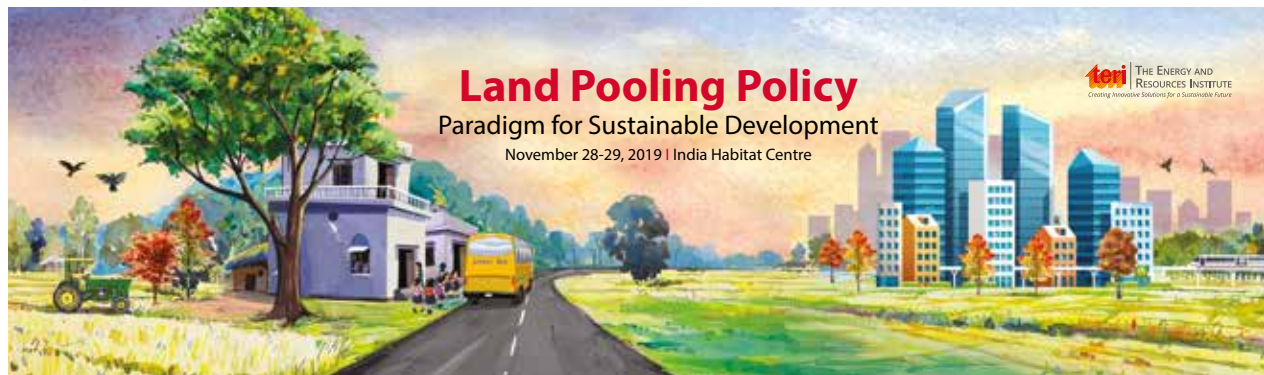


BACKGROUND PAPERS



Land Pooling Policies and Practices in India

Land pooling, known variously as land readjustment/land reconstitution/land sharing/land consolidation/land re-plotting is an arrangement wherein the land for a project, is pooled by land owners who later receive a land parcel from the pooled land, after it is serviced. Land pooling is perceived as beneficial, both to the landowners as well as the development agencies by virtue of enhancing the intrinsic value of land by regularizing the plots and providing better public infrastructure; adopting a 'non-displacement strategy' whereby landowners retain their 'rights to return' or sell off lands after project completion; reducing the financial burden of servicing the land. It creates more opportunities for revenue generation and fosters collaboration between public and private actors in their pursuit for sustainable land development.

In the early 20th century, Germany was the first country to create a legal framework to carry out land pooling in urban areas. In Europe, it has been widely used for urban regeneration to decongest the cities and expand its boundaries. In the Asian context, Japan has been a forerunner in the application of this method, while South Korea, Taiwan, Thailand, Nepal and Bhutan have followed suit.

India's urban planning has long association with land pooling through the colonial town planning schemes. In 1915, The Bombay Town Planning Act initiated the Town Planning Scheme (TPS) in erstwhile Bombay Presidency. TPS made use of land pooling and redistribution process for planned urban development of large parts of Maharashtra and Gujarat. In 1976, the Gujarat Town Planning and Urban Development Act led to urban transformation in major cities of Gujarat (Surat & Ahmedabad), by integrating town planning and development plan at city level. The Punjab Regional and Town Planning and Development Act, 1995 also includes town planning scheme for implementation of its Master plan or provision of amenities *The Chattisgarh Nagar Tatha Gram Nivesh Adhiniyam*, 1973 and the Naya Raipur Development Plan-2031 have adopted town development scheme for urban expansion to accommodate the growing population of Raipur. The total area under TDS 1, TDS

4 and TPS is 6697.24 hectares. Mohali has also resorted to land pooling mechanism to supply lands for managing their housing shortages and other urban infrastructures.

The Bombay Town Planning Act, 1915 initiated land pooling started in Gujarat when it was a part of erstwhile Bombay Presidency. The urban planning legislation enshrined macro-level planning activities called 'Development Plans' as well as micro-level planning for smaller areas (about 100 Ha) called 'Town Planning Schemes' (TPS) by the local authorities. Further, to control development beyond the city limits, in 1976, the Gujarat Town Planning and Urban Development Act was framed. There are provisions for TPS in the Act that comes closer to land pooling. The local authority and the owners of land, enter into a joint venture to redistribute regularized plots after carving out areas for roads and streets, public and semi-public spaces. The manner, in which TPS has to be carried out, has been stipulated in the Gujarat Town Planning and Urban Development Rules, 1979. Essentially, there are three stages: preparation of draft scheme, preliminary scheme, and final scheme.

The Act was amended in 1999 to empower the appropriate authority to retain 50% of land pooled in the entire TPS area.

Percentage of allotment of land from the total area under the scheme:

Roads	15%
Parks, playgrounds, greens and open spaces	5%
Social infrastructure, e.g. schools, dispensary, public utility place	5%
land retained by appropriate authority for sale	15%
<ul style="list-style-type: none"> ▶ percentage of allotment may differ, though variations in ii) & iii) can be made only for public purpose, else they have to remain the same. ▶ proceeds from the sale shall be used to finance the cost of providing infrastructure in the notified area 	

The Urban Development Authority of Ahmedabad (AUDA), under the BTPA, 1915 built the entire city of Ahmedabad with

the first TPS being made for Jamalpur in 1925. Since then, TPS have been used to provide road connectivity (e.g. the Bus Rapid Transit System-BRTS, Sardar Patel ring road of about 76 km, build in 2002-2006), infrastructure- sewerage, storm water drainage, street lightning etc. Naroda that lies on the periphery of Ahmedabad witnessed haphazard growth due to the establishment of Gujarat Industrial Development Corporation in 1970s. Later, this periphery was brought under the Ahmedabad Municipal Corporation (AMC) which developed a total area of 87.45 Ha by using TPS in 2006. The GTPUDA Act, 1976 even allocated 10% of the total land area to construct houses for the socially and economically backward classes. The city's experience with TPS shows that it can be used to initiate development in an entirely new area as well as in informal contexts where unauthorized colonies have to be brought under the ambit of planned urban development. TPS have proved to be a useful tool for the reconstruction of the walled city of Bhuj. From 1978 to 1999, Ahmedabad has successfully implemented Town Planning Schemes in over 12724.2 ha of area. Even as the Gujarat Town Planning Schemes have been lauded for being 'participatory, democratic, equitable, inclusive, transparent, non-disruptive and non-coercive', they have come under the scrutiny for lack of meaningful public participation in design-planning and for neglecting the low income housing.

The renewed interest in land pooling and readjustment mechanism is evident in the framing of land pooling policy by number of states and urban Development Authorities for eg. Punjab (2012), Haryana (2013), Kerala (2014), Assam (2015), Rajasthan (2016), Tamil Nadu (2018), Andhra Pradesh (2018) DDA (2018) and HSVP (2019). Each Policy specifies the institutional mechanism, procedural timeframes, returnable developed land, provisions for affordable and low-cost housing, allocation of facilities (roads, parks, open spaces, social infrastructure) and percentage of permitted sale of developed land by the Authority. The land pooling/readjustment option is also being relied upon to build the Navi Mumbai International Airport and the adjacent township Area (NAINA) developed by CIDCO, Mumbai-Nagpur Expressway, Khalapur smart city, in Maharashtra and Dholera Smart City in Gujarat.

By far, the most ambitious application of land pooling technique is seen in the development of the city of Amravati, the new capital of Andhra Pradesh. The government of Andhra Pradesh, through the Andhra Pradesh Capital Region Development Act (APCRDA), 2014, has pooled approx. 33,000 acres of land. The Salient features of the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 are:

- ▶ Return of "reconstituted plots" close to pooled area, else, within 5 km radius of pooled land (in Schedule-II);
- ▶ All participating landowners (patta/ assigned) get alienable rights along with land pooling ownership certificate without payment of stamp and registration fees, non-agricultural land assessment and development charges (in Schedule-II);
- ▶ The land pooling model offer benefits to others residing within the area, such as one-time agriculture loan waiver; housing to homeless and those losing houses; interest free loan up to a certain limit to poor families for self-employment (in Schedule-III);
- ▶ There are provisions for assigning land to encroachers depending upon their eligibility.

The Land Pooling Scheme has an 'entitlement matrix' as shown below:

Land	Category	
	Dry (Single crop)	Jareebu (Multi-crop)
Patta (for every acre of land given)		
Residential	1000 Sq.Yds	1000 Sq.Yds
Commercial	200 Sq.Yds	450 Sq.Yds
Assigned (for every acre of land given)		
Ex-servicemen/political sufferers/freedom fighters/ purchases made before or after 10 yrs from date of assignment:	1000 Sq.Yds	1000 Sq.Yds
Residential		
Commercial	200 Sq.Yds	450 Sq.Yds
Assigned by revenue department before 18.06.1954	1000 Sq.Yds	1000 Sq.Yds
Residential		
Commercial	200 Sq.Yds	450 Sq.Yds
Assigned by revenue department after 18.06.1954	800 Sq.Yds	800 Sq.Yds
Residential		
Commercial	100 Sq.Yds	200 Sq.Yds
Alienated lands under government and being cultivated ryots (Sivajimadars)	500 Sq.Yds	500 Sq.Yds
Residential		

Commercial	50 Sq.Yds	100 Sq.Yds
Annuity	NIL	
Eligible encroachers in un-objectionable government lands as on 08.12.2014 Residential	500 Sq.Yds	500 Sq.Yds
Commercial	50 Sq.Yds	100 Sq.Yds
Eligible encroachers in objectionable government lands as on 08.12.2014 Residential	250 Sq.Yds	250 Sq.Yds
Commercial	NIL	
Annuity	NIL	
Annuity payment to all landowners (10 yrs), including those farmers who have given land which is less than an acre.	30000Rs	50000Rs
Annual enhancement	3000	5000
Additional Payment (one-time) for gardens like lime/sapota/guava/ amla and Jasmine	100000/-	
Compensation for structures/ poultries/trees	Valuation done as per department norms	
Pension to all landless families (10 yrs.) by setting Capital Region Social Security Fund	2,500 /- per month, per family	
Annual enhancement (10 yrs.)	Inflation index based on CPI for agricultural laborers w.e.f from 2016-17	
Other benefits given in addition to above:		
<ul style="list-style-type: none"> ▶ Free education and medical care ▶ Establishing old age homes and low priced food canteens ▶ NREGA limit enhanced to 365 day s/year per family ▶ Establish skill development institution, stipend based skill investment provided to cultivating tenants, agricultural laborers and others ▶ Permission to cut and sell teak trees in private lands with exemption of fees. ▶ Instead of paying compensation for standing crop, it is allowed to be harvested 		

Source: The Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015- Amendment –Notification in AP Gazette, Dated:17.04.2015

The Capital City Development Project (which falls under Andhra Pradesh Capital City Area) was exempted from social impact assessment study and provision to ensure food security as per The RFCTLARR Act, 2013.

The Delhi Land Policy, 2018 notified by the Government of India, applies to 95 villages which have been divided into sectors/zones and each sector/zone consists of about 200 ha of land (Zones-J, K-I, L, N and P-II).

A minimum criteria of 70% contiguous land has to be met by land owners in a sector for development of any city-level infrastructure by the DDA/service providing agencies. There is a provision to form a consortium out of those landowners who have pooled 70 % contiguous land. Such a consortium will retain 60% land for development of residential, commercial, public and semi-public facilities. The rest will be taken by DDA/service providing agency for equipping it with facilities as per the Zonal Development Plan. A single window mechanism for application, verifications, approvals, licenses etc. has been set up for the convenience of every stakeholder.

The norm for land-use plan is given in the table below:

Land-use distribution (city level)		
53%- gross residential; 10%- public/semi-public; 5%- commercial; 4%- Industrial; 16%- recreational; 12%- roads and circulation.		
*A minimum of 2 ha land has to be pooled by an individual or group of owners to be considered as Developer entity. An entity representing the group of landowners can become a developer entity if they have a minimum of 2 ha of land.		
Development of pooled land between DDA/service providing agencies		
Land use (reserved for city development and neighborhood development)	From the area of land pooled	
	Min 40% (by DDA)	Max 60%(by consortium)
Gross residential	--	53%
commercial	--	5%
Industrial	4%	--
Recreational	16%	--
Public semi-public facility	8%	2%
Road and circulation	12%	--
<ul style="list-style-type: none"> ▶ External Development charges apply on the entire land pooled for provision of city-level infrastructure by DDA/ servicing agency. ▶ sub-division of Gross Residential areas and provision of facilities (local and city level) has to be as per Delhi Master Plan. ▶ Internal development (at local/neighborhood level) to be met by Landowners/development entity ▶ 50%plots have been reserved for neighborhood level health and education facilities, within the gross residential (53%), has to be returned to DDA for allotment to government agencies/department. ▶ Vertical mix of uses (residential, commercial, PSP) within a building by consortium is encouraged. ▶ For inclusive development housing will be provided to EWS (Economically weaker Section) 		

Source: Gazette Notification of Oct, 2018. Modified chapter-19. Land Policy of MPD-2021, notification by MoHUA (Delhi Division)

A unique feature of DDA's Land Pooling Policy, 2018 is a recently launched web-based platform that implements the single window system, thus providing an interface between DDA and Landowners/DEs/Consortium. Also, a two-tiered grievance redressal mechanism has been constituted headed by the DDA, Vice-Chairman.

Haryana Shahari Vikas Pradhikaran (HSVP) previously, Haryana Urban Development Authority (HUDA) notified the Land Pooling Policy in 2019. The developed land that will be returned to the participating landowners depend on saleable area (per acre) which has to be worked out according to the table below:

<p>Residential Sites to be given</p> <ul style="list-style-type: none"> ▶ Hyper potential zone-60% of saleable area achieved per acre; ▶ High I/II zones -55% of saleable area; ▶ Medium potential zones and Low I/Low II-50% of saleable area ▶ if residential plot works out to be 90 sq. mtrs then monetary benefits are only given.
<p>Commercial benefits-size of land contributed in land pooling falls under one of the following category then the subsequent commercial benefit is given alongside the residential plot.</p> <ol style="list-style-type: none"> i. less than 999 sq. metres monetary benefits given ii. for 1000-1999 sq metres- 1 kiosk of standard size is given iii. for 2000- 2999 sq. metres- 2 kiosks of standard size iv. for 3000- 4046 sq. metres- 1 *booth of standard size v. for 4047 sq. metres and above 1 booth of standard size <p>For a fraction of land above 1 acre, entitlement of shop will be as per (i)-(iv).</p> <ul style="list-style-type: none"> ▶ If the entitlement for residential plot works out to be less than 90 sq. metres then, instead of a developed residential plot, monetary benefit is given. ▶ If land is pooled by co-sharers, then they can either keep all allotted plots (as per entitlement) jointly in name of all co-sharers, or keep separately for each co-sharer as per their share. ▶ If the plot size works out to be less than the standard size of plot/site, the co-sharers can either keep the plot in joint names or seek monetary benefits as per their share. ▶ In case the applicant is a registered Cooperative House Building Society, then a group housing site is allotted, equivalent in size to their share of entitlement. Else, residential plots will be allotted as per entitlement.

*size of booth is higher than kiosk (booth is 22.6875 sq. mtrs, while kiosk is 7.5625 sq. mtrs)

Source: Land Pooling Policy-2019, issued by Haryana Shehri Vikas Pradhikaran

The zones have been decided according to the classification made by Town and Country Planning department. The residential plot to be returned is calculated on the saleable area of the land pooled in accordance with the standard set above in the table for each potential zone. Also the commercial site received (as entitlement) is dependent on the set category under which the size of land pooled figures. Each zone falls under the development plan of regions demarcated for urban development. The Land pooling scheme applies only if 70 % of contiguous land parcel is achieved, keeping the viability of the project in mind. There is no annuity involved and benefits of R&R policy is ruled out by the scheme.

In 1993, the Magarpatta Integrated Township was built by pooling of land by land owners through a Joint Development Agreement. The Magarpatta Township Development and Construction Company Limited (MTDCCL) was set up as the Special Purpose Vehicle for development of the project. This venture turned the farmers into entrepreneurs as they became shareholders in the company. It was decided that 60% of the proceeds of sale of vacant plot and 30% of the proceeds of sale of plot with construction would be distributed among the shareholders. The Department of Urban Development, Government of Maharashtra notified Magarpatta city in 1995. In 2006, Magarpatta city was designated as a Special Economic Zone.

The land use pattern at Magarpatta City is as given below:

Residential	27%
Cyber city	25%
Open area	30%
Amenities	6%
Sports Complex	5%
Institutes	7%

Source: Comparative evaluation of integrated townships (Ghule, 2011). In Nallathiga. R, (2015) " Evolution of Satellite Township Development in Pune: A Case Study", DOI: 10.13140/2.1.3750.1768

The application of land pooling as an option for land assembly across sectors and geographical locations is predicated on its ability to take into account the interests of all the stakeholders. A national land pooling policy will be useful in earmarking the contours of an inclusive legislative, institutional and benefit-sharing framework that can be adapted to suit the exigencies of different sectors of economy and society.

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The RFCTLARR Act, 2013: The Experience of Implementation

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 constitutes a significant step in the country's march towards a land acquisition regime that is grounded in transparency of processes and fairness of outcomes. The implementation of the Act, over the course of the last five years, has seen the emergence of differing viewpoints over some substantive and procedural provisions of the Act. Of the four features of the RFCTLARR Act –social impact assessment, consent, market- linked cash compensation and rehabilitation and resettlement of PAFs, SIA is the most contested provision.

A brief history of legislative action on The RFCTLARR Act, 2013 by states under Article 254(2) of the Constitution is illuminative. Tamil Nadu was the first state to circumscribe the scope of social impact assessment by enacting The RFCTLARR (Tamil Nadu Amendment) Act, 2014 stipulating that the central law is not applicable when land is acquired under three state laws, except for the purpose of compensation. These Acts are, The Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978, The Tamil Nadu Acquisition of Land for Industrial Purposes Act, 1997 and The Tamil Nadu Highways Act, 2001. Since four- fifth of land acquisition in Tamil Nadu is carried out under the ambit of these Acts, social impact assessment is effectively precluded from the land acquisition process in a vast majority of cases.

The RFCTLARR (Gujarat Amendment) Act, 2016 and The RFCTLARR (Telangana Amendment) Act, 2017 have empowered state governments to exempt projects related to national security and defence, rural infrastructure including electrification, affordable housing and housing for the poor, industrial corridors, infrastructure projects including those in public-private-partnerships from the conduct of social impact assessment. The RFCTLARR (Andhra Pradesh Amendment) Bill, 2017 that has received the Presidential assent in May 2018 has SIA-

exclusionary provisions for similar category of projects as Gujarat and Telangana. The RFCTLARR (Maharashtra Amendment) Act, 2018 has further added irrigation projects and industrial area or industrial estates developed by state government to the aforementioned list of SIA- exempt projects.

The RFCTLARR (Jharkhand Amendment) Act, 2018 has granted the power to state government to exempt, in public interest, infrastructure projects, including schools, colleges, universities, hospitals, panchayat buildings, anganwadi centres, rail, road, waterways, electrification projects, irrigation projects, housing for the economically weaker sections, water supply pipelines, transmission and other government buildings from the requirement of social impact assessment.

On 10th December 2018, the Supreme Court issued notices to the governments of Gujarat, Andhra Pradesh, Telangana, Jharkhand and Tamil Nadu to respond to public interest litigation (PIL) filed by a group of activists led by Medha Patkar challenging the wide-ranging amendments made FCTLARR Act, 2013. The outcome of the case will have far-reaching ramifications.

According to Article 21 of the Constitution, 'no person shall be deprived of his life or personal liberty, except, according to procedure established by law'. The Supreme Court of India has, in the case of *Olga Tellis & Ors. vs Bombay Municipal Corporation & Ors.* in 1985, interpreted the Fundamental Right to Life to include the right to livelihood by postulating that a person cannot live without the means of living. It is a settled principle of law that limitations imposed on the exercise of Fundamental Rights should be 'just, fair and reasonable', thereby placing an obligation on government agencies to disclose information about the intended action and offer an opportunity of being heard before the deprivation of the Right. The provision for social impact assessment in The RFCTLARR Act, 2013 is, in fact, a safeguard to the Right to Life as enshrined in the Constitution

of India. To be conducted by an independent agency, the study examines the 'public purpose' of the project, justification for the extent of land sought to be acquired and nature and degree of potentially adverse social and economic consequences. Further, the SIA report enumerates the project-affected-families comprising of landowners, persons dependent on the earmarked land for livelihood or those deriving livelihood from common property resources such as forests and water bodies and prepares a calculus of their entitlement for cash compensation and rehabilitation and resettlement benefits. All this information is shared at the time of public hearing organized to elicit the views of affected-families and address their misgivings. The involvement of local elected representatives in the impact study, scope for negotiations between landowners and acquiring bodies regarding cash compensation and rehabilitation benefits and the consultative basis of finalization of the ameliorative measures to address the adverse social impacts ensures that the peoples' right to be heard is upheld when social impact assessment is conducted. Instead of a mere administrative tool for benefit-cost analysis of the economic feasibility of a project, SIA is essentially a means for upholding the Fundamental Right to Livelihood by ensuring that land is acquired after careful consideration in a transparent and participatory manner. However, the preclusion of social impact assessment from the ambit of the 13 Central Laws placed in Schedule IV of The RFCTLARR Act, 2013 is discriminatory, in that, it has created a scenario in which the families affected by land acquisition under The RFCTLARR Act, 2013 are entitled to a broader spectrum of safeguards with respect to their Fundamental Right to Livelihood as compared with the 'affected persons' under the 13 Acts.

It is also a fact that there is widespread non-compliance with the provision necessitating the uploading of SIA

reports on websites of governments of states and Union Territories. While many district administration websites do carry SIA reports, a uniform practice of web-sharing of final social impact assessment reports is needed.

The Act enjoins that the transactions in land will cease w.e.f. the date of Preliminary Notification under Section 11 and the market value of land prevailing as on date will be the basis of computation of cash compensation. However, a common complaint of land- requiring bodies and land- acquiring agencies is that the incidence of land transactions as well as the land value increases substantially after the notification of SIA u/s 4. Often, this has the effect of phenomenally raising the cost of acquisition, sometimes to a point where the project becomes economically unviable.

The emphasis on monetization of the Rehabilitation package is a cause of concern among the agencies and entities working with Project-Affected-People. Studies reveal that the cash amount is often expended in a few years, and, without the creation of economic assets, the 'affected persons' become impoverished. The financial counselling of PAFs can improve the chances of prudent investments thereby, safeguarding their long term interests. Livelihood regeneration has not quite received the attention that it deserves.

Though the Act has some provisions to safeguard the interests of women, more needs to be done. The dwelling units provided to displaced families can be registration in the joint name of husband-wife to ensure the interests of women and children. Payment of cash amount in lieu of a house, even if it is deposited in the joint account of husband-wife, may not always result in the construction of a house.