National Institute of Urban Affairs

Core 4 B, India Habitat Centre, Lodi Road, New Delhi – 110003, India.

Tel: 011- 24643284, Fax: 011-24617513 Website: www.niua.org, www.indiaurbanportal.in

Land Based Fiscal Tools

National Workshop

PEARL Programme, JnNURM

Magnolia Hall, IHC, New Delhi
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Ministry of Urban Development
Government of India

NATIONAL INSTITUTE OF URBAN AFFAIRS

TEAM

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ABBREVIATIONS

AMC	Ahmedabad Municipal Corporation
AUDA	Ahmedabad Urban Development Authority
CBUD	Capacity Building for Urban Development Project
FAR	Floor Area Ratio
FSI	Floor Space Index
GDP	Gross Domestic Product
GTPA	Gujarat Town Planning Act
HPEC	High Powered Expert Committee
IT	Information Technology
ITES	Information Technology Enabled Services
LBFT	Land Based Fiscal Tools
LVIT	Land Value Increment Tax
LVT	Land Value Tax
MMRDA	Mumbai Metropolitan Region Development Authority
MoUD	Ministry of Urban Development
NIUA	National Institute of Urban Development
NURM	National Urban Renewal Mission
PEARL	Peer Experience and Reflective Learning
TDR	Transfer of Development Rights
TP	Town Planning
TPS	Town Planning Scheme
UD	Urban Development
UDA	Urban Development Authority
UDPFI	Urban Development Plans Formulation and Implementation
UIBT	Urban Infrastructure Based Tax
UK	United Kingdom
ULB	Urban Local Body
USA	United States of America

INTRODUCTION

Background:

Urban local bodies (ULBs) play a crucial role in promoting national economic growth, poverty reduction, and quality of urban life through efficient and effective provisioning of urban infrastructure and services. However, their weak fiscal strength has been a constraining factor in enabling them to perform their role. Fragile resource base of the ULBs is documented by almost all the official Committees and Commission in recent years. It is also noted that the share of ULBs' own revenue in the total revenue has declined from 63 per cent in 2002-03 to 53 per cent in 2007-08. The end result of such a grim fiscal situation has contributed to huge under-spendings in relation to what is needed to build urban infrastructure and deliver public services within the overall framework of an inclusive society.

The Second Administrative Reform Commission has expressed the view that even after the 74th Constitution Amendment; the financial position of the municipal institutions has not improved proportionate to their functions and responsibilities. It further observed that the position of the smaller municipal institutions is much worse and at times they find it difficult to even meet their establishment costs. The Twelfth Finance Commission noted that the size of the municipal sector, measured in terms of resources raised and spent by the municipalities, was just one per cent of the gross domestic product (GDP). The World Bank, while reviewing municipal finance in different developing countries observed that a comparison of per capita local revenue and expenditure in Poland, Russia, Brazil, Mexico or South Africa shows that Indian ULBs spend and collect considerably less expenditure and revenue per capita than all of the comparison countries except Mexico.[1]

Further, fiscal onus of the ULBs is additionally exacerbated by the increasing pace of urbanisation that adds to population in urban settlements on a continuous basis, requiring the ULBs to provide the basic services to the increasing population in an inclusive manner. The 2011 Census results have shown that for the first time since Independence, the absolute increase in population is more in urban areas that in rural areas.

In view of the above, strengthening fiscal capabilities of the ULBs has acquired the nature of an imperative. The ULBs therefore need to be devolved with additional sources of revenue that must be buoyant and elastic to their expenditure needs. Using land as a resource and land based fiscal tools constitute promising areas for generation of additional revenues for the ULBs.

[1] World Bank (2004). *Urban Finance and Governance Review,* The World Bank, Washington D.C.,

Purpose of the Workshop:

The Ministry of Urban Development (MoUD) therefore commissioned a study under World Bank assisted Capacity Building for Urban Development (CBUD) project to examine in detail the land based fiscal tools being used nationally in different states and also by the countries abroad and suggest a land based fiscal tool that could be devolved to the ULBs for augmentation of their revenue. In order to identify a land based fiscal tool that enjoys buoyancy in ample measure, the following land based fiscal tools presently in use in different states were studied:

1. Land Value Increment Tax (LVIT) in the form of betterment levy in case of improvement schemes
2. LVIT in conjunction with Town Planning Schemes
3. LVIT in case of specific projects
4. Area based development charges
5. Value based development charge
6. Transfer of Development Rights and incentive FSI
7. Premium on relaxation of rules or additional FSI
8. Charges for regularization of unauthorized development

The study, after looking at a number of land based fiscal tools being used at present, concludes that the most appropriate and promising land based fiscal tool to be devolved to the ULBs would be an Urban Infrastructure Benefit Tax (UIBT). The study focuses on the UIBT as a beneficial tax for the ULBs and discusses its various advantages that it can bring to the ULB on implementing the same in the cities. It also talks about the legislative and administrative requirements for its institutionalization by the State Governments for arriving at a consensus.

As part of its mandate to support capacity building and knowledge sharing through the PEARL network to disseminate knowledge to sector professionals, the Ministry of Urban Development in collaboration with CBUD project and National Institute of Urban Affairs, organized a National Workshop on “Land Based Fiscal Tools” to discuss the findings of the study. The event involved ULBs, governments, state governments, research institutions, scholars, and, so on. The purpose of the workshop was to have discussions on the final outcome of the study for finalizing the way forward.

INAUGURAL SESSION

Welcome Remarks

Dr. Debjani Ghosh, Senior Research Officer, NIUA

Dr. Debjani Ghosh provided a brief background for the study titled 'Land Based Fiscal Tools'. Based on the High Powered Expert Committee (HPEC) Report on Indian Urban Infrastructure and Services, recommendations of the Working Group on Financing Urban Infrastructure and the 12th Plan Steering Committee on Urban Development and Management, the Ministry had initiated actions to carry out an inter-state comparative study on Land Based Tools to explore additional and innovative ways of generating financial resources for significant expansion of Indian infrastructure within the states. Accordingly, Mr. Vidyadhar Phatak, former Chief, Town and Country Planning division, Mumbai Regional Development Authority prepared a policy note based on the inception report which was circulated by the Ministry to the various states. The workshop held on 3rd February 2014 at IHC, New Delhi, intended to present the final findings of the study and discuss it with experts from ULBs, state governments, research institutions, and, scholars prior to being published.

Dr. Ghosh further welcomed Prof. Jagan A. Shah, Director, NIUA and requested him to provide the Introductory Note for the workshop.

Introductory Remarks

Prof. Jagan Shah, Director, NIUA

Prof. Jagan Shah welcomed all to the workshop where findings of the study 'Land Based Fiscal Tools' which was a convergence of the different concerns of the MoUD was presented. He referred to the revised UDPFI guidelines, also addressing the regional context of cities and capable of looking at land as a resource and leveraging land for sustaining urban development over a longer term. In this context, he spoke of the need for a greater integration of the physical/spatial planning of cities and the ways in which it can effect/be effected by functioning of the land markets in particular. He voiced his concern especially regarding the working of town planners in isolation from policy makers working with taxation structures and the ways of leveraging land and therefore felt the need for a converged and unified approach to how a city develops through the combined thinking of planners, economists and the policy makers was required. The present study titled 'Land Based

Fiscal Tools' was capable of perceiving the city as an integrated whole and was therefore extremely crucial at this stage.

Prof. Shah then invited Dr. Sudhir Krishna, Secretary (UD), MoUD to provide the inaugural address.

Inaugural Address

Dr. Sudhir Krishna, Secretary (UD), Ministry of Urban Development, New Delhi

Dr. Sudhir Krishna, primarily, appreciated the efforts of Mr. Phatak and the CBUD team for the study on 'Land Based Fiscal Tools' which he felt was an important part of urban development. Dr Krishna remarked that there was a strong correlation between the levels of development and levels of urbanization in different countries and also amongst the different states, and therefore, thought it necessary to answer the question "what is so unique about urban that make the city or states prosper?'. And stated that perhaps urban was a concept of planned strategies where available resources are optimized in terms of land or any other natural resource, including human beings and their capacities. Dr Krishna further observed that urbanization is a phenomenon which has to happen – a natural activity that people urbanize. It could be encouraged/ discouraged by policies but eventually it is a natural phenomenon which is bound to happen. During the early years post independence, the policies adopted failed to encourage urbanization and improvement in urban infrastructure. But since urbanization was inevitable, this resulted in proliferation of slums and inadequate infrastructure. He highlighted the need for encouraging planned urbanization and land management as crucial measures required to be adopted.

Dr. Krishna emphasized the need for Land Based Fiscal Tools to fund infrastructure development and the focused achievements of urbanization. With an urgent need to invest in remote areas for providing basic health and education, he stated that general revenues cannot be largely pumped into cities alone. Therefore, instruments such as the Land Based Fiscal Tools provide an opportunity to generate the required revenues for urban areas. He also put forth the need to understand the recommendations of the Finance Commission report regarding the fiscal tools for land to ensure larger and equitable coverage and payment capacities.

Lastly, he stated that cities are engines for growth and must therefore be capable of sustainably paying for their growth. Investigations into the possibility of using land as a critical tool for generating resources would therefore be an important step.

Vote of Thanks

Dr. Debjani Ghosh, Senior Research Officer, NIUA

Dr. Debjani Ghosh thanked Prof. Shah for the introductory remarks and Dr. Krishna for the insightful views on the subject of the workshop.

SESSION 1

moderated by
Anand Mohan, Director, NURM-I, MoUD
Gangadhar Jha, CBUD, MoUD

Presentation of the study 'Land Based Fiscal Tools'
Mr. Vidyadhar K. Phatak

Mr V K Phatak briefly provided the background for his involvement in the study 'Land Based Fiscal Tools' initiated under the CBUD program of the MoUD and referred to his article published in the India Infrastructure Report 2009. Additionally, both, the HPEC and the Working Group for the 12th Five Year Plan have identified the significance of Land Based Fiscal Tools in the management of India's urbanisation, thereby providing the necessary impetus for undertaking a study on Land Based Fiscal Tools.
At the onset, Mr Phatak listed the various aspects the scope of the study did not include. Thereby, 'Property Tax' which although is an obvious land based fiscal tool, has been the subject of previous studies and reform agendas and therefore not included. Secondly, 'Monetizing Public Land' (based on a book by George Peterson) as discussed in the HPEC report as a way of raising finances requires to be used with caution and therefore has not been included.

Mr. Phatak elaborated the overall strategy adopted for the study, which to begin with, has documented the existing tools through 3 dimensions of 1. Public Finance, 2. Law, and, 3. Urban Planning and Land Policy objectives.
He further elaborated the concept of ***'fiscal tools'*** and discussed them as per its classification as:

- **General Taxes:** like property tax, where revenues generated can be used for a variety of purposes.
- **Benefit Taxes:** like the development charge, which are levied for a specific purpose and their use is defined as a part of the Town Planning Act in many states.
- **Fees or User Charges:** where what is charged, what is spent and how it is spend is clearly defined.
- **Regulatory Fees:** which should only recover your cost of regulation. Every other fiscal measure should have a constitutional authority.

Mr. Phatak highlighted the evolution of the various concepts of legal perceptions of land by tracing the history of the rate of compensation provided by the state for acquisition, prior to enlisting some land based fiscal tools (direct and indirect) and their interpretations through relevant national and international cases.
The first case illustrated the ***'Land Value Tax' (LVT)*** which (with reference to 1877 book by Henry George) argues that the right on the rent of land is that of the community and the increase of land value is not because

of the individual owner but because of the efforts of the community in terms of infrastructural improvements, economic benefits of land, etc, unlike agricultural land where the individual farmer is responsible for increased value of produces. This is least ‘distortionary’ unlike income, excise, customs, etc and therefore should be the only prevalent tax. This provides the basis for the idea of taxing land at a higher rate than the development/improvement in some states in USA, Australia and New Zealand. But it is difficult to isolate land value from its improvements. In some cases in India, non agricultural assessment is considered to be taxable but is seen as a state tax.

For the second case, Mr. Phatak discussed *the* ***‘Land Value Increment Tax’ (LVIT)*** as practiced in UK with a focus on right to development being taxable. And whenever refused it was proposed that the owner would get compensation from a fund of 300 million pounds. The experience of LVIT was used in the case of Columbia in two ways: 1. Its valuation in terms of benefits of infrastructure, and 2. Pre and post infrastructure land values. In the Indian case, earliest examples of LVIT can be seen in the improvement trusts but presently, except Nagpur this is not practiced anywhere. TP Schemes also had the idea of charging LVIT for implementation of TP Schemes through legal provisions for betterment levy but was hardly used. Though buoyant, LVIT/Betterment tax had operational problems due to the difficulty in assessing increment of land value due to impact of inflation or market cycles. Besides, there is a reluctance to pay as the actual increment is not immediately perceived.

Mr. Phatak elaborated the evolution of ***‘Development Charge’*** through the case of UK where initially, the land owner had no original right to develop and when he acquired permission to develop, he would have to pay. Then the planning obligation charge was adopted where offsite infrastructure or housing had to be provided or a charge had to be paid as obligatory for the development. Finally it came down to development charge called Community Infrastructure levy where the infrastructure development that has to be carried out has to be recovered from the development of land. In India since 2010, 2.5 % of the land value is treated as the rate for development charge.

‘Impact Fees’ originated in USA as they had a model of financing local infrastructure through property tax, user fees and municipal bonds. As a result, new development would have to pay for offsite infrastructure. Canada too enacted development charge act but a keen to impact fees. UK planning obligation regime also towards impact fees. While this is widely accepted, it is incapable of capturing value increase. Impact fees should have a framework and cannot be used to clear backlogs and therefore has to be supported by Capital Investment Plans. In India, presently there is no legislative provision for implementing such a tool. Besides, the huge infrastructural backlog does not guarantee its success.

Mr. Phatak elaborated on ***‘TDR and Incentive FSI’*** which originated in the USA for conserving farmland and heritage buildings. In USA, the state does not actually take over the land but imposes regulations. On the other hand, in Mumbai, TDR is used as a substitute for monetary compensation. This set a precedent to be followed through the state and through many states through modification in the TP Act. In Mumbai, incentive FSI has been used for various purposes (from slum/chawls rehabilitation, amenities, IT/ITES) and has probably been successful due to its geography, land constraints and a low FSI base.

Through the sixth case of the ***'Sale of Development Rights',*** Mr. Phatak illustrated the case of Sao Paolo, Brazil, where the planning authorities auction development rights in the stock exchange while the base right for development FSI has been frozen at 1 and made it mandatory for the developer to purchase anything beyond that from the market. A similar model was also tried in France. In India, this is very popular and has been adopted by most of the cities (like, Chennai, Mangalore, Ahmedabad, Mumbai) by introducing a premium or chargeable FSI. Hyderabad charges for construction of high rises. Mumbai followed a trend where the revenue thus generated was shared 50-50 between the state government and ULB which was criticized and finally struck down by the High Court for lack of a legal provision. This example highlights the necessity of a legal backing for any fiscal tool.

And lastly, ***'Regularization of Unauthorized Development'*** which, according to Mr. Phatak, is peculiar only to the Indian context and has no international examples. In the case of Maharashtra, the unauthorized constructions/developments in the peri-urban areas were brought under the legislative purview through the Gunthewari Act. Gujarat has a similar legislation and the Ahmedabad Urban Development Authority regularly announces impact fees. In Mumbai, a premium for condonation for deviations from rules, has fetched upto 10,000 crore per year but the problem with this is that there is no incentive to rationalize and simplify the regulation and today which is the most required.

Based on this background study, Mr. Phatak highlighted the ***desired characteristics for a fiscal tool***:

- Clearly defined legal basis.
- Clearly defined and easily measurable tax base
- Easy to administer and has little scope for avoidance
- Needs to yield buoyant revenue and captures land value gains on account of infrastructure provisions- since all previous taxes are linked to area, they virtually remain stagnated.
- It should be equitable
- Does not distort the land /housing market

Further, Mr. Phatak elaborated the ***key features of the proposed Urban Infrastructure Benefit Tax (UIBT)***:

- It would be legalized through necessary amendments to the TP acts.
- It would be based on the value of development, to ensure buoyancy.
- It should be charged at the time of development permission in order to ensure maximum coverage. (But also stated that in the present scenario where only 5 % seek building permission, it would fail).
- Revenues generated would be reserved for capital expenditure in predetermined sectors of urban infrastructure.

Mr. Phatak then proceeded to elaborate the necessary steps that would be required for implementation of the UIBT through:

- Since it is the ULB which is responsible for granting building permissions (except in the case of MMRDA), this is proposed to be placed with the ULBs. But since UDAs are mostly providing infrastructure, the relationship between the ULB and UDA would require to be worked out in detail.
- The law could provide for all area based levies to be consolidated through a single UIBT wherein the tax base whether area or value would also have to be decided.
- Empowering ULB/UDA to propose revision in rates based on City Investment Plans.
- Revenue out of this would be only for capital expenditure and debt servicing. Therefore provision for accounting, budgeting and auditing would be mandatory.
- Regular valuation of land and property should be necessary.
- How money would be transferred to peri-urban areas would have to be well thought of.
- Real estate market is a good base for land based fiscal tools

Mr. Phatak concluded his presentation by emphasizing the need for the UIBT to eventually graduate into an Impact Fee through a separate legislation once the entire backlog of infrastructure was removed for which the CIP would require to stabilize and become the basis for deciding the scale of fees to be levied as Impact Fees.

Excerpts of the Question Answer Session:

1. Defining 'Unauthorised development' for the study, since developments on non-agricultural land or revenue sites and similarly building byelaws violations are both equal examples.

As in the case of Maharashtra, the developments in the peri-urban areas are taken care of by the Gunthewari Act. The unauthorized constructions in the case of Mumbai therefore consider the building byelaws violations. He provided an example through the experience of the case of the byelaw that specifies the height to side ratio which is prescribed to be 1/3rd but is largely violated. The rule is therefore a problem, but as the ULB procures almost 15% of its capital budget from condonation of such violations it has no incentive to rationalize the byelaw.

2. Implementation of the proposed tax. Scale of development that would be taxed for large cities or small towns.

The value of the proposed development would be taxed. eg, if an office building of 100 sq.mts is being proposed, the market value of the development at the time of seeking building permission would be charged. While this would be a small percentage of about 2.5 to 7.5 this would generate substantial revenue. Unfortunately, the lack of data for estimating total floor space of development despite an existing system of recording building permissions. With such a data, it would be possible to quickly assess (which was unavailable 15 years back) besides lack of a method for valuation like circle rates, etc.

3. Methodology adopted to capture value for charging the UIBT and an effective single framework for , development for each city.

The UIBT is essentially a based on the model of a Benefit Tax and not an Impact Fee. The UIBT would be expended on capital investment and tracking of expenditure is possible. Though this can be implemented across all cities, for a stagnant city, this tax would not provide the expected buoyancy.

4. Rationalizing existing tax frameworks.

As different kind of taxes (like development charge, services and amenities fee, impact fee, etc) exist in different states, each state would have to rationalize their own taxes. As is the case in Maharashtra, where the tax base has already shifted from area to value base, the problem is that as it is linked only to land value, suppressed revenue is obtained from this. But with the shift to land and development value, then this would prove to be a substantial tax base.

The discussion further revolved around whether the UIBT acknowledges different ownership types, how would the tax be shared, who would collect the tax and so on based on experiences of different states as put forth by the state representatives. Mr. Phatak clarified that the UIBT would not be a substitute for property tax and would merely be a onetime levy at the time of development of land.

Concluding the session, the moderators were of the opinion that while this was merely the initial stage where the UIBT just as an idea or a concept was being floated, the acceptance of this by all the states would be crucial.

SESSION 2

moderated by
Nabaroon Bhattacharjee, CBUD team, MoUD
Gangadhar Jha, CBUD team, MoUD

Presentation of the study 'Land Based Fiscal Tools'

Ms. Shirley Ballaney - Senior Principal, HCP Designs, Ahmedabad

Ms. Ballaney summarized some of the land based fiscal instruments specified in the Gujarat Town Planning and Urban Development Act; their pros and cons and how they have actually come about in practice.

1. Town Planning Scheme (TPS), which is the most important and the major one
2. Development charge taken at the time of development permission
3. Scrutiny fees
4. Services and amenities fees
5. Floor Space Index (FSI) premium, which is not prescribed in the act but is prescribed in the general development control regulations of a city's developmental plan.

Ms. Ballaney elaborated the Town Planning Scheme as a robust source and a substantial contributor to financing urban development. Within the Town Planning Scheme, she focused on two such fiscal tools - the Betterment Contribution and the Land Bank. Betterment Contribution basically refers to extracting a portion of the increase in the land value as a result of infrastructure improvements and planning under a TPS in a given area by the planning authority. As part of the Land Bank, during the process of land readjustment for a TPS, a portion of the land may be taken up for roads, amenities etc. Additionally, a portion of the land is taken by the planning authority as a land bank for sale and disposal. It is an asset that is created by the authority which it can mortgage, sell or use at a later stage to raise resources.

She further spoke of the first Town Planning Act in Gujarat which came about in 1915 and was specifically designed to prepare town planning schemes. There was no notion of a city plan at that point of time. Then came the 1954 act where the idea of doing a master plan or the development plan was added and the practice of TPS was strengthened. The third and the present Gujarat Town Planning Act (GTPA) came into force after the Gujarat state split from Maharashtra in 1976. So the act has been improved continuously particularly in the practice of TPS mechanism.

Ms. Ballaney stressed that due to lack of provision for any land acquisition for development of roads or infrastructure, any improvement scheme therefore is a two step process:

Step I - draft a development plan for the city as an overall strategy plan by identifying the land use zones, detailing out the overall city infrastructure like roads, water supply etc. at the city level.

Step II - break this overall development plan into smaller parcels/ areas which are called the Town Planning Schemes (TPSs) which are to be taken up in a phased manner.

The TPS is a micro plan covering the entire city and in each of these TPS, the land parcels are re-adjusted and land is appropriated to provide for roads, infrastructure, etc. Financing for such infrastructure provision is generated from the charges levied for betterment. In a sense, the scheme is self sustaining.

The TPS is a very transparent process with declarations made at every stage through public notices in newspapers, etc. Ms. Ballaney further explained the whole process of practical realization of a TPS through an example of an already inhabited area. In such a case, all the land ownerships are listed down from the revenue records and the land area owned by each land owner is noted against it. A more refined version of financial model is built up called land valuation and distribution statement where every detail of original land parcel is mentioned. Secondly, the overall plan of the TPS is laid over the existing layout. If it was a normal process of development then the land for roads and amenities would be met by acquiring a bit of land from each and every land parcel. In the TPS, the circulation network and plots for amenities are not provided through land acquisition, but the load is equally distributed on all the land owners. So the area required for public purpose is deducted proportionately from each plot and the final plot area is worked out. The land owners get to see the final plan and financial calculation. Following suggestions/objections, the draft scheme gets sanctioned by the state government and infrastructure is developed. Eventually, the state government sanctions the TPS and land parcels are plotted, demarcated and given away to the land owners. The permissions and betterment levy actually starts from this process onwards. It is important to understand that this process takes a very long time. Draft scheme can take a year to complete, but the actual completion before one can take the betterment levy or betterment contribution may take at least 7 to 8 years sometimes. This is how the whole of Ahmedabad has been developed.

According to Ms. Ballaney, Gujarat has adopted a very simplistic approach to estimate the entire cost of infrastructure. In a TPS, basically there are three costs for infrastructure:

1. Basic cost to provide for water supply, sewerage, sanitation etc.
2. The compensation to be paid to the land owners out of the scheme
3. Statutory legal fees that might be charged by the authorities

All the three costs are added up and distributed equally over all the plots that are finally given to the owners. However, in this scheme every land owner does not benefit equally. The one closer to a larger road will have more land value increases, and the one next to a utility say, solid waste dump will have less increase. In order to address this land valuation exercise is done and the notion of betterment increment comes in. The land parcels that are benefitted more will have higher land values, so they will have to pay a higher increment. This is how the exercise of addressing equity is done in the valuation. In the TPS, a plot can be reserved as a land bank or land for sale and that parcel may be sold to finance some of the infrastructure. This is how the second notion of land bank gets added.

She highlighted the problems encountered while doing a TPS, as:

a. In practice, the final plot value turns out to be much lower than the prevailing market land values.
b. Owing to the tendency of cost-cutting, the infrastructure which is estimated is not adequate and is not of a very high quality.
c. Another problem is that the betterment contribution does not go into a dedicated account of the development authority and therefore towards developing infrastructure, but, gets absorbed in the overall pool of resources and so the authority could be using it for its revenue expenditure like salaries, etc also.

Ms. Ballaney pointed out that an amendment was made to the GTPA in 1995 by which in a TPS a portion of the land, about 50% could be taken up by the planning authority for the public purpose and 15% of that can be retained as a land bank. In practice this number is lower but even then it generates substantial quantum of land. Another good thing is that the land comes with a clean title so the authorities tend to get better prices for such parcels and it can be even mortgaged to raise resources, to get loans from bank etc.

She further spoke of another exercise undertaken in Ahmedabad which developed an inventory of all public lands in Ahmedabad. It was interesting to note that in the study area, about 44% of the land was owned by the public authority. Most of the public land owned by Ahmedabad Municipal Corporation (AMC) is through the TPS appropriations. In a sense, it has proved to be a substantial asset base.

The second instrument mentioned by Ms. Ballaney in the GTPA is the Development Charge, a onetime levy at the time of seeking development permission is proportional to the area of development. Also, residential, commercial, industrial development, etc. have different development charges which are generally fixed by the planning authority within the maximum ceiling. Since these were fixed in the 1970s and have not been amended i.e. the rate has not changed in the act, so the charges that made a substantial contribution earlier have now become insufficient.

The third instrument i.e. the Scrutiny fees by amendment to the GTPA as an additional fee. At the time of seeking permission, the authority scrutinizes and levies a certain fee based on the area of development with no prescribed ceiling. The fourth instrument, services and amenities fees are also levied at the time of development permission for providing certain infrastructure, is based on the area of development; no ceiling is prescribed for this and keeps getting revised time to time.

The fifth and the last instrument is the FSI premium which is included in the city's development plan. In Ahmedabad, for every zone a base FSI is prescribed. Also there is a maximum that one can go and this difference is what one can buy on payment of a premium.

Ms. Ballaney summarized the presentation by highlighting that out of the five tools in GTPA, the Town Planning scheme (TPS) by far emerges as the most robust and buoyant land based fiscal tools particularly the land bank and not the betterment contribution.

Excerpts of the Question Answer Session:

1. Town planning function and the role of ULBs

In Gujarat, the Town Planning Act mandates the creation of a development authority which is responsible for plan preparation. A development authority may have an urban local body and several other urban and rural local bodies. In case of the designated area development authority, the ULB itself is responsible for preparing the plan depending on the scale of the authority. In Ahmedabad, the Ahmedabad Urban Development Authority (AUDA) has multiple local bodies. So, AUDA prepares the plan but the implementation, granting permission etc, is a function of the local bodies. Even the Nagar Panchayats have an equal role in the TPS with a possibility of providing suggestions and their inputs are thought, but in practice they are not strong enough to insert influence.

2. Town Planning Scheme in built-up areas

The Town Planning Scheme is a mechanism to transform the peripheral areas so as to urbanize them and therefore most of the TPS do not involve built-up areas. However, there have been some exceptional cases - Bhuj was a particular example. Usually the TPS tends to be in open/semi-open areas involving less amount of built-up and where there is some amount of built-up, the scheme does not displace people from the area but leave it as it is. Also, the TPS mechanism does not resolve ownership issues, legal issues and the revenue status of a land parcel.

3. Town Planning Schemes and village settlements under them

The Town Planning Scheme is undertaken only for an urban area and for which there is a development plan and it is within the development authority limit. For a TPS in the peri-urban areas under urban development area boundary, there could sometimes be few village settlements. In such cases along with other costs, the cost of providing an access road to the settlements, infrastructural facilities etc., also need to be factored in. TPS is viewed as a very planned, deliberate, conscious and state driven transformation of rural or semi-rural areas into urban areas. In case the village does not want it and rejects the entire concept of converting their farm land into town land, then the act gives you a provision whereby if 50% of the land owners reject the scheme it stands cancelled. However, it does not happen in practice because of the high land value gains associated with a TPS.

4. Mechanisms available for dealing with the lands already having informal sector

If an area where a TPS is being done is quite large and has some amount of informal sector development or slum, then that portion is left as it is. Neither does the TPS get into solving the problems of slums nor does it rehabilitate them.

5. Major visible weaknesses in the entire existing system of Town Planning Schemes

1. One challenge is with the consultation process that we do for a scheme, it is not as enough as it should be. In Gujarat it has become an accepted practice so one does not need to do much but when you are doing it in other states, it takes a lot of effort in convincing and showing the people merits of TPS, shifting of the plots, etc. all this takes a lot of time.
2. Second is the time period which has been prescribed in the act. When this mechanism was initiated, it was done in the 1970s so then perhaps it made a sense to complete TPS in a span of 4 years and 9 months but at the present pace of urbanization, there is a need to shorten those time lines.
3. The state government involvement in the whole process is far too much. The TPS goes to the state government even when the intention is declared; it has to be approved by the state government. The draft scheme has to go to the state government for sanctioning, the preliminary has to go. The scheme has to go to the state government 4 to 5 times before it can be done. So that delays the process quite a bit therefore there is a need to find ways to reduce involvement. In the act, there are time lines on the authority to do the TPS but there are no timelines on the state government to approve these. Some schemes took as much as 20 years to get approval, which has no meaning then.

6. Urban Infrastructure Benefit Tax (UIBT) is a one time levy so, how does the buoyancy comes in?

In case of a demarcated area, the land under that area is more or less fixed. So once development has happened in that particular area, within a particular boundary under Municipal Corporation then how does this particular tax provide buoyancy, because there is no re-occurrence? Once the UIBT is collected and as different plots develop over time there will be some buoyancy due to increase in market value over time. At some point of time, when the area is fully built-up then there is no more collection.

The buoyancy comes in with firstly, the volume of construction that takes place and secondly, the rate. As rate goes up even on account of inflation, there will be some buoyancy in that. Cities keep on expanding and there will not be a defined area, so the municipal area will also expand, and UIBT will continue to be collected. When a city matures, buildings that are 30-40 years old need to be redeveloped so at redevelopment also it can be levied and that is how buoyancy comes in.

Concluding Remarks

Mr. Nabaroon Bhattacharjee, CBUD team leader

Mr. Nabaroon Bhattacharjee concluded by summarizing some of the key issues emerging from the recommendations and proposals from this particular study, as:

1. The entire premise of this is supporting the 74th amendment, particular option of reform to devolve the planning function to local body.
2. For levying such a tax (UIBT), the study recommends that workably, this is delegated to the ULB which is a big question in terms of whether the development authority, urban improvement trusts and state government agree to it is one issue. But the integrity of summing together some of the levies which are being used by different municipalities and which has huge potential for collection and improving the resource base of ULB, this does provide a valid option in terms of a LBFT. The challenge lies in seeing how it is accepted as a concept firstly.
3. The MoUD study was actually meant for all the state governments but their response is awaited. Forums like this or a regional workshop is important as it would atleast have some representatives from states and relevant people from state government who can understand the issue. The Ministry can only provide a guidance document but the subject lies with the states.

Concluding remarks by Mr. Gangadhar Jha

Prof. Jha clarified that one should not expect too much from a single fiscal tool. It is only to supplement. It will not do a miracle in augmenting the infrastructure in the entire planning area. Mr. Phatak had mentioned the options of financing infrastructure – the borrowings and others. It is very sad to see the aggressive form of politics emerging in the states. It is leading to the weakening of the federation and if that is the style of politics then he does not have any hope that any directive, suggestion or guidelines given by a federal government will have acceptability in the states.

ANNEXURE 1:

Agenda

National Workshop on "Land Based Fiscal Tools"
PEARL Programme, JnNURM

Venue: Magnolia, IHC, N. Delhi
Date: 3 February 2014

Timings	Session Details
1000-1030 hrs.	Participants Registration
1030 – 1040hrs.	Welcome Remarks by **Sh. Jagan Shah, Director, NIUA**
1040 – 1050 hrs.	Introductory Remarks by Secretary - UD
1050 – 1100 hrs.	Address by Secretary - UD
1100-1115 hrs.	**Tea /Coffee Break**
1115-1215 hrs.	Presentation on Study of "**Land Based Fiscal Tool"** (LBFT) under CBUD, MoUD by **Sh. V K Phatak**, Freelance Consultant
1215 - 1245 hrs.	Feedback and Deliberation from Participants & State UD Representatives (Moderation by **Sh. Anand Mohan,** Director MoUD and **Prof. G. Jha,** Specialist, CBUD Team)
1245 - 1400 hrs.	**Lunch Break**
1400 - 1430hrs.	Presentation on "Land Based Fiscal Practices – A Case of Gujarat" by **Ms. Shirley Ballani,** Senior Principal, HCP Designs, Ahmedabad
1430 - 1500 hrs.	Feedback and Deliberation from Participants & State UD Representatives
1500 -1510 hrs	Way Forward by **Sh. Anand Mohan**, Director, MoUD
1510 -1520 hrs	Closing Remarks from **Sh. Nabaroon Bhattacharjee,** Team Leader, CBUD Project, MoUD
1520 - 1535 hrs.	**Closing Tea /Coffee**

ANNEXURE 2:

Speaker Profiles

DR. SUDHIR KRISHNA

Dr. Sudhir Krishna is a member of the Indian Administrative Service since 1977 and holds a Ph.D. in Public Finance and a Masters in Public Management from Carnegie Mellon University, USA. Dr. Sudhir Krishna is currently the Secretary, Ministry of Urban Development, Government of India, since August 2011. Prior to this, he was Special Secretary in the Ministry of Panchayati Raj, Government of India, where he was the National Mission Director for the Backward Regions Grant Fund (BRGF) Programme and a variety of other programmes for strengthening the capabilities of the rural local governments (the Panchayats) in providing improved server of public services. He held a variety of other senior positions in the GOI, in the State Governments of Karnataka and Uttar Pradesh including Joint Secretary Central (11th) Finance Commission, Commissioner, MRDA, Bangalore, Principal Secretary, Public Works, Ports & Inland Water Transport, Karnataka, Institutional Finance Government of UP and Deputy Director, LBS National Academy of Administration, Mussoorie, among others. He is currently engaged with the variety of schemes and programs relating to urban governance and infrastructure, which include metro railway, city bus services & BRTS, public cycling, pedestrianisation, water supply, sanitation, solid and liquid waste management, city planning, urban governance reforms, and the JNNNURM etc. He has published several books and articles on issues relating to decentralized governance and planning and public finance.

Prof. JAGAN SHAH

Prof. Jagan Shah is Director, National Institute of Urban Affairs, New Delhi since April 2013. He is an architect, historian and urbanist with a sustained commitment to educating and training new generations, pursuing innovation in architecture, urban design and conservation, and providing advisory services to a range of clients in the private and public sectors. Prof. Shah considers his nine formative years of study at the School of Planning & Architecture, the University of Cincinnati and Columbia University, as most valuable. He has been a visiting teacher at the School of Planning & Architecture, New Delhi, since 1998. He has been Dean, in 2009, and Director, during 2011-12, of the Sushant School of Art & Architecture in Gurgaon. From 2007 to 2010, he was the first Chief Executive of Urban Space Consultants, providing advisory services in urban policy, city development planning and transportation. Shah has worked with a number of organizations as a consultant, including the National Institute of Urban Affairs, Infrastructure Development

Finance Company, Delhi Integrated Multi-Modal Transport System, Jaipur Virasat Foundation, Sir Ratan Tata Trust, and India Foundation for the Arts and, most recently, the National Capital Region Planning Board. Prof. Shah is the author of Contemporary Indian Architecture (Roli Books, 2008) and his writings have appeared in a number of Indian and foreign publications.

ANNEXURE 3:

Participants