

HOUSING CRISIS, UNTOUCHED

Relevant for: Developmental Issues | Topic: Government policies & interventions for development in various Sectors and issues arising out of their design & implementation incl. Housing

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After several years in the making, a draft of the Model Tenancy Act, 2019, was released by the Ministry of Housing and Urban Affairs in July. Among other things, the Act aims to promote rental housing and 'balance the interests' of landowners and tenants. It covers residential and non-residential properties, but it is apparent from the framing that it is largely aimed at the urban residential sector.

Finance Minister Nirmala Sitharaman stated in her Budget 2019 speech that the rental laws in India are archaic and do not address "the relationship between the Lessor and the Lessee realistically and fairly". The Model Tenancy Act, however, has a limited understanding of this dynamic as it fails to take into account that a majority of tenancies in India are informal — there is not even a written agreement, let alone a registered one. These agreements are based on trust, word of mouth, and social kinship networks. The model Act could therefore have one of two consequences: either a majority of the rental agreements will continue to be unregistered thus nullifying the legislative intent of the Act, or the Act might formalise existing arrangements and lead to gentrification and, consequently, an increase in rents, which is the opposite of what it sought to achieve.

The Act is laudable insofar as it provides for the constitution of Rent Courts and Tribunals. Thousands of rent cases clog the lower judiciary and the process is lengthy and time-consuming. The Act provides for a time-bound process with dedicated courts for tenants and landlords. But the problem is that the jurisdiction or power of these courts to hear cases is limited to the tenancy agreement submitted to the Rent Authority. On the one hand, this implies that all future tenancies that have been submitted to the Rent Authority shall be eligible to approach these courts. On the other hand, older tenancies and informal tenancies will still not fall under its jurisdiction. Thus, the twin problems of resolving older disputes and informal arrangements will continue.

So, how can the Act be made more effective? Put simply, the Act needs to respond in a realistic manner to actual housing market practices in our cities. First, counter-intuitive as it may sound, the Act needs to focus on the upper end of the housing market in order to make a difference in the lower end of the market. It is known that vacancy — i.e., housing kept vacant for various reasons — is higher in the upper segments of the housing market. For instance, across urban India, vacancy rates in urban areas is 10.1% while in slums it is 7.3%. We see several empty apartment projects in our cities, but rarely an unoccupied slum or low-income colony. Thus, an effective implementation of the Act in the upper segments of the housing market will allow some of these vacant houses to enter the rental market and serve to relieve the massive amount of pressure and demand on the lower segments.

Second, even in letter the Act needs to differentiate between commercial tenancies that attract a lot more institutional investment and residential tenancies that are largely held between individuals and households. The two markets are very different from each other. Even in development policy, the outcomes required of the two sectors are entirely different — while commercial real estate underpins economic development, residential arrangements in urban areas offer security of tenure and access to livelihoods, health and education. The two cannot be dealt with in a similar manner as it would be under this Act. One cannot piggyback on another

judicially.

A last but critical move will be to increase the supply of formal affordable rental housing — housing that can actually fall under the purview of the model Act. This requires investment on the part of the Central and State governments. Additionally, prior experience has shown that publicly provided rental housing will need structured efforts in management, planning and design in order to achieve its inclusive agenda. Thus there is a case for the Central and State governments to develop schemes for the supply of formal affordable rental housing. As per the experience of various countries, this could be in the form of housing built to rent for migrants, low-wage informal and formal workers, and students; rent-to-own housing for unsteady low-wage households; and even rental housing allowances/vouchers for the most marginalised in the housing market. To address the housing crisis and to ensure secure tenures for low-income households, the Act needs a wider ambit along with renewed efforts and investments.

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