a mortgagee or under an irrevocable power of attorney or a hire-purchase agreement or partly in one of the said capacities and partly in any other of the said capacity or capacities; or

(iii) possesses such land but owns the building, the possession being as a tenant under a lease or as a mortgagee or under an irrevocable power of attorney or a hire-purchase agreement or partly in one of the said capacities or partly in any other of the said capacity or capacities.

⁴⁸ *Ibid* at p. 2.

⁴⁹ *Union of India v. Valluri Basavaiah Chowdhury*, AIR 1979 SC 1415.

⁵⁰ *Rajendra Kumar v. State of MP*, AIR 1979 MP 108.

⁵¹ *Birajananda Das Gupta v. Competent Authority Under the Urban Land Ceiling Act*, AIR 1988 Cal. 8.

⁵² AIR 1981 SC 234.

⁵³ AIR 1989 SC 1796.

⁵⁴ *Supra* n.20.

⁵⁵ Subhas C Sharma, *Introduction to Urban Land Laws*, (Jalandhar, ABS Publications, 1992), at p. 33.

⁵⁶ *Ibid.*, at p.34.

⁵⁷ *Id.*

⁵⁸ <http://pib.nic.in/focus/fojan99/fo1201991.html>.

⁵⁹ Sec. 6 reads as follows:-

6 . Persons holding vacant land in excess of ceiling limit to file statement.- (1) Every person holding vacant land in excess of the ceiling limit at the commencement of this Act shall, within such period as may be prescribed, file a statement before the competent authority having jurisdiction specifying the location, extent, value and such other particulars as may be prescribed of all vacant lands and of any other land on which there is a building, whether or not with a dwelling unit therein, held by him (including the nature of his right, title or interest therein) and also specifying the vacant lands within the ceiling limit which he desires to retain:

Provided that in relation to any State to which this Act applies in the first instance, the provisions of this sub-section shall have effect as if for the words "Every person holding vacant land in excess of the ceiling limit at the commencement of this Act", the words, figures and letters "Every person who held vacant land in excess of the ceiling limit on or after the 17th day of February, 1975 and before the commencement of this Act and every person holding vacant land in excess of the ceiling limit at such commencement" had been substituted.

Explanation.- In this section, "commencement of this Act" means,--

(i) the date on which this Act comes into force in any State;

(ii) where any land, not being vacant land, situated in a State in which this Act is in force has become vacant land by any reason whatsoever, the date on which such land becomes vacant land;

(iii) where any notification has been issued under clause (n) of section 2 in respect of any area in a State in which this Act is in force, the date of publication of such notification.

(2) If the competent authority is of opinion that-

(a) in any State to which this Act applies in the first instance, any person held on or after the 17th day of February, 1975 and before the commencement of this Act or holds at such commencement; or

(b) in any State which adopts this Act under clause (1) of article 252 of the Constitution, any person holds at the commencement of this Act,

vacant land in excess of the ceiling limit, then, notwithstanding anything contained in sub-section (1), it may serve a notice upon such person requiring him to file, within such period as may be specified in the notice, the statement referred to in sub-section (1).

(3) The competent authority may, if it is satisfied that it is necessary so to do, extend the date for filing the statement under this section by such further period or periods as it may think fit; so, however, that the period or the aggregate of the periods of such extension shall not exceed three months.

(4) The statement under this section shall be filed,--

(a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on this behalf;

(b) in the case of a family, by the husband or wife and where the husband or wife is absent from India or is mentally incapacitated from attending to his or her affairs, by the husband or wife who is not so absent or mentally incapacitated and where both the husband and the wife are absent from India or are mentally incapacitated from attending to their affairs, by any other person competent to act on behalf of the husband or wife or both;

(c) in the case of a company, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by a person competent to act on this behalf.

Explanation.- For the purposes of this sub-section, "principal officer",--

(i) in relation to a company, means the secretary, manager or managing-director of the company;

(ii) in relation to any association, means the secretary, treasurer, manager or agent of the association,

and includes any person connected with the management of the affairs of the company or the associations, as the case may be, upon whom the competent authority has served a notice of his intention of treating him as the principal officer thereof.

⁶⁰ **Persons not entitled to hold vacant land in excess of the ceiling limit.**- Except as otherwise provided in this Act, on and from the commencement of this Act, no person shall be entitled to hold any vacant land in excess of the ceiling limit in the territories to which this Act applies under sub-section (2) of section 1.

⁶¹ URBAN at p. 35.

⁶² Sec. 21 reads as follows: - **Excess vacant land not to be treated as excess in certain cases.**- (1) Notwithstanding anything contained in any of the foregoing provisions of this Chapter, where a person holds any Babu vacant land in excess of the ceiling limit and such person declares within such time, in such form and in such manner as may be prescribed before the competent authority that such land is to be utilised for the construction of dwelling units (each such dwelling unit having a plinth area not exceeding eighty square metres) for the accommodation of the weaker sections of the society, in accordance with any scheme approved by such authority as the State Government may, by notification in the Official Gazette, specify in this behalf, then, the competent authority may, after making such inquiry as it deems fit, declare such land not to be excess land for the purposes of this Chapter and permit such person to continue to hold such land for the aforesaid purpose, subject to such terms and conditions as may be prescribed, including a condition as to the time limit within which such buildings are to be constructed.

(2) Where any person contravenes any of the conditions subject to which the permission has been granted under sub-section (1), the competent authority shall, by order, and after giving such person an opportunity of being heard, declare such land to be excess land and thereupon all the provisions of this Chapter shall apply accordingly.

⁶³ It reads as follows:

‘Notwithstanding anything contained in sub-section (1), where in respect of any vacant land any scheme for group housing has been sanctioned by an authority competent in this behalf immediately before the commencement of this Act, then, the person holding such vacant land at such commencement shall be entitled to continue to hold such land for the purpose of group housing;

Provided that not more than one dwelling unit in the group housing shall be owned by one single person:

Provided further, that the extent of vacant land which such person shall be entitled to hold shall, in no case, exceed-

(a) the extent required under any building regulations governing such group housing; or

(b) the extent calculated by multiplying the number of dwelling units in the group housing and the appropriate ceiling limit referred to in sub-section (1),

whichever is less.

Explanation.- For the purpose of this sub-section and sub-section (10),--

(i) "group housing" means a building constructed or to be constructed with one or more floors, each floor consisting of one or more dwelling units and having common service facilities;

(ii) "common service facility" includes facility like staircase, balcony and verandah.’

⁶⁴ *Supra* n. 34 at p. 40.

⁶⁵ Sec. 4(2) reads as follows: ‘where any person holds vacant land situated in two or more categories of urban agglomerations specified in Schedule I, then, for the purpose of calculating the extent of vacant land held by him,--

(a) one square meter of vacant land situated in an urban agglomeration falling within category A shall be deemed to be equal to two square meters of vacant land situated in an urban agglomeration falling within category B, three square meters of vacant land situated in an urban agglomeration falling within category C and four square meters of vacant land situated in an urban agglomeration falling within category D;

(b) one square meter of vacant land situated in an urban agglomeration falling within Category B shall be deemed to be equal to one and one-half square meters of vacant land situated in an urban agglomeration falling within category C and two square meters of vacant land situated in an urban agglomeration falling within category D; and

(c) one square meter of vacant land situated in an urban agglomeration falling within category C shall be deemed to be equal to one and one-third square meters of vacant land situated in an urban agglomeration falling within category D.’

⁶⁶ *Ibid.* at p. 42.

⁶⁷ *Supra* n. 34 at p. 52.

⁶⁸ *Id.*

⁶⁹ Sec. 11(2).

⁷⁰ Sec. 11(1)(b).

⁷¹ I/11/1999.

⁷² Sec. 3 of the 1999 Act reads as follows:-

Savings.--

(1) The repeal of the principal Act shall not affect--

- (a) the vesting of any vacant land under sub-section (3) of section 10, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority;
- (b) the validity of any order granting exemption under sub-section (1) of section 20 or any action taken thereunder, notwithstanding any judgment of any court to the contrary;
- (c) any payment made to the State Government as a condition for granting exemption under sub-section (1) of section 20.

(2) Where—

- (a) any land is deemed to have vested in the State Government under sub-section (3) of section 10 of the principal Act but possession of which has not been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority; and
- (b) any amount has been paid by the State Government with respect to such land, then, such land shall not be restored unless the amount paid, if any, has been refunded to the State Government.

⁷³ (SCC p. 524, para 15).

⁷⁴ *Supra* n. 31.

⁷⁵ Hectares.

⁷⁶ <<http://www.ebc-india.com/lawyer/articles/9902a1.htm>>.

⁷⁷ *Id.*

⁷⁸ Mr. Ravi, APSA. See Annexure.

⁷⁹ *Id.*

⁸⁰ Sec. 20-22 of the Act.

⁸¹ *Id.*

⁸² Hafeez Contractor, “Landlocked in the land of Free”, <<http://www.indianexpress.com/story/7872.html>>.