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## TOPIC: Legal Aspects of Urban Development in India

**PRABHAT SINGH**

### **ABSTRACT**

*India's rapid urbanization has led to growing concerns over infrastructure, housing, environmental sustainability, and equitable access to urban resources. This research paper explores the legal framework governing urban development in India, focusing on the constitutional, statutory, and judicial dimensions that regulate how cities are planned, built, and governed.*

*The study begins by examining the constitutional mandate under the 74th Amendment, which empowered Urban Local Bodies (ULBs) to undertake planning and development functions. It analyzes key legislations including the Real Estate (Regulation and Development) Act, 2016 (RERA); Land Acquisition, Rehabilitation and Resettlement Act, 2013; and various state-level planning laws. It also highlights the role of central and state agencies such as the Delhi Development Authority (DDA) and the Mumbai Metropolitan Region Development Authority (MMRDA) in shaping urban policies.*

*Despite a robust legal framework, challenges remain—fragmented governance, weak enforcement, housing inequality, and lack of climate resilience in planning laws. The paper identifies the need for legal reforms, including the codification of urban laws, stronger decentralization, participatory planning, and environmental safeguards.*

*In conclusion, the research underscores that effective and inclusive urban development in India depends on a cohesive and enforceable legal structure that addresses both growth and justice.*

**Keywords:** *Urban development, constitutional law, urban local bodies (ULBs), town and country planning, land acquisition, real estate regulation (RERA), right to shelter, environmental law, urban governance, sustainable urban planning.*

## 1. INTRODUCTION

Urban development is a critical determinant of a nation's socio-economic transformation. India, with its rapidly expanding cities, faces immense challenges in managing urbanization sustainably and equitably. According to the 2011 Census, around 31% of India's population lived in urban areas, and this is projected to rise to nearly 40% by 2036.<sup>1</sup> The growing demand for housing, transportation, infrastructure, and employment has necessitated a robust legal framework to regulate urban expansion, address housing deficits, and ensure environmental sustainability.

This paper undertakes a comprehensive examination of the legal aspects of urban development in India. It begins by exploring the constitutional framework, especially the significance of the 74th Constitutional Amendment, which institutionalized the role of Urban Local Bodies (ULBs).<sup>2</sup> It then analyzes central and state-level legislations, including those relating to land acquisition, housing regulation, environmental safeguards, and municipal governance.

The paper also delves into the judicial response to urban challenges, where the higher judiciary has played a critical role in interpreting the right to shelter, regulating environmental harms, and striking down illegal developments.<sup>3</sup> Through an evaluation of landmark case laws and statutory enactments, the paper seeks to highlight the strengths and deficiencies in India's legal regime for urban development.

## 2. KEY LEGISLATIONS GOVERNING URBAN DEVELOPMENT

### 1. Land Acquisition and Land Use

#### 1.1 Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act)

This Act replaced the colonial-era Land Acquisition Act of 1894, aiming to ensure fair compensation, rehabilitation, and resettlement of those affected by land acquisition. It applies to both rural and urban areas, including acquisition for urban infrastructure and housing projects.<sup>4</sup> Key features include:

- **Consent requirement:** 70%–80% consent from affected families in private projects.
- **Social Impact Assessment (SIA):** Mandatory before acquisition to evaluate effects on livelihood and environment.

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<sup>1</sup> Office of the Registrar General & Census Commissioner, Census of India 2011, Ministry of Home Affairs, Gov't of India, <https://censusindia.gov.in/> (last visited July 17, 2025).

<sup>2</sup> The Constitution (Seventy-Fourth Amendment) Act, 1992, Section 3, inserting Part IXA in the Constitution of India.

<sup>3</sup> Friends Colony Dev. Comm. v. State of Orissa, (2004) 8 S.C.C. 733 (India).

<sup>4</sup> The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, No. 30 of 2013, INDIA CODE, <https://indiacode.nic.in> (last visited July 17, 2025).

- **Rehabilitation and resettlement (R&R):** Legally enforceable rights to affected families.
- **Safeguards against arbitrary acquisition:** Emphasizes transparency and public hearings.

### 1.2 Town and Country Planning Acts (State-specific)

Each state in India has enacted a Town and Country Planning Act to regulate zoning, land use, and preparation of master plans for urban development. Examples include:

- **Maharashtra Regional and Town Planning Act, 1966<sup>5</sup> and Delhi Development Act, 1957<sup>6</sup>**

These laws empower planning authorities to:

- Zone land for residential, commercial, and industrial use
- Reserve areas for open spaces, roads, and public utilities
- Issue development permissions and penalize violations

### 1.3 Transfer of Property Act, 1882

This foundational civil law governs the transfer of immovable property, including urban land and buildings. Key provisions relevant to urban development include:

- Sale, lease, and mortgage of urban property,
- Doctrine of notice and bona fide purchaser,
- Lease agreements and termination protocols.

It is essential in real estate transactions, especially in land pooling and redevelopment schemes.<sup>7</sup>

## 2. Municipal and Planning Laws

### 2.1 Model Municipal Laws

The Model Municipal Law (2003) was introduced by the Ministry of Urban Development to guide States in amending their outdated municipal statutes. It focuses on:

- Decentralization of planning to ULBs,
- Citizen participation and public accountability,

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<sup>5</sup> Maharashtra Regional and Town Planning Act, No. 37 of 1966, MAHARASHTRA GOV'T GAZETTE.

<sup>6</sup> Delhi Development Act, No. 61 of 1957, INDIA CODE, <https://indiacode.nic.in>.

<sup>7</sup> Transfer of Property Act, No. 4 of 1882, Sections 54, 58, 105, 111, INDIA CODE, <https://indiacode.nic.in> (last visited July 17, 2025).

- Sustainable financing mechanisms like user charges and municipal bonds. Although non-binding, it provides a blueprint for modern urban governance laws.<sup>8</sup>

## 2.2 State Municipal Acts

Each state has its own Municipal Corporation Act or Municipalities Act governing:

- The constitution and powers of Urban Local Bodies (ULBs),
- Building permissions, water supply, waste management,
- Collection of property tax and enforcement of building codes

Examples include:

- Delhi Municipal Corporation Act, 1957
- Uttar Pradesh Nagar Palika Act, 1916.<sup>9</sup>

## 2.3 Building Codes and Development Control Regulations (DCR)

Building regulations are enforced through:

- National Building Code (NBC): Provides model guidelines on structural safety, fire safety, accessibility, etc.
- Development Control Regulations (DCRs): Specific to each city, they regulate:
  - Floor Space Index (FSI)/Floor Area Ratio (FAR)
  - Building height, setbacks, and density
  - Parking and green space requirements DCRs ensure planned, safe, and environment-friendly urban construction.<sup>10</sup>

## 3. Housing and Real Estate Laws

### Real Estate (Regulation and Development) Act, 2016 (RERA)

RERA was enacted to address rampant **delays, fraud, and non-compliance** in the housing sector. It establishes a regulatory framework for:

- **Registration** of all real estate projects and agents

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<sup>8</sup> Ministry of Urban Development, Govt. of India, Model Municipal Law (2003), [https://mohua.gov.in/upload/uploadfiles/files/Model\\_Municipal\\_Law.pdf](https://mohua.gov.in/upload/uploadfiles/files/Model_Municipal_Law.pdf) (last visited July 17, 2025).

<sup>9</sup> Delhi Municipal Corporation Act, No. 66 of 1957, INDIA CODE, <https://indiacode.nic.in>; Uttar Pradesh Nagar Palika Act, No. 2 of 1916 (U.P.), <https://www.indiacode.nic.in> (last visited July 17, 2025).

<sup>10</sup> Bureau of Indian Standards, National Building Code of India, Part 2–11 (2016); See also, e.g., Municipal Corporation of Greater Mumbai, Development Control and Promotion Regulations for Greater Mumbai, (2023), <https://mcgm.gov.in> (last visited July 17, 2025).

- **Disclosure** of project details like approvals, timeline, layout, etc.
- **Buyer protection:** Timely possession, refund, compensation
- **Adjudication** through Real Estate Regulatory Authorities and Appellate Tribunals  
It has significantly improved transparency and accountability in urban housing development.<sup>11</sup>

#### 4. Environmental Laws

##### 4.1 Environmental Impact Assessment (EIA) Notification, 2006

Under the Environment Protection Act, 1986, the EIA Notification requires:

- Mandatory environmental clearance for large construction projects (over 20,000 sq. m.)
- Public consultation for Category A projects
- Environmental Management Plans (EMPs) to mitigate adverse effects  
It ensures urban expansion does not compromise ecological integrity.<sup>12</sup>

##### 4.2 Coastal Regulation Zone (CRZ) Notifications

CRZ Rules, issued under the Environment Protection Act, protect coastal areas from unregulated urbanization. They:

- Classify coastal zones into CRZ-I to CRZ-IV
- Restrict construction within a 500m buffer zone from the High Tide Line (HTL)
- Permit only specific activities like eco-tourism or traditional fishing in sensitive zones  
Cities like Mumbai and Chennai must comply with CRZ rules in urban planning.<sup>13</sup>

##### 4.3 Solid Waste Management Rules, 2016

These rules apply to all urban local bodies and mandate:

- Source segregation of biodegradable and non-biodegradable waste
- Waste processing technologies like composting, biomethanation

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<sup>11</sup> The Real Estate (Regulation and Development) Act, No. 16 of 2016, INDIA CODE, <https://indiacode.nic.in/handle/123456789/2157> (last visited July 17, 2025).

<sup>12</sup> Notification S.O. 1533(E), MINISTRY OF ENV'T & FORESTS, Sept. 14, 2006, issued under The Environment (Protection) Act, No. 29 of 1986, INDIA CODE, <https://indiacode.nic.in/handle/123456789/4316> (last visited July 17, 2025).

<sup>13</sup> Coastal Regulation Zone Notification, S.O. 19(E), MINISTRY OF ENV'T, FOREST AND CLIMATE CHANGE, Jan. 18, 2019, issued under The Environment (Protection) Act, No. 29 of 1986, INDIA CODE, <https://indiacode.nic.in/handle/123456789/4316>.

- Door-to-door collection and penalties for non-compliance, form the legal basis for scientific and sustainable urban waste management systems.<sup>14</sup>

### 3. CONSTITUTIONAL AND LEGAL FRAMEWORK

#### 3.1 Constitutional Provisions

The 74th Constitutional Amendment Act, 1992, was a milestone in recognizing urban local bodies (ULBs) as the third tier of government. Articles 243P to 243ZG provide the legal foundation for municipalities, assigning them responsibilities for urban planning, land use regulation, slum improvement, and urban poverty alleviation under the Twelfth Schedule.<sup>15</sup>

Article 21 of the Constitution—guaranteeing the right to life—has been judicially expanded to include the right to shelter and a healthy environment. In *Olga Tellis v. Bombay Municipal Corporation*,<sup>16</sup> the Supreme Court held that eviction of pavement dwellers violated their right to livelihood, an integral facet of Article 21.

#### 3.2 Key Central Legislations

Several central laws regulate urban development, land use, and housing:

- **Real Estate (Regulation and Development) Act, 2016 (RERA):** Promotes transparency and accountability in the real estate sector.
- **Land Acquisition, Rehabilitation and Resettlement Act, 2013:** Ensures fair compensation and resettlement for those displaced by urban projects.<sup>17</sup>
- **Environmental Protection Act, 1986 & EIA Notification, 2006:** Regulate the environmental impact of large urban construction and infrastructure.<sup>18</sup>

#### 3.3 State and Local Laws

Urban planning remains a State subject under the Constitution's Seventh Schedule. States enact their own Town and Country Planning Acts, building bye-laws, and municipal regulations. For instance,

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<sup>14</sup> Solid Waste Management Rules, 2016, G.S.R. 279(E), MINISTRY OF ENV'T, FOREST AND CLIMATE CHANGE, Apr. 8, 2016, issued under The Environment (Protection) Act, No. 29 of 1986, INDIA CODE, <https://indiacode.nic.in/handle/123456789/4316>.

<sup>15</sup> India Const. amend. LXXIV, Article 243P–243ZG, 12th sched.

<sup>16</sup> *Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 S.C.C. 545 (India).

<sup>17</sup> The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, No. 30 of 2013, INDIA CODE (2013).

<sup>18</sup> The Environment (Protection) Act, No. 29 of 1986, Section 3, INDIA CODE (1986); Environmental Impact Assessment Notification, S.O. 1533(E), Gazette of India, Sept. 14, 2006.

the Maharashtra Regional and Town Planning Act, 1966 governs zoning and development plans in Maharashtra.

#### **4. JUDICIAL INTERPRETATION AND CASE LAW**

Indian courts have played an active role in interpreting urban development laws and ensuring compliance with constitutional mandates.

##### **4.1 Unauthorized Construction and Regularization**

In *Friends Colony Development Committee v. State of Orissa*<sup>19</sup>, the Supreme Court dealt with unauthorized constructions in Bhubaneswar where a builder violated sanctioned building plans by exceeding floor limits and encroaching on setback areas. The Friends Colony Development Committee, representing local residents, challenged these illegal constructions.

The Supreme Court held that unauthorized constructions cannot be regularized, even upon payment of penalties. It emphasized that planned development and zoning laws cannot be compromised for commercial gains. The Court observed that allowing regularization encourages lawlessness and undermines the authority of urban planning laws.

The judgment reinforced the principle that financial or commercial interests of builders do not override public interest in maintaining planned, safe, and legal urban spaces. It also called out the lax attitude of municipal authorities, holding them accountable for failing to prevent such violations.

This case is a cornerstone in urban development jurisprudence, affirming the non-negotiable nature of planning regulations and discouraging arbitrary post-construction regularization.

##### **4.2 Environmental Considerations**

In *M.C. Mehta v. Union of India*<sup>20</sup>, the landmark environmental case, the Supreme Court addressed the issue of industrial pollution in Delhi, one of the most polluted cities in the world. Public interest litigation was filed by environmental activist and lawyer M.C. Mehta, seeking judicial intervention against hazardous industries operating within residential and non-conforming areas of Delhi.

The Court found that numerous industries were operating illegally without environmental clearances and in violation of the Delhi Master Plan. These industries contributed significantly to air and water pollution, affecting public health and urban lives.

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<sup>19</sup> *Friends Colony Dev. Comm. v. State of Orissa*, (2004) 8 S.C.C. 733 (India).

<sup>20</sup> *M.C. Mehta v. Union of India*, (2004) 6 SCC 588 (India).

The Supreme Court ordered the closure and relocation of hazardous and noxious industries from residential zones to designated industrial areas outside the city. It held that the right to a clean and healthy environment is an integral part of the right to life under Article 21 of the Constitution.

Importantly, the Court also directed the Delhi government and the Delhi Pollution Control Committee (DPCC) to strictly enforce environmental laws and prevent unauthorized land use in the future. This judgment reinforced the idea that environmental protection must be prioritized over economic convenience in urban development.<sup>21</sup>

#### **4.3 Land Use and Zoning Violations**

In *K. Ramadas Shenoy v. Chief Officers, Town Municipal Council*<sup>22</sup>, the Supreme Court examined the legality of a municipal resolution permitting the construction of a cinema hall in a residential locality in Udipi, Karnataka. The petitioner, K. Ramadas Shenoy, a resident of the area, challenged the decision on the grounds that it violated the approved Town Planning Scheme and disrupted the character of the neighbourhood.

The Supreme Court struck down the municipal resolution, holding that any deviation from the planned development without proper justification undermines the objectives of urban planning. The Court stressed that planned development serves a larger public interest and cannot be overridden by arbitrary administrative decisions or political considerations.

It emphasized that local authorities are trustees of public power and must exercise it in accordance with planning norms and statutory schemes. Allowing commercial establishments in residential zones without proper procedure disrupts civic order and erodes public confidence in governance.

#### **4.4 Slum Evictions and Rehabilitation**

In *Sudama Singh v. Government of NCT of Delhi*<sup>23</sup>, the Delhi High Court addressed the forced eviction of slum dwellers in Delhi without proper rehabilitation. The petitioners, residents of jhuggi (slum) clusters, challenged the government's action on the ground that it violated their fundamental rights under Article 21 (Right to Life) of the Constitution.

The Court held that the right to housing and shelter is an essential component of the right to life and cannot be denied merely because individuals live in informal settlements. It emphasized that the State has a constitutional obligation to adopt humane, inclusive, and fair procedures before evicting slum dwellers.

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<sup>21</sup> M.C. Mehta v. Union of India, (2004) 6 SCC 588 (India).

<sup>22</sup> K. Ramadas Shenoy v. Chief Officers, Town Municipal Council, Udipi, (1974) 2 SCC 506 (India).

<sup>23</sup> Sudama Singh v. Government of NCT of Delhi, 2010 SCC Online Del 612 (India).

The Court laid down comprehensive guidelines for rehabilitation and relocation, including:

- Meaningful notice and consultation before eviction,
- Survey and eligibility assessment for relocation,
- Relocation to areas with basic civic amenities such as water, electricity, and access to schools and healthcare,
- Prohibition of evictions during extreme weather or school examination periods.

## 5. POLICY INITIATIVES AND URBAN MISSIONS

India's urban policy landscape has seen a range of mission-mode initiatives launched in recent years to improve infrastructure, service delivery, and overall quality of life in cities. Prominent among them are the Smart Cities Mission, Atal Mission for Rejuvenation and Urban Transformation (AMRUT), and Swachh Bharat Mission (SBM). Each seeks to address specific urban deficits but is constrained by limited legal backing and institutional overlap.

The **Smart Cities Mission (SCM)**, launched in 2015, aims to develop 100 cities through smart technologies, improved governance, and citizen-centric service delivery. While it envisions integrated urban planning and ICT-enabled solutions, much of its implementation is driven by Special Purpose Vehicles (SPVs) created outside the regular urban local body (ULB) framework. These SPVs often bypass elected municipal institutions, raising concerns about democratic accountability and statutory legitimacy.<sup>24</sup>

**AMRUT**, which replaced the Jawaharlal Nehru National Urban Renewal Mission (JNNURM), focuses on improving basic urban infrastructure such as water supply, sewerage, urban transport, and green spaces. However, its success largely depends on state-level implementation and the capacity of municipal bodies. While it promotes statutory reforms (like credit ratings and property tax rationalization), it does not create enforceable rights or obligations, limiting its long-term impact.<sup>25</sup>

The **Swachh Bharat Mission**, another flagship initiative, aimed to eliminate open defecation and improve solid waste management. Although it has achieved commendable progress in sanitation infrastructure, legal enforcement of cleanliness standards, waste segregation, and citizen behaviour

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<sup>24</sup> Ministry of Housing and Urban Affairs, Smart Cities Mission Statement & Guidelines, Government of India (2015), <https://smartcities.gov.in>.

<sup>25</sup> Ministry of Housing and Urban Affairs, AMRUT Guidelines, Government of India (2015), <https://amrut.gov.in>.

change remains inconsistent. Municipal bye-laws and state rules are often outdated or poorly enforced.<sup>26</sup>

A critical gap across these missions is the absence of binding legal mandates. These schemes operate more as centrally funded programs with performance-linked incentives than as rights-based legal entitlements. There is often a disconnect between policy vision and execution, as institutional fragmentation, inadequate municipal capacity, and lack of public participation undermine effectiveness. To ensure sustainable urban transformation, these missions must be backed by robust legal frameworks, enforceable norms, and empowered local governance structures.

## **6. CONTEMPORARY ISSUES IN URBAN DEVELOPMENT**

Despite the legal framework, several challenges persist in achieving equitable urban growth:

### **6.1 Housing and Informal Settlements**

India's urban housing crisis is both quantitative and structural, with a shortage of over 18 million housing units, predominantly affecting low-income and economically weaker sections.<sup>27</sup> In response, schemes like the Pradhan Mantri Awas Yojana (PMAY) and various slum rehabilitation initiatives have been launched to promote affordable housing and inclusive urban development.<sup>28</sup> However, their implementation is hampered by a web of legal and regulatory challenges. Unclear or disputed land titles delay project approvals and make acquisition cumbersome. Additionally, tenants and informal settlers often lack formal legal recognition, excluding them from rehabilitation benefits.<sup>29</sup> Another constraint is the restrictive Floor Space Index (FSI) or Floor Area Ratio (FAR), which limits vertical development in high-density cities where horizontal expansion is unfeasible. These legal hurdles also deter private developers due to increased litigation risks and administrative delays. Furthermore, overlapping jurisdiction among multiple planning and municipal authorities creates procedural ambiguities. Despite efforts at reform, the absence of a unified legal framework for urban land use and housing continues to hinder timely execution.<sup>30</sup> As a result, a large portion of the urban poor remains trapped in substandard, informal housing without basic amenities or tenure security. Addressing these barriers requires not only policy alignment but also legal reforms focusing on title regularization, tenancy protection, simplified development norms, and clarified land governance.

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<sup>26</sup> Ministry of Drinking Water and Sanitation, Swachh Bharat Mission Guidelines, Government of India (2014), <https://swachhbharatmission.gov.in>.

<sup>27</sup> Ministry of Housing & Urban Affairs, Report of the Technical Group on Urban Housing Shortage, Government of India (2012).

<sup>28</sup> Pradhan Mantri Awas Yojana - Urban, <https://pmay-urban.gov.in> (last visited July 17, 2025).

<sup>29</sup> Delhi Urban Shelter Improvement Board Act, 2010, No. 7, Acts of Delhi Legislative Assembly.

<sup>30</sup> Planning Commission, Urban Development and Housing, Twelfth Five Year Plan (2012–17), Vol. III.

Only through an integrated legal approach can affordable housing initiatives effectively reduce the urban housing deficit and foster equitable urban development in India.

## **6.2 Urban Sprawl and Unregulated Growth**

Weak enforcement of urban master plans, coupled with widespread corruption, has significantly undermined planned urban development in India. Master plans, intended to guide land use, zoning, and infrastructure allocation, are often ignored or selectively implemented, resulting in unauthorized constructions, encroachments on public land, and unregulated urban sprawl.<sup>31</sup> These violations strain essential services like water supply, sewage, transportation, and open space availability, thereby compromising the quality of urban life.

Moreover, the lack of coordination between Urban Local Bodies (ULBs) and development authorities creates administrative confusion. Their overlapping jurisdictions and fragmented responsibilities frequently lead to contradictory decisions, delays in approvals, and ineffective enforcement of planning norms. For instance, while ULBs are responsible for local governance, development authorities often control land use and infrastructure planning, leading to turf conflicts and accountability gaps.<sup>32</sup> This disjointed governance structure fosters a regulatory vacuum exploited by vested interests, further accelerating illegal urban expansion.

To ensure orderly urban growth, there is a pressing need to strengthen institutional accountability, digitize and publish master plans, and establish a clear division of powers between planning bodies and municipal authorities. Robust monitoring mechanisms and citizen engagement can also play a vital role in curbing violations and promoting transparency in urban governance.

## **6.3 Climate Change and Resilience**

Indian cities are becoming highly susceptible to climate-related risks, including urban floods, heatwaves, air pollution, and rising temperatures, exacerbated by unplanned development and shrinking green spaces.<sup>33</sup> Despite the growing frequency and severity of such events, urban legal frameworks remain largely unresponsive to climate adaptation and resilience. Most existing laws focus on zoning, construction, and service delivery, with little to no emphasis on sustainability or disaster preparedness.<sup>34</sup>

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<sup>31</sup> Comptroller and Auditor General of India, Performance Audit on Implementation of Master Plans in Urban Local Bodies (2021).

<sup>32</sup> Dinesh Mehta, Urban Governance in India, 19 IASSI Quarterly 1 (2000).

<sup>33</sup> IPCC, Sixth Assessment Report (2021).

<sup>34</sup> Shibani Ghosh, Environmental Rule of Law in Indian Cities, Centre for Policy Research (2019).

There is no binding legal mandate for cities to integrate climate-sensitive urban planning, such as green infrastructure, heat-resilient building materials, or eco-restoration of wetlands. Similarly, while green building codes like the Energy Conservation Building Code (ECBC) and IGBC standards exist, they are voluntary in most states and lack enforcement mechanisms. Urban local bodies often lack the capacity, legal authority, or incentives to mainstream climate resilience into master plans or building regulations.<sup>35</sup>

As a result, urban development continues in vulnerable zones—low-lying areas, floodplains, and heat pockets—without adequate risk assessment or mitigation. This legal vacuum has left cities unprepared for the long-term effects of climate change, posing serious risks to infrastructure, public health, and urban livelihoods.

To build climate-resilient cities, India needs to reform urban laws to mandate environmental sustainability, integrate climate risk assessments into planning approvals, and legally enforce green building and infrastructure norms. A rights-based and anticipatory legal approach is essential to ensure that urban growth does not come at the cost of ecological and human security.

#### **6.4 Legal Status of Master Plans**

While major Indian cities like Delhi, Bengaluru, and Mumbai operate under statutory master plans meant to guide urban growth and infrastructure development, their practical enforceability remains weak.<sup>36</sup> These master plans, formulated under respective Town and Country Planning Acts, are often undermined by frequent amendments, special exemptions, and ad-hoc policy interventions that dilute their original intent.<sup>37</sup>

A key issue is the lack of public participation in the planning process. Citizens and local communities—who are most affected by urban policies—are rarely consulted meaningfully during the formulation or revision of master plans.<sup>38</sup> This results in top-down planning that often fails to reflect ground realities, leading to poor compliance and resistance from stakeholders.

Moreover, political interference and developer-driven lobbying frequently lead to changes in land use or zoning regulations that favour private interests over public good.<sup>39</sup> For example, commercial activities are permitted in residential zones under ‘special provisions,’ or height and density norms are relaxed for certain projects, which distorts spatial planning and overburdens infrastructure.

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<sup>35</sup> Centre for Science and Environment, *State of India’s Urban Climate* (2020).

<sup>36</sup> Delhi Development Act, 1957, No. 61, Acts of Parliament, Section 7.

<sup>37</sup> Planning Commission, *Urban Development, Tenth Five Year Plan (2002–07)*.

<sup>38</sup> Ministry of Urban Development, *URDPFI Guidelines*, supra note 2.

<sup>39</sup> Sheela Patel & Diana Mitlin, *Reinterpreting the Rights-Based Approach: A Grassroots Perspective on Rights and Development*, 4 IDS Bulletin 13 (2007).

To improve the effectiveness of master plans, it is essential to:

- Legally strengthen plan enforcement,
- Limit arbitrary amendments,
- Mandate public consultation and transparency, and
- Create independent oversight mechanisms.

Only by restoring the credibility and accountability of master plans can Indian cities achieve sustainable, inclusive, and well-regulated urban development.

## **7. CRITICAL EVALUATION OF LEGAL GAPS**

### **7.1 Fragmented Governance**

India's urban legal regime is highly fragmented, consisting of a complex mix of central laws, state-specific town planning acts, municipal byelaws, and judicial decisions.<sup>40</sup> This multiplicity creates overlapping responsibilities among different authorities, leading to conflicting interpretations, poor inter-agency coordination, and delayed implementation of urban development projects. For instance, while land use may be governed by state planning laws, environmental clearances fall under central regulations and building permissions under municipal byelaws. The absence of a unified legal framework results in ambiguity, duplication of procedures, and lack of accountability, ultimately undermining effective urban governance and delaying infrastructure and housing initiatives.<sup>41</sup>

### **7.2 Weak Empowerment of ULBs**

Although Urban Local Bodies (ULBs) gained constitutional recognition through the 74th Amendment Act, 1992, their ability to effectively implement urban laws remains limited due to significant fiscal and administrative constraints.<sup>42</sup> Most ULBs depend heavily on state government grants and devolved funds, as their own revenue sources—such as property tax, user charges, and municipal bonds—are either underutilized or poorly managed. Additionally, many ULBs suffer from acute staff shortages, lack of technical expertise, and inadequate training, which hampers urban planning, service delivery,

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<sup>40</sup> Centre for Policy Research, *Urban Governance in India: Mapping the Legal and Institutional Framework*, CPR Policy Brief (2020), <https://cprindia.org/research/reports/urban-governance-in-india>.

<sup>41</sup> *Municipal Corporation of Greater Mumbai v. Kohinoor CTNL Infrastructure Co. (P) Ltd.*, (2014) 4 SCC 538; *Rajendra Joshi v. Union of India*, W.P. No. 12346/2015 (M.P. HC); Shubhankar Sengupta, *Legal Pluralism and Urban Planning in India*, 13 NUJS L. Rev. 219 (2020).

<sup>42</sup> The Constitution (Seventy-Fourth Amendment) Act, 1992, Section 3 (inserting Part IXA into the Constitution of India).

and enforcement of building and environmental regulations.<sup>43</sup> This financial and functional weakness undermines the goal of decentralized and accountable urban governance.

### **7.3 Absence of a Comprehensive Urban Law**

India currently lacks a comprehensive and unified urban development code that holistically integrates laws related to environmental protection, spatial planning, housing, transportation, and infrastructure.<sup>44</sup> Instead, urban governance operates through a patchwork of disconnected statutes, including separate regulations for land acquisition, environmental clearance, building codes, municipal governance, and public transport.<sup>45</sup> This fragmented legal framework results in piecemeal regulation, where urban issues are addressed in silos rather than through a coordinated, systems-based approach. The absence of legal integration leads to duplication of processes, jurisdictional conflicts, and policy inconsistencies, ultimately undermining the efficiency, sustainability, and inclusivity of urban development in Indian cities.<sup>46</sup>

### **7.4 Inequity in Planning Outcomes**

India's urban legal framework often reflects a top-down, market-driven approach that tends to prioritize elite housing projects, commercial infrastructure, and high-end real estate over the needs of the urban poor.<sup>47</sup> Laws and policies frequently facilitate luxury developments, special economic zones, and smart city initiatives, while informal settlements—which house a significant portion of the urban population—remain marginalized and excluded from formal planning processes.<sup>48</sup>

There is also a lack of legal mandates for participatory planning, which denies marginalized communities a voice in decisions that affect their housing, services, and livelihoods. Furthermore, land distribution policies rarely promote equity, often overlooking tenure security and access to basic services for slum dwellers.<sup>49</sup> Without legal safeguards for inclusion and equity, urban development continues to deepen spatial and social inequalities.

## **8. CONCLUSION**

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<sup>43</sup> Comptroller and Auditor General of India, Performance Audit of Urban Local Bodies, Report No. 4 of 2018 (Local Bodies), <https://cag.gov.in>.

<sup>44</sup> Indian Institute for Human Settlements, Urban Law in India: A Case for a Comprehensive Framework, (2015), <https://iihs.co.in>.

<sup>45</sup> Ministry of Housing and Urban Affairs, National Urban Policy Framework (NUPF), Government of India (2018), <https://mohua.gov.in>.

<sup>46</sup> Om Prakash Mathur, India's Urban Challenge, EPW, Vol. 47, No. 19 (2012), at 7.

<sup>47</sup> Gautam Bhan, In the Public's Interest: Evictions, Citizenship, and Inequality in Contemporary Delhi 17–21 (Univ. of Georgia Press 2016).

<sup>48</sup> Ministry of Housing and Urban Affairs, Smart Cities Mission Guidelines (2015), <https://smartcities.gov.in>.

<sup>49</sup> Housing and Land Rights Network (HLRN), India's Housing Crisis: Fact Sheet (2022), <https://hlrn.org.in>.

India's urban development is governed by a patchwork of constitutional, statutory, and regulatory instruments. While the 74th Constitutional Amendment provided a constitutional framework for decentralized urban governance through Urban Local Bodies (ULBs), its potential remains underutilized due to limited devolution of powers, fiscal dependency, and weak institutional capacities. Various national programs—such as the Smart Cities Mission, AMRUT, and PMAY—have sought to address urban challenges, yet their legal underpinning often lacks coherence, enforceability, and inclusiveness.

Despite the presence of multiple laws governing land use, housing, infrastructure, and environment, the absence of an integrated and consolidated urban development code leads to fragmented governance, jurisdictional overlaps, and policy contradictions. This has resulted in uncoordinated growth, the proliferation of informal settlements, and growing inequality in access to urban amenities and opportunities.

Judicial interventions, particularly by the Supreme Court and High Courts, have played a crucial role in affirming housing rights, protecting public spaces, and checking illegal encroachments. However, courts have also at times enabled eviction of informal settlers without ensuring their rehabilitation, reflecting the tension between urban order and social justice.

Looking forward, India must pursue a paradigm shift in its legal and policy approach to urban development. This entails:

- **Enacting a unified urban development code** that harmonizes planning, environmental, housing, and transport laws under a common legal framework.
- **Strengthening ULBs** through greater fiscal autonomy, capacity-building, and clearly defined legal mandates.
- **Embedding equity and inclusion** as legal principles, ensuring participatory planning, secure tenure for informal residents, and access to basic services as justiciable rights.
- **Integrating climate resilience and sustainability** into planning laws, including enforceable mandates for green infrastructure, disaster risk reduction, and environmental safeguards.
- **Clarifying the legal status of master plans**, with statutory backing, transparent preparation, public participation, and independent oversight to prevent arbitrary amendments.

Ultimately, legal reform must be anchored in the vision of cities not merely as engines of economic growth but as inclusive, equitable, and resilient spaces that uphold the constitutional promise of dignity, equality, and justice for all citizens. The future of India's urban development depends not just

on better laws, but on the political and administrative will to implement them with integrity, responsiveness, and public accountability.