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FOUNDATION**

THE RIGHT THING TO DO

RENTAL HOUSING IN INDIA



A Report For

**Housing Development
Finance Corporation**

PRESENTED BY MONEYLIFE FOUNDATION

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Sucheta Dalal and Debashis Basu (Trustees, Moneylife Foundation)

Mumbai

Date: 22 December 2021

2. Research Objectives

The objective of the research was to:

- Examine the factors that have obstructed the growth of the rental housing market in India and how they can be removed;
- Examine and evaluate existing housing policies and the legal framework for rental housing in India, with the objective of identifying areas for improvement;
- Research global rental housing policies to compare them with the situation in India and establish points of learning;
- Analyse the present status of rental housing in India and recommend changes in policy and infrastructure which could be adapted for improving the market for it.

3. Research Design

1. Examine and study housing policies related to rental housing in India.
2. Research the problems faced by tenants and landlords with respect to rental housing, with a survey of consumers.
3. Examine global models of business structures and regulations, and whether these can be adopted for the Indian market to further improve it.

4. Research Methodology

1. Collate information on status the of rental housing in India.
2. Conduct meetings and interviews with well-known consultants who practise and specialise in real estate, especially rental housing.
3. Conduct online surveys to get detailed information from tenants and landlords.
4. Conduct meetings and interviews with activists who work to assist individuals with property-related matters, to get final feedback on our findings.
5. Conduct meetings with developers to understand their perspective on how rental housing will help them.

5. Expected Research Output

1. Describe the status of rental housing across India along with the current legislative and administrative framework.
2. Feedback from all parties involved (tenants, landlords, builders, agents and lenders, etc).
3. Role of government in effective implementation of rental housing policies.
4. Recommended steps to make rental housing more beneficial for everyone.

6. Key Findings

India has a housing conundrum – on the one hand, there is a housing shortage which fails to meet the needs of a burgeoning population, while paradoxically the number of vacant houses in the country remains staggeringly high.

Housing policies in India, in recent decades, have been focused on home-ownership and incentives, or fiscal benefits, have worked towards the promotion of home-ownership. However, purchasing a house may not necessarily be a financially viable decision for many people; hence, many prefer to rent rather than own homes. Rising prices of real estate have meant that home-ownership continues to remain a distant dream for many.

Rental housing in India is regulated by archaic Rent Control Acts (RCAs) which, in most cases, are unique to each state. There is no Central rental housing policy in place to guide respective states on the regulation and oversight of such housing. RCAs have undergone some changes since their initial enactment (referred to colloquially as first-generation RCAs). However, the second generation of such Acts, present in states like Delhi and Maharashtra, still heavily favour tenants. The Central government has made efforts recently to modify existing rental housing policies and regulatory framework, with the drafts of National Urban Rental Housing Policy (2015) and Model Tenancy Act, 2015 (MTA). While both have undergone changes over the years, neither had been approved or implemented, at the time this research was completed (September 2021).

Existing RCAs, which were implemented after World War II, impose unreasonable restrictions on the rent charged and the percentage or the intervals at which it may be increased. Individual states have periodically amended their respective RCAs to bring about a better balance between the rights of tenants and landlords, but they have failed miserably to satisfy the needs of the concerned parties, equally. This failure on the regulatory front has meant a natural growth in the informal rental housing market heavily skewed in favour of landlords.

An online survey conducted by Moneylife Foundation, indicated that 38.51% (of 1,196 respondents) of tenants/landlords had disagreements over maintenance responsibilities, while others mentioned refund of deposit amount and rent-related matters as the primary reason for disputes.¹ Disputes amongst tenants and landlords over refund of deposit amount, share of maintenance cost, upkeep of property, eviction notices for frivolous reasons, discrimination of tenants based on religion,

¹ Data and analysis of survey results presented in Chapter 14 of this report.

marital status, caste, etc, are the common problems faced by consumers of the rental housing market in India. Having no set standard in law, tenants have to pay significant amounts as deposit when signing a lease agreement with the landlord. On the other hand, tenants living in a rented apartment for decades continue to pay minuscule rents, as landlords are severely limited in charging a higher rent as well as increasing it on an annual basis. Neither are tenants happy with the bias they face from owners, nor are landlords satisfied with the marginal rental yields they earn from their property. The survey also indicated that 25.75% of owners have kept their homes vacant rather than leasing/renting it out, quoting low rental yields, fear of tenants occupying homes permanently, long-drawn out legal battles with tenants and a lack of protection from regulatory bodies as the primary reasons for keeping their properties vacant.

There are buildings owned by government organisations, such as Life Insurance Corporation (LIC), Mumbai Port Trust (MbPT), public sector undertakings (PSU) like banks and insurance companies, etc, in various metro cities that have rental tenants. These properties were earlier private and were attached by the private insurance companies and banks. During nationalisation of insurance business in 1956 and nationalisation of banks in 1969, these buildings came to be governed by the local RCAs. Over time, such properties have become non-performing assets (NPAs) for the PSUs, but nothing is being done by the government bodies that own them, to sell them off to old tenants or to private owners. Such properties have continued to deteriorate, in the absence of any clear policies for either redevelopment or sale.

Factors such as archaic rental housing policies, structure of rental agreements, low rental yields, discrimination of tenants, tenancy disputes, absence of a rental housing industry lobbying organisation, etc, have hindered the growth of the rental housing market in India.

National Urban Rental Housing Policy (NURHP)

While traditional housing policies focused on promoting home-ownership, the Central government has now taken the initiative to discuss a national policy for rental housing. Introduced as a draft in 2015, NURHP is an indirect acknowledgement by the government that home-ownership, on its own, will not be sufficient to mitigate the shortage of housing in India.

This draft policy attempts to identify and define various models of rental housing and recommends policy-level changes that state and local governments can undertake to improve rental housing in the country. Following on its vision to “create a vibrant, sustainable and inclusive rental housing market in India,” the policy enlists state

government and urban local bodies as enablers and facilitators with an objective to enact relevant policies and regulations. It also envisages that the government will provide fiscal and non-fiscal incentives to tenants as well as developers of new rental housing properties.

The new feature in this policy is the emphasis on social rental housing units – housing which is subsidised by the government to make it affordable for the marginalised and underprivileged groups. However, once again, housing being the primary responsibility of state governments, NURHP puts the onus on state and local government bodies to implement a rental housing policy based on the assessments of local needs and demands.

Overall, NURHP is a good first attempt at formulating a much-needed national rental housing policy; but there is still an underlying bias towards home-ownership. Unlike many other Central government policies, NURHP, in its current form, does not make any provisions for Central government funding. The policy evades any fiscal responsibility by merely repeating that housing is a state subject and the primary responsibility to provide, curate and regulate rental housing lies with state governments. In fact, the only budgetary provision that has been mentioned is that of rental vouchers which are meant to partially offset the rent cost incurred by the urban poor.

While such vouchers could prove beneficial to groups in need of subsidised rental housing, one should perhaps take a lesson from the US rental market. Rental vouchers are a norm in the United States; but, due to budgetary constraints, very few deserving applicants actually receive any benefit from them. The Indian government should realise that such fiscal offsets provided either to tenants or owners would only be as strong and effective as the budgetary support allocated to them. At present, the low financial commitment from the Central government, as noted in NURHP, could mean tremendous difficulties in housing the urban poor, as India's major cities are known to have the highest demand for rental housing but rents continue to remain exorbitant and unaffordable.

Model Tenancy Act

A welcome step in the right direction, the Model Tenancy Act (MTA) is an attempt from the Central government to strengthen the regulatory framework on rental housing. However, once again, housing being a state subject, each state will have to adapt MTA to suit its own specific requirements to bring it into effect.

To be applied prospectively once it is adopted by each state and Union Territory (UT), MTA lays down a framework for a three-tier quasi-judicial authority (Rent Authority, Rent Court and Rent Tribunal) to resolve tenancy disputes in a reasonable time. It also stipulates that all rental agreements be registered with the Rent Authority by both parties, after which a unique identification number will be issued and the details of the agreement uploaded to a central database. While MTA has stipulated a timeline of three months after it comes into effect, it remains to be seen whether it would be feasible for the respective local governments to set up and operationalise such a digital database to manage registration of rental agreements.

MTA stipulates the creation of a Rent Authority and grants all the powers that are vested in a Rent Court, with respect to any proceeding initiated for tenancy agreement, revision of rent, repair and maintenance of property, etc, to this Authority. Essentially, this quasi-judicial entity has been introduced to manage all operational issues under the Rent Act and is empowered by the Act to adjudicate on rent disputes and any other matter brought to its notice by either party.

Other important changes in MTA include a two-month limit on the deposit amount and freedom for the landlord/owner to set rents as per current market trends. Also, having placed no percentage limits on the periodic increase of rent, MTA allows rent to be increased only as per the terms set out and already agreed upon in the rental agreement.

Many of the proposed changes in the Act are much-required and offer a win-win situation for tenants and landlords; but there is scope for improvement in terms of clarity. Specifically, on application of MTA, it is not clear how the provisions will apply to paying-guest or co-living facilities. There is also no clarity on the role of brokers, even though they play an important role, that of an intermediary, in the present rental housing market. Additionally, MTA fails to address the issue of leases signed under the Transfer of Property Act and licences under the Indian Easements Act, 1882. Further, there is no clarity on application of the Act to *pagdi* tenants, who fear having to pay exponentially higher rents and losing their stake in the property. Although MTA is meant to supersede the existing regulation, there is little clarity on what effect its implementation will have on properties leased or licensed under old RCAs and whether the provisions of MTA will override those of the RCAs.

Section 47 of MTA implies that all present RCAs will be repealed after MTA is adopted by the respective states. This is, however, easier said than done, considering the influence that political exigencies will have on the implementation of MTA. Ensuring that MTA is fully and effectively implemented in a city like Mumbai could prove to

be a difficult task, where tenants have occupied residential properties in prime areas for ridiculously meagre amounts as rent.

Another oversight is the lack of clarity or penalty for non-compliance with the obligations under MTA which fails to address the situation that could arise from the failure to execute a tenancy agreement, failure to obtain lessors' consent for sub-letting, inability to refund security deposits, etc. The lack of clarity on the failure to comply with certain aspects of MTA may inadvertently lead to an increase in litigation.

Finally, since the effectiveness of implementation depends entirely on the state and UT governments, one can only hope that the deficiencies in MTA are amended at the state level before enactment. Contrarily, it is also entirely possible that individual states may end up diluting the effectiveness of MTA with their unwillingness to adopt the policy prescribed by the Centre.

Affordable Rental Housing Complexes (ARHCs)

In the aftermath of the COVID pandemic and the enforced nationwide lock-down, India saw a massive migration of the urban poor from cities. Most were daily wage-earners who had lost their source of income and could no longer find/afford appropriate shelter in cities. Reacting to the plight of such urban migrants, the government introduced a new sub-scheme under the Pradhan Mantri Awas Yojana (PMAY), wherein affordable rental housing units could be provided for the economically weaker section (EWS) and lower income group (LIG) of the population.

The scheme encourages public-private partnerships (PPP) to make use of existing vacant housing stock as low-rent affordable housing complexes for the EWS and LIG sectors. With fiscal incentives, the government also hopes that private developers will undertake the task of building new ARHCs designed specifically as affordable rental housing. Rents in such housing units would either be set by the local authority after a market survey of the surrounding areas or by the private entity who will undertake management of the complex for a period of 25 years. There are limits set on the percentage and interval at which rents are permitted to be increased for such units. However, the challenge would still be to make these units have an affordable level of rent which does not significantly eat into the budget of such EWS/LIG families for other basic necessities such as food, transport, education, utilities, etc. This may be possible only if private developers get land at affordable prices.

ARHCs' success depends largely on the level of participation of entities other than local government bodies. For instance, the task of carrying out repairs on old vacant

government houses or building new units has been assigned to private 'implementing agencies', with no direct intervention from the State. If there is lack of interest from the private sector, there is a distinct possibility that the scheme will fail. There is also a lack of clarity on the means for identification of potential beneficiaries, with no mention of an eligibility barrier based on income level. This may inadvertently lead to the scheme being missed by the vulnerable population who deserves it the most.

While the ARHC scheme is another good step in the right direction towards promotion and efficient use of rental housing, its effectiveness will depend on the success of PPP. In itself, the scheme may not be sufficient to make a significant dent in the housing shortage crisis.

Rental Housing: A Global Perspective

A successful housing policy in many developed countries across the world promotes not only ownership, but also provides subsidised social rental housing and allows the rental housing market to thrive, with complementing policies that strike a fine balance between the rights of tenants and landlords. This can be seen in the examples of UK, Germany, France, Netherlands and other European countries. India has failed on this front, struggling to repeal RCAs and barely acknowledging rental housing as a viable solution for the housing shortage crisis.

Instead of shunning rental housing completely, many countries have promoted it as a form of affordable housing for low-income groups. Policies are put in place to offer fiscal and non-fiscal benefits to tenants – rents are regulated as per market trends (with reference rent charts), increase in rents is permitted within limits, rebated rents are offered to those eligible, etc; and equally for owners or developers – subsidies on loans for development of rental homes, tax benefits on rental income, subsidies for developers investing in affordable rental housing, an easier eviction process, etc.

Social rental housing, which often takes the form of subsidised rental housing in many countries, is observed to be the preferred solution for tackling housing needs of low-income groups. While the government provides incentives, private and non-profit entities manage and operate such rental housing units under the direction of local government bodies.

There are many lessons that India can learn from the rental housing market and regulatory policies of various countries, where rental housing thrives and fulfils the housing needs of many. Adopting relevant changes at the policy level, while also acknowledging global trends in rental housing, should ideally be the way forward for India to achieve its 'housing for all' goal.

Co-living Spaces

India's growing population of millennials has meant an increase in the need for organised rental housing facilities in urban centres. This younger generation of India's population is tech-savvy, willing to move to new cities for better work opportunities or for higher education. They are also not at a stage of their life where taking a home loan makes financial sense. This segment of the population essentially comprises students, urban migrants and working professionals who are seeking temporary short-term residence in an urban centre.

While, traditionally, such needs have been met by cheap informal rental accommodation in the form of dorms, paying-guest (PG) arrangements and hostels, the informal nature of the set-up tends to heavily favour landlords. Being informal, these set-ups are not governed by local or state-level regulations, and tenants, usually, end up facing difficulties.

The rising demand has allowed innovative start-ups to step in and offer co-living spaces designed with features and services essential for the modern working professionals or students. At present, the co-living market is not governed by any regulatory policy and this has given the operators a certain level of freedom to evolve, based on the demands of the market. If allowed to grow in a sustainable environment, the co-living market can truly revolutionise the way millennials make use of rental housing accommodations and also simultaneously prove beneficial to owners and operators of co-living spaces.

7. Recommendations

Ensure that present Rent Control Acts are repealed: Rent control legislation was enacted after World War II and was a means of preventing inflation. While many developed countries across the world have long since repealed such restrictive Acts, India continues to have amended forms of archaic rent control legislation in effect across all states and UTs. While MTA has been touted as a replacement for existing rent control legislation, the matter still rests with states and UTs. Although the task is not without challenges, efforts should be made to ensure that the provisions of rent control legislations are overwritten with the enactment of MTA.

Put rental housing on the urban housing agenda: At present, rental housing is virtually invisible in India's national housing policy. NURHP is the first attempt at implementing a national rental housing policy; but progress on it has been tardy. Healthy housing markets need to offer a range of options other than owning a house and a change in policy is essential for achieving this goal.

Stop promotion of universal home-ownership: A study of various models of housing in countries around the world clearly indicates that total home-ownership is a goal that is neither achievable nor desirable, despite the rhetoric that normally accompanies such policy statements. Rental housing and home-ownership should not be presented as competing options of housing. Results of Moneylife Foundation's online survey of landlords, owners and tenants indicate that rental housing is a preferred option for many who require temporary accommodation in a city/town, but several limiting factors for the stakeholders involved keeps it from being an appealing mode of housing. The government needs to ensure that the housing market provides people with an effective choice in housing that is both affordable and appropriate for their needs. This requires a housing policy that remains neutral in terms of ownership or rental-based housing. Such neutrality can be achieved by avoiding favourable tax-breaks only for owners, providing subsidies to poor families irrespective of their choice of housing (owned or rented) and other such measures which offer neutral benefits.

Provide subsidies for low-income tenants: A commonly employed method in some developed countries has been to introduce a rent supplement or rental housing voucher. Examples from the US, Australia and some European countries indicate that such an approach has been effective, to some extent. There are some inherent challenges which will need to be overcome for such subsidies to become effective in the long term. The government needs to be prepared to devote sufficient funds for such an approach, as insufficient funds may mean deserving tenants being left out of

the programme (as has been the case in the US). The government should also be willing to consider transferring subsidies to the landlords, as there is a tendency to raise rents in a market that is subsidised just for low-income tenants.

Ensure subsidies for developers and landlords providing low-income rental housing: Subsidies can be provided to landlords or developers who wish to develop their existing property for low-income rental housing. Such schemes can also be applicable to private companies intending to build affordable housing for their workers and to social housing agencies that manage such housing. The recently-introduced ARHC scheme has made provisions for such subsidies by allowing tax exemptions on profits and gains from development, operation and management of ARHCs. This, in itself, may not be sufficient to incentivise private entities to foray into development/management of ARHCs. There is also a need to subsidise the cost of land, so that even small-scale developers are able to step in and create affordable rental units on such land, thereby increasing the overall supply of low-income rental housing. Subsidies for landlords or developers can also take the form of loans at affordable interest rates, offered to improve existing rental units or to build additional units, thus increasing the supply, and improving the quality, of affordable rental accommodation. Partnerships of the private sector with the State housing agencies, where the public agencies provide land and the private sector builds housing units, need to be accelerated by providing attractive financial incentives. This can be promoted by linking the corporate social responsibility (CSR) funding of companies for providing housing for employees.

Provide incentives for the individual or small-scale landlord: The problem of low rental yields, which are a major deterrent for owners when deciding to lease out their property, can be tackled with 'low interest home loans for landlords who plan to lease out their premises', as suggested by Ashok Datar, chairman of Mumbai Environmental Social Network. If the interest rates for home loans are lower, potential investors/landlords would be more inclined to purchase and develop properties for the sole reason of leasing them out. Income from rent should, ideally, also be considered tax-free.

Develop a transparent system for rent: Globally, countries, such as Germany and Australia, have a system of 'reference rents' which is updated, based on the local market rents in a given area. These rents are periodically published and can be referenced either by landlords (for pricing their property) or by tenants to compare rents. The government allows for the rent to be higher by a set percentage of the local reference rent, but also sets a limit on the maximum rent. This has allowed for the rental housing market to naturally evolve and grow, while maintaining a level of

transparency on the amount of rent. There is a need for such a system to be adopted in India, if not across the whole country, at least in megacities like Mumbai.

Develop the social rental market: Providing social rental housing to low-income households is a common policy across many European countries. Given the high prices of housing, the size of urban migration in India and to promote mobility, the development of a social housing stock should be considered. ARHCs are a form of social housing; but, since they are entirely dependent on private entities for developing and managing such properties, there is a possibility that they may fail to take off. More investment in the social housing market is required. Provision of social rental housing at multiple locations across a city would be welcome, as this will provide much-needed residential choice to low-income groups. Housing and occupation choice should be able to complement each other, so that the poor do not have to select between either of the two.

Eligibility criteria for social housing need to be robust and should be periodically reassessed: Correct identification of low-income rental households is crucial. Periodic surveys to identify such households should be conducted by urban local bodies. For ARHCs, checks should be carried out at the time of initial allotment and subsequent contract renewal to ascertain the eligibility of households as tenants of these complexes. Presently, with the ARHCs scheme, there is no income-level cap to determine eligibility of individuals who can apply for its benefits. More robust eligibility criteria should also be considered to ensure that the more deserving are not left in the lurch. Furthermore, to be efficient, eligibility criteria of residents within ARHCs should be periodically reassessed. If tenants' eligibility has changed over the course of their tenancy, an increase in the rent or a termination of the contract should be considered, so that other eligible individuals seeking residence can benefit from the scheme. Otherwise, over time, these rental units may be usurped by beneficiaries who have moved up the income ladder and such schemes will fail to cater to the needs of those who deserve it the most.

Supplement ARHCs with other social infrastructure: Besides promoting development of ARHCs, effort needs to be made to supplement such measures to improve the livelihood, education and health needs of EWS/LIG households to improve their permanent income. Provisioning of schools and skill centres as a part of the ARHCs will go a long way in improving the long-term welfare of these households and increase their demand for housing services. Most importantly, all ARHCs should be located close to the existing employment centres of EWS/LIG households.

Amend the Model Tenancy Act to cover all aspects of rental housing: MTA, in its present state, fails to bring under its ambit properties leased informally and also excludes PGs and co-living facilities. There is a lack of clarity on some provisions of MTA which need to be addressed at the state government level. The decision to amend provisions of MTA rests with state governments, now that the draft has been approved by the Union Cabinet. But there needs to be some level of intervention and encouragement from the Central government, to implement and, perhaps, amend MTA before legislation is enacted at state and UT level.

Consider bringing rental housing under the ambit of RERA: For the most part, introduction of the Real Estate Regulatory Authority (RERA) has been a boon to all involved stakeholders. Maharashtra's implementation of RERA under MahaRERA has enjoyed enviable success providing a level of security for owners, expecting accountability from developers and brokers. Pranay Vakil, chairman of Praron Consultancy India Pvt Ltd and retired founder and former chairman of Knight Frank India Pvt Ltd, suggests adding rental housing as an added responsibility under RERA. He believes this will streamline and simplify certain aspects of rental housing, while simultaneously improving accountability and transparency from landlords, tenants and even brokers.

Registration of brokers should be made mandatory under MTA: Presently, MTA fails to define the role of brokers or rental agents who are intermediaries in rental agreements between the landlord/owner and tenant. Having no written rules to define their purpose or even a limit on the percentage of fees their services are entitled to, unfortunately, allows brokers to abuse the freedom the lack of regulations currently provides. Ensuring mandatory registration of brokers under MTA and introducing a set of regulations to govern their role, will not only improve accountability, it will also improve the negative perception of the profession of rental brokers.

Consider a two-tier grievance redress process under MTA: The presently proposed three-tier system, involving a Rent Authority, Rent Court and Rent Tribunal, has multiple layers and redundancies as pointed out by advocate Avinash Pathak, retired deputy legal head, Maharashtra Housing and Area Development Authority (MHADA). Using the example of Mumbai, advocate Pathak points out that a two-tier system with a competent authority (a judicial officer equivalent to a small causes court judge) and a commissioner (as appointed under RCA) have had reasonable success in disposing cases in a timely manner. Dividing responsibilities of certain aspects such as rent revision, agreement registration, disputes resolution, etc, between three tiers is

a needless over-simplification which can be avoided with a minor modifications to the duties of the present authorities.

Officers elected under MTA should have judicial experience: MTA suggests appointing district and deputy collectors for the role of Rent Authority, while additional collector or district magistrate perform the duties of a Rent Court. In this case, with collectors being suggested for appointment, there is a distinct possibility that the state government will also have to adopt and implement a legal department specifically to assist in the daily activities of the respective rent authority/court. Rather, it would be more prudent and efficient to appoint judicial officers who have minimum of 10 years of experience in the judiciary system. Such officers are better suited for the position due to the experience they would naturally bring in drafting and passing of orders.

8. Rental Housing in India - Background

As India has rapidly urbanised in recent decades, with the urban population growing from 62.4 million in 1951² to 377.1 million in 2011,³ its cities have continued to fail in providing sufficient affordable housing for all residents, especially for migrant populations. Amidst rapid urbanisation and worsening urban poverty, cities in India continue to struggle with the challenge of inadequate housing. Furthermore, with the influx of urban migrant workforce seeking better life opportunities in urban centres, construction and supply of informal dwellings and residences in slums are on the rise.

The housing market in India has often been characterised by policy advocates as having an excess demand for affordable housing, a small rental market and an oversupply of high-end housing especially in urban areas.⁴ Ongoing urbanisation and urban migration has intensified the demand for affordable housing especially at the low end of the market. But, the often-stated vision for housing policies in India – of providing ‘housing for all’ – has come to mean ownership of houses, while failing to equally promote other affordable alternatives.

There is also a mismatch between the shortage of housing and the presence of large stock of vacant houses, especially in the affordable housing segment. The estimated housing shortage in India has risen by 54% to 29 million in 2018 from 18.78 million in 2012.⁵ On the other hand, according to Census 2011, the number of vacant houses in the country increased from 6.3% in 2001 to 7.5% in 2011. A large vacant housing stock is indicative of the rising problem of affordability and also a mismatch in the needs of the working population who are perhaps not keen on investing in a home at their present stage in life.

Housing woes continue to plague a significant portion of urban households. Unaffordable housing prices and rents, coupled with an unresponsive supply from the formal housing market, are cited most often as the key factors for the unabated increase in the number of urban households living in physically inadequate housing and in slums. Policy inputs from the government over the years, have ranged from carrying out land reforms, providing subsidies to households for purchasing a home and construction, providing subsidies to private suppliers of formal housing,

²Census of India, 1951.

³Census of India, 2011.

⁴Christine de la Maisonneuve and Mamix Dek: “Housing for All in India (2020)”; Working Paper for Organisation for Economic Co-operation and Development (OECD);

[https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ECO/WKP\(2020\)20&docLanguage=En](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=ECO/WKP(2020)20&docLanguage=En).

⁵https://www.business-standard.com/article/current-affairs/india-s-urban-housing-shortage-rises-54-to-29-mn-in-2018-report-120122300948_1.html.

formalising informal housing through granting of property rights and undertaking redevelopment of slums.

Alongside such Central government policies, many state-level initiatives have been undertaken for promotion of housing projects for EWS and LIG households. However, most measures and approaches by the Central and state governments have suffered from similar shortcomings –a lack of understanding of the needs of beneficiaries because of the lack of greater community participation, cornering of benefits from schemes meant for lower-income households by higher-income households, fragmented design and implementation of programmes, lack of viable rehabilitation options for evicted slum households, and lack of convergence between housing schemes and schemes relating to employment and health of lower-income households.⁶

Perhaps a common misstep in all these policies has been the objective to make housing more affordable for ownership. There has been a clear lack of understanding from a policy perspective about the other forms of housing which could potentially supplement the housing needs in India.

Affordable rental housing has, generally, been one of the lowest steps in the housing ladder. However, it continues to remain the preferred choice for some households and special interest groups, such as young households, who do not have adequate savings to avail housing loans, households where affordability is a concern and migrants, refugees or those with disabilities and in need of care. In many cases, rental housing could be preferred to owner-occupied housing for reasons like its compatibility with labour mobility. Renting a house allows tenants to save financial resources for investments in other avenues.

In the past couple of decades, there has been a drastic shift, in India, from the desire for ownership to the need for accessibility. The root of this change is the economic growth that started in the 1990s, which saw incomes shooting up and led to a big boom in home-ownership, including owning multiple houses. Consequently, a significant segment of millennials and the generation before them is under no pressure to own a home and expect to inherit one from their parents.

This has resulted in the emergence of rental housing as the most viable and pragmatic choice. However, despite the growing reliance on rental housing, the market is yet to witness the expansion and inflow of investor interest. The seemingly insurmountable

⁶Debarpita Roy and Meera ML: *Housing for India's Low-Income Urban Households: A Demand Perspective*; ICRIER; 2020; http://icrier.org/pdf/Working_Paper_402.pdf.

difference in the value of property to the amount of rent, adds to the disappointingly low rental yields in India providing sufficient reasons to discourage investors. Rental yields in India have remained between 2% and 3% over the decades and continue to remain among lowest amongst Asian countries.⁷

Diminishing returns from rental property is one of the main reasons for the rental housing market in India remaining stagnant. As Pranay Vakil says, “the interest rate on a home loan taken by an individual in India is several percentages higher than what he/she would earn in income if they were to lease out their property. Add to this the cost of routine maintenance and other legal formalities; it is almost impossible for an owner to earn a sustainable return on their property.”

Factors Influencing Rental Housing in India

Home-ownership is generally promoted particularly for low-income households, as an asset to accumulate wealth. However, it could also be argued that it is not the best option as most savings are pre-empted for home-ownership or for payment of EMIs (equated monthly instalments) on home loans and there is a limited availability of savings for other investments. India’s growing millennial population and a larger urban migrant workforce have resulted in a growing demand for rental housing as opposed to ownership-based housing in urban centres. A much-needed shake-up in India’s present rental housing market will have to take into account the following key factors:

1. Increasing Urbanisation

India’s steady rate of urbanisation, increasing migration to urban areas and the supply lag of housing, including adequate rental housing, have resulted in limited household demand and choices. India’s urban population has experienced a gradual increase over the past few decades, from 28.5% of the total population in 2001, the proportion of urban dwellers increased to 31% in 2011, adding about nine million each year to the country’s urban population.⁸ This population boom in urban centres has meant a growth in the demand for affordable housing.

At the same time, data from Census 2011 indicates that 11.09 million residential units are vacant. This is perhaps due to the availability of land for residential purposes within the cities being either limited or available at a premium, rendering most of the housing stock unaffordable. The added factor of the many stumbling blocks that rental housing presents has meant that landlords prefer to leave their property vacant rather than let it out to tenants who might create problems in future. The stark dichotomy of

⁷<https://www.globalpropertyguide.com/Asia/India/Rental-Yields>.

⁸Census of India, 2001 and 2011.

growing urban population alongside a growing number of vacant houses is something that can be resolved with the introduction of robust rental housing policies that allow affordable housing to be readily available.

With increasing urbanisation, the urban housing shortage has become a serious issue that needs to be addressed strategically. A significant portion of this shortage could perhaps be attributed to the growing population of urban poor who are left without viable and affordable housing options in urban cities. While subsidised ownership housing, as introduced under the government's many housing schemes, could be one of the means to address the housing shortage, typically, low-income households with seasonal incomes and transitory employment patterns cannot afford to buy such a house. Small monthly rents are more suited to such segments of the population.

Rapid urbanisation has also increased migration from rural areas and small towns to cities for the purposes of work, education, etc. The pressure of accommodating these migrants has increased considerably and many such migrants prefer rental housing over traditional home-ownership. The problem of affordable housing for the urban migrant workforce reached its peak during the recent COVID pandemic-induced nationwide lock-down.

Home-ownership can also increase urban sprawl. This is particularly true when workers purchase homes far from their workplace. City centres tend to have high ownership as well as rental costs; these costs decrease as the distance to the city-centre increases. Often, a worker who wants to own a home, can only afford one that is located a great commuting distance from the city-centre. Working far from home exacerbates congestion on the roads; puts pressure on public transport and adds significant costs and travel time for the workforce. A vibrant rental housing market in the urban core can reduce these problems and can even help stimulate the city-centre itself.

2. Worker Mobility

Vibrant rental markets are necessary for workers' mobility. It is much easier and less costly to move when a person is a renter than when he is an owner. Selling a house means high transaction costs including realty fees, transfer taxes and, potentially, capital gains taxes. Ownership can create disincentives to relocate closer to jobs, becoming a mobility trap.

In general, when a worker needs to move to take a job in a different city, terminating a lease is easier than selling a home. Although it is possible, in some cases, to rent the

owned home to tenants and to rent a home in the new city, these options need a vibrant rental market across the country.

3. Housing Policies

Private sector organisations offering mortgage finance and government incentives (significant tax incentives) promoting home-ownership have sometimes had unintended consequences. Affordable housing policies and programmes in India have quintessentially remained ownership-driven. This can be attributed to the high priority accorded to home-ownership in terms of asset acquisition for the majority of people, to the extent that they are often willing to forego other necessities to purchase a house. The decision to buy residential properties may be one of the most important transactions people ever make and, thus, the emotional attachment when houses become homes is inevitable.

Government policies, focused as they are on ownership housing alone, have traditionally neglected rental housing. The absence of government policy interventions has been one of the primary deterrents in the creation of rental housing stock in India. The draft NURHP (2015) and draft MTA (2021) aim to rectify this situation. However, for these policies to be successful, the government needs to play an active role by encouraging all states to be equal partners in the endeavour.

Benefits of Promoting Rental Housing

According to the *Rental Housing Report* (2013) published by The World Bank, a country should stimulate its rental housing sector because such housing in itself offers numerous benefits:

- aids a city in developing or redeveloping its urban core;
- provides shelter to transitional workers and to those who belong to lower-income groups;
- gives short-term workers flexibility and mobility.

However, the Report also mentions that a rental sector poses many challenges, largely because the rental market has multiple players, not all of whom have equal power:

- Tenants fear that they can be exploited. They can be forced to live in poor conditions with little power and could lose their home, if they complain.
- Landlords worry that they might have difficulties with tenants that could pose financial and legal challenges, particularly if a tenant damages the unit or does not pay the rent or refuses to vacate.
- Governments see the costs of subsidies as a concern.

Overall, for India to realise its goal of 'housing for all' and to meet the housing demands of the urban poor, a more serious analysis is required to promote and support rental housing accommodation as an affordable alternative. As a first step, this requires a change in focus on the national policy level as well a change in the laws governing rental housing. The government has only recently acknowledged the need to revise and reshape existing rental housing laws, putting forward drafts of NURHP and MTA. There remains an urgency to ensure such policies are implemented at the earliest to adequately meet the housing needs of India's growing population.

The next chapters of this report will make an attempt to analyse the present as well as the newly-proposed rental housing policies and regulations, and evaluate the status of rental housing in India. An attempt has also been made to study rental regulations and policies in developed countries to analyse aspects which could be adopted by India.

9. Roadblocks To Overcome Effective Adoption of Rental Housing in India

As India's urban population grows exponentially, its housing woes have followed in tandem, particularly for its low-income households. Economic growth, stringent planning and development regulations leading to inefficient land use, and speculative investment in land and real estate have led to a rise in land and housing prices in cities and a decline in housing affordability. Over the past decade, average housing prices, in the largest seven cities of India, have increased by 38%⁹ and the number of properties lying vacant has also been on the rise.

A large segment of the population is unable to afford buying a home and prefers to rent, whether formally through a registered written lease agreement, or informally with little or no legal rights. While the rental housing market in India has the potential to cater to the affordable housing needs of the population and, perhaps, even reduce the increasing numbers of vacant housing stock, there are too many stumbling blocks along this path which have hindered progress.

Archaic Rental Housing Policies

Historically, rent controls were introduced in the early-1900s in the United States and some other parts of the world to keep in check uninhibited rent increases and tenant eviction during wartime housing emergencies. After World War II, there was a sudden increase in the demand for rentable housing from soldiers returning home. Additionally, with increase in industrialisation and subsequent urbanisation, there was an increase in rural-urban migration. To prevent rents from rising too much due to this spurt in demand, rent control legislation, under various names, was introduced in many countries. These were called the first-generation rent controls. The second-generation rent controls, or soft rent controls, were introduced later and provided some leeway in rent increase and improvement in tenant-landlord relationships.

In India, the rent control legislation, in some form, has existed since the First World War when Mumbai (then Bombay) first introduced Rent Control Act in 1918. Over the years, states and UTs across India have enacted and enforced rent control laws which continue to remain applicable even today. Although these RCAs have been revised considerably since their introduction, they remain severely flawed and heavily favour tenants.

⁹<https://www.economictimes.com/wealth/real-estate/average-housing-prices-up-38-per-cent-in-last-decade/articleshow/76339156.cms>.

RCAs not only limit the amount of rent a landlord or owner can charge, but also limit the percentage or intervals at which rent can be increased. While this may seem as a prudent measure on paper, it has severely restricted the growth of the rental housing market by limiting the rental yields (revenue returns) for landlords and owners. Furthermore, many of these RCAs were primarily for protecting tenants' rights, to prevent eviction, making it difficult and time-consuming for landlords to evict tenants who violate the terms of the tenancy agreement.

A detailed analysis of the RCAs with the problems they present is discussed in the following chapter of this report.

Structure of Rental Agreements

As it stands, the rental housing market in India works under two main types of legal rent agreements – Lease (or Rental) Agreement and Leave & Licence Agreement.

The former is covered by restrictive rent control laws of each state, where the amount of rent that can be charged is based on a formula devised by the local executive or government, as the case may be. This agreement serves as an official contract between the owner of the property and the tenant who wishes to occupy the said property for a given period. The notice period and the tenure of the agreement are stated in the contract and are usually agreed upon by both parties.

Such a rental agreement, under the respective RCAs, strongly favours tenants by limiting the power of the landlord with respect to eviction. Any dispute between the two parties is handled by civil courts and, as expected, matters are not resolved in a timely manner. Tenants are further protected in case of disputes in payment of rent, where the landlord cannot legally disrupt the supply of any amenities provided as per the agreement.

Under such registered rental agreements, a tenant is also legally transferred certain rights to the property. Thus, in some cases, tenants may claim ownership of the property after staying in the same place for at least 10 years. They can claim it under the provisions of the RCA. In such cases, landlords have very limited options to evict the tenant or even increase the rent. In a city like Mumbai, there are many tenants who pay meagre amounts as rent and occupy properties in prime locations, taking advantage of such an agreement and the flaws of the RCA. As per their rental agreement, as long as the rent is paid on time, they cannot be evicted. This is one of the reasons that owners and landlords prefer executing a Leave & Licence Agreement with their tenants.

A Leave & Licence Agreement enables a tenant to temporarily occupy the owner's property for a specific period, at an agreed upon fixed amount (called licence fee or rent), without any change in the ownership of the property. Such an agreement is governed by the Indian Easement Act, 1882. Since ownership rights are not transferred to a tenant under such an agreement, no property rights or heritable rights are created for the tenant. This serves as a major advantage for the owner, when it comes to evicting a tenant. The tenant, in such an agreement, is granted a licence to occupy the property for a minimum period of 11 months (since having an agreement for 12 months will require that it be registered as a rental agreement), with an option of periodic renewal. Since the archaic rent control laws are only applicable to rental agreements for a period of 12 months, establishing an 11 month Leave & Licence Agreement serves as a pre-emptive measure.

Low Rental Yields

Rental yield is generally defined as the rate or the percentage of returns from the annual rental income of a property. It is essentially the amount of money an investor or landlord makes on a property, after measuring the gap between overall costs and the income received from renting out the said property. In real estate, rental yield is a widely used term which helps to determine the rate of return on the investment for commercial and residential properties. It is an important metric in property data and has a direct bearing on demand. For instance, the higher the rental yield of a property, the better is the income earned and, thus, higher is the popularity of such asset amongst investors.

Despite the fact that India's residential rental market holds immense potential to address the housing needs of a growing urban population, its rental yield is among the lowest in the world. According to Global Property Guide,¹⁰ India's gross rental yield in 2017 was 2.32% and continues to remain among the lowest in Asian countries; Indonesia has the highest gross rental yield of 7.09%.

Having abysmally low rental yields has a demoralising effect on individual landlords and investors alike. Diminishing return from rental property is one of the main reasons for stagnation in rental housing market in India. Feedback received from respondents to Moneylife Foundation's online survey, indicated low rental yields as one of the primary reasons for owners who choose to keep their homes vacant rather than leasing them out to tenants.¹¹

Social Discrimination of Tenants

¹⁰<https://www.globalpropertyguide.com/Asia/India/Rental-Yields>.

¹¹ Data and analysis of survey results presented in Chapter 14 of this report.

This is a very common problem faced by tenants in India. Landlords or, in some cases, cooperative housing societies, have stringent, but unlawful, rules barring tenants on the basis of religion, culture, marital status, profession, and other such social factors. Moneylife Foundation's online survey found that 28.27% of tenants (among the 1,196 respondents) faced some form of discrimination while living in rental accommodation.¹²

There are innumerable examples of such discrimination, as is often seen in "For Rent" ads. 'Non-vegetarians not allowed' and 'pets not allowed' are some common terms seen in such ads. Although discrimination on such grounds is unconstitutional, it continues to be common practice in India. Landlords would prefer to keep their properties vacant rather than rent them out to a tenant who fails to pass the archaic discriminatory policies.

Article 14, an organisation consisting of lawyers, journalists and academics, that provides intensive research, data and varied perspectives on many issues, had recently concluded a three-year study on discrimination in housing in India. It found that "exclusion, segregation of Muslim tenants are the norm even in India's most diverse, cosmopolitan cities... from owners to brokers, from flat-mates to social media, a web of factors limits Muslims to Muslim-only localities."¹³

Several cooperative housing societies have (unwritten) rules to restrict renting of flats to bachelors, single women or individuals who do not conform to a traditional gender identity. The reasons given for such discrimination are often flimsy and unconventional.

- Bachelors are boisterous and disturb neighbours;
- Bachelors do not have a strong moral compass and their presence in the building will disturb the social fabric of their community;
- Bachelors or college students might be involved in illicit, criminal or questionable activities.

Such forms of social bias towards tenants are unfortunately common, even though many concerns of the landlord can easily be dispelled with a standard background check. Discrimination on such levels discourages prospective tenants from seeking out rental housing accommodation in a city.

Landlord-Tenant Disputes

¹² Data and analysis of survey results presented in Chapter 14 of this report.

¹³ <https://www.article-14.com/post/bigotry-at-home-how-delhi-mumbai-keep-muslim-tenants-out>.

Disputes between landlords and tenants can be on many grounds, from upkeep and repair issues to non-payment of rent and potential eviction. Respondents to Moneylife Foundation's online survey indicated insufficient clarity on maintenance responsibilities on the part of the tenant and the landlord, as the primary reason for a dispute. In India, unless such disputes are amicably resolved outside of courts, they invariably end up with both parties spending years in courts and an ever-increasing stack of legal expenses.

Disputes between landlord and tenants, which involve properties under a Leave & Licence Agreement are governed by the Transfer of Property Act (1882), while those leased under a rental agreement are governed by rent control legislations of each state or region. Until recently, it was not legally possible for both parties to seek resolution through arbitration and they had to rely on the outcome of long-drawn legal battles. However, a recent Supreme Court judgement, in the case of *Vidya Drolia & Ors. vs Durga Trading Corporation*, ruled that landlord-tenancy disputes under the Transfer of Property Act, are arbitrable under the Arbitration & Conciliation Act, 1996.¹⁴

While this might serve to help resolve disputes between both parties through arbitration, thus reducing the case load on courts, it is important to note that the judgement makes arbitration a possibility only for leased properties under the Transfer of Property Act and not for those under various regional RCAs. Further, arbitration is possible only if the lease agreement carries an arbitration clause allowing for resolution of disputes through such alternate means. In the absence of such a clause in the agreement, disputes continue to be governed by the respective Property Acts.

Long-drawn court battles not only drain the financial resources of both parties, they are also a demoralising factor for many landlords who might have, otherwise, considered leasing out their property.

Absence of a Rental Housing Industry Body

Industry bodies such as Confederation of Real Estate Developers Association of India (CREDAI) or National Real Estate Development Council (NAREDCO) collectively work to represent the real estate industry's interests. But an industry body to govern rental housing-related matters or to bring together all concerned stakeholders and encourage dialogue with the government is missing. The absence of an organised rental housing industry body or a government body means that "vacant properties available for rent do not get documented or enlisted centrally, which reduces the net annual rental income for landlords"; furthermore, there is also "no concentrated effort

¹⁴<https://www.moneycontrol.com/news/business/real-estate/arbitration-and-landlord-tenant-disputes-what-you-need-to-know-about-recent-supreme-court-ruling-6234641.html>.

between private players to work on a mandate for promoting rental housing cause in the country.”¹⁵

¹⁵Knight Frank and Khaitan& Co: “Institutionalising the Rental Housing Market in India”; 2019.

10. Policy Review: Rent Control Acts

In India, housing (and, thus, rental housing) is a subject on which states have the exclusive right to legislate, although the Central government does have the power to guide the states with a model law on rent control or tenancy. At present, nearly every state has its own laws governing matters relating to rental housing within their jurisdiction. However, these rent control laws are known to favour tenants and their restrictive nature has impeded growth in this sector.

As renowned civil engineer and urban planner, Shirish Patel, said in a report analysing urban laws and housing policies, “It was these Rent Control Laws which created a shortage of formal and affordable housing in Mumbai.”¹⁶ Usually, when the cost of owning a house is high and out of their affordable range, people opt for rental housing; but archaic laws have caused the formal rental housing market to diminish significantly.

Rent control laws, as their name suggests, allow for a cap on the rent for protected properties, which is fixed at the time of letting them out. The restricted annual increase is usually well below the rate of inflation. Typically, such laws do not differentiate between newly-constructed and old buildings. The standard rent also neglects inflation rate, thereby providing negligible returns to the landlords causing a lack of interest on investment in rental housing. Such rent controls have exacerbated the lack of affordable housing for the mid- to low-income and urban poor population of India.

The pros and cons of rent control have been debated since long. While the proponents of rent control laws suggest that they prevent landlords from charging exorbitant rents and evicting tenants at will, the opponents suggest that rent control laws, by distorting incentives, lead to a deterioration of existing housing stock, increased pullout of apartments from the rental housing market and, thus, reduced overall supply.¹⁷

Highlights of Typical Rent Control Legislation in India

Although each individual state and UT in India has in place its own form of rent control legislation, the common thread running through almost all of them, is that they are intended to serve two main purposes:

1. To protect the tenant from eviction from the house where he/she is living, except for defined reasons and on defined conditions as per the Act; and
2. To protect him/her from having to pay more than a fair or standard rent.

¹⁶Praja Foundation: *Handbook on Urban Laws and Policies that Impact Housing; Vol II*; 2015.

¹⁷Satvik Dev: *Rent Control Laws in India: A Critical Analysis*; Centre for Civil Society; 2007.

Most RCAs also confer upon the landlord the right to evict a tenant who is guilty of certain specified lapses and also when the landlord requires the house for his own personal occupation. There are various grounds under which a landlord can evict a tenant; some of the broad conditions are listed below:

- Breach of condition of tenancy;
- Sub-letting;
- Default in payment of rent for specified period;
- Requirement of building for own occupation;
- Material deterioration in the condition of the building.

When seeking eviction, a landlord is required to specify the exact provision of the relevant Act under which he is seeking the eviction of the tenant, to enable the tenant to take any remedial action provided in the Act. The primary objective of an RCA is to control and regulate eviction of tenants and not to stop it altogether.

One bone of contention, over the years, has been the feature of most RCAs to grant exemptions to the properties owned by the government. While some argue that this is a discriminatory practice, their argument is dismissed by the assertion that the government is not expected to raise rents or evict tenants in the pursuit of higher revenues. Thus, claiming that tenants of government-owned properties are in no need of protection.

Consumer activist AV Shenoy also points out that some government-owned properties are being mishandled and lying in a dilapidated state. Properties owned by organisations such as LIC, MbPT, PSU banks, etc, are occupied by tenants with an agreement as per the Rent Control Act; but the government bodies that own such properties have failed to complete timely maintenance and have let the properties fall into a dilapidated state. Rather than selling off such buildings or undertaking to a redevelopment project, the owners are, instead, attempting to illegally evict tenants on the basis of the Public Premises Act, says Mr Shenoy. Cases, for example, of a 91-year old senior citizen who has had to fight for her tenancy rights with government bodies like LIC, have unfortunately become a common occurrence.¹⁸

Tenancies under a *pagdi* (or key money) system are also under the purview of certain RCAs and, under this system, tenants pay a small amount as rent while also having a part ownership stake in the property along with the owner/landlord. This traditional and unique system of rental housing has been in place since pre-independence era and is legalised by provisions under the RCA.

¹⁸<https://timesofindia.indiatimes.com/city/mumbai/91-yr-old-battles-lic-to-avoid-eviction-from-flat-rented-in-52/articleshow/60127199.cms>.

Due to the nature of the *pagdi* system, it is unfortunately difficult for landlords to perform routine maintenance on their premises with the meagre amounts they receive as rent. It is also difficult to evict tenants, as they have partial ownership in the property. Furthermore, redevelopment of a dilapidated *pagdi* building is often a time-consuming and difficult task as consensus between all stakeholders is required. While the rights of such tenants and landlords are protected under the RCAs, the proposed MTA fails to address this segment of the rental housing sector (as explained in forthcoming chapters of this report).

Arguments against Rent Control

While rent controls were effective during, and immediately after, the World Wars, there has been little need for them to continue to remain in force in modern times. An effective form of legislation should ideally balance the rights of all stakeholders involved; but RCAs have failed on this aspect. Such legislation has several disadvantages:

1. Under most rent laws, rent is fixed at much below the market rate, or economic rent, and there is no provision for its revision, over time.
2. In terms of obligations of landlords and tenants under such RCAs, the landlord is obliged to keep the premises in good condition and pay all taxes relating to the property. While the tenant is obliged to pay rent on time but has no obligation regarding even day-to-day maintenance.
3. Repossession of the premises by the landlord is permissible only on grounds specified in the law. Mainly, these are: non-payment of rent, misuse or non-use of premises, requirement of the premises by the landlord for repair or for self use, non-requirement of the premises by the tenant and sub-letting of the premises without permission of the landlord.
4. Lengthy judicial processes, extending over decades, at times, deny quick repossession of the property to the landlord. Furthermore, since tenancy rights are inheritable under most RCAs, a house, once let out, becomes nearly impossible to repossess for the landlord. The fear of losing perpetual control of their houses has led landlords to withdraw their vacant premises from the rental market, leading to reduced supply.
5. It is also difficult to resell a tenanted house from which it is difficult to evict tenants.
6. Fixing a standard or fair rent, on the basis of the value of land and cost of construction when built, is a major disincentive for those who would want to invest in rental housing, as it gives a very low rate of return compared to those

on other assets. This, in turn, presents a gloomy outlook of future supply in the rental housing market.

7. The low rate of return is a contributing factor in rapid deterioration of existing housing stock, as landlords have no incentive to invest any funds in the upkeep of their apartments. This is detrimental to the long-term interests of the tenants.
8. Invariably, people always find ways around RCAs, leading to unaccounted, uncontrolled or informal rental housing markets. As one would expect, rents in these markets are much higher than they would have been in the absence of rent controls. There are mainly two reasons for this:
 - a). The excess demand from the controlled markets spills over to the uncontrolled markets bidding up prices there.
 - b). The supply in the uncontrolled markets is also affected, as there is always a fear of coming under regulation, which deters landlords from letting out their property in the uncontrolled markets.
9. Rent controls also reduce the mobility of labour and households living in controlled premises. Such reduced mobility prevents people from moving to places which would suit them best in terms of location and infrastructure. It is also bound to have unexpected community costs as well, such as traffic congestion, pollution, etc.

To sidestep and overcome many of the restrictions imposed by RCAs, landlords and owners have actually become wiser devising various methods of evading the law. This has led to the growth in the informal rental market, with lease agreements signed under the Transfer of Property Act. The tenure of such agreements is 11 months and renewal usually occurs at a higher rent. Other than tenancies which existed at the time when RCAs were enacted, and tenancies where the tenant applied to the rent controller for fixation of rent under the RCA, rents for leases signed under the Transfer of Property Act would be higher than the standard rent. Since there is nothing in the latter Act that prevents rents from being charged at a rate higher than the standard rent, certain pockets of new tenancies have been let out at prevalent market rates.

Rent control laws in India were initially introduced as a welfare mechanism with the aim of protecting tenants and enhancing their needs for shelter. However, as evidenced, these laws have created more problems than they have solved. Rent control legislation has stood the test of time since it was first adopted in the post-World War II era, and has seen little or no revision since then. Rent control laws, which were enacted to restrict escalating rents, are actually responsible for the massive shortage of rental stock across many cities in India.

To stimulate the rental housing market and balance the rights of tenants and landlords equally, there is an urgent need to re-evaluate and, even repeal, the archaic legislation. With the introduction of the draft MTA, there is hope that rental housing regulation might improve in the future.

Case Study: Rental Housing in Mumbai

Mumbai Vikas Samiti, a think-tank consisting of industry experts and activists, released a report in 2016 on “Housing in Mumbai”. They have reported that approximately 5.2 million people live in slums in Mumbai, where 90% of the population falls under the lower middle-class and middle-class groups (people whose average monthly income is between Rs18,000 and Rs50,000).¹⁹ Naturally, such people cannot afford to buy flats in Mumbai which can cost anywhere between Rs80 lakh for a 1BHK (bedroom, hall, kitchen), sized between 625sqft (square feet) to 750sqft, to Rs1.5 crore for a 2BHK sized at 850sqft to 1,250sqft.²⁰ For such income groups, rental housing accommodation is the only viable option.

However, the problems presented by the present RCA have significantly restricted the growth of rental housing in Mumbai. Lack of affordable housing in the city has also meant a growth in the slum population, where seasonal migrant workers often reside.

Key issues for rental housing in Mumbai:

- Rents, being controlled under RCA, lead to poor rental income for owners/landlords who do not have the necessary financial means to perform routine maintenance. Since the repairs & maintenance of the building has always been the responsibility of the landlord, it is seen that most of these buildings in Mumbai are in a state of disrepair. This forced the state government to set up the Mumbai Building Repairs and Reconstruction Board (MBRRB) which collected repair cess from these properties in return for carrying out only the necessary structural repairs.
- Rent has been capped under RCA for ‘cessed’ buildings (properties for which a repair cess or tax is collected and pooled) since 1940, severely restricting the increase in rent and also limiting the rental yield for landlords.
- The modified RCA (1997) provides for an annual increase in rent of not more than 4% from the date of fixation of standard rent and up to 15% in case the landlord makes any additions or alterations to the property. This is still insignificant considering some of these buildings are, typically, from the pre-independence era and continue to have a nominal amount as rent.

¹⁹Mumbai Vikas Samiti: “Housing in Mumbai”; 2016.

²⁰*Ibid.*

- The Bombay Development Department (BDD) and Bombay Improvement Trust (BIT) *chawls*, which were initially developed as housing for migrants in the early 19th and 20th century by the then British government, continue to exist today in a dilapidated state. Tenants in such buildings have been offered ownership rights under the guise of redevelopment. This will only serve to reduce the stock of rental housing in Mumbai, rather than improving on the existing stock.
- RCA also recognises the practice of *pagdi* to be legal, where tenants are part owners and pay meagre rents. Eviction of such tenants is near-impossible due to their part ownership in the property.
- Investment in rental housing has given much lower returns than in ownership housing due to which there is a lack of interest and growth in the rental sector. New housing stock that comes up in Mumbai is generally directed towards ownership and the lack of affordable housing has left few options for the underprivileged and lower-income groups.

Maharashtra Housing and Area Development Authority (MHADA) played a vital role in providing affordable and rental housing in Mumbai in the 1970s. It was initially tasked with the responsibility to develop and provide rental housing units in Maharashtra, but had to divert its focus from rental housing due to the increasing cost of land. Furthermore, rents, being restricted under RCA, the amount of money that MHADA spent on repairs & maintenance was found to be substantially higher than what they earned through rent collected from tenants.²¹

MHADA now sells houses rather than leasing them out. By changing over to ownership-based housing, MHADA has also lost ownership over land. This, according to the Mumbai Vikas Samiti, is “proving to be a hurdle in expanding MHADA’s (role) in providing affordable housing” in Mumbai. Activists, civic engineers and industry experts, who are part of the Mumbai Vikas Samiti, believe that the present rental housing stock in Mumbai, which is lying in a state of disrepair, should be redeveloped and, once again, be presented as a viable and affordable form of rental housing. This is, however, not the case, as redeveloped ‘cessed’ buildings confer the right of ownership on tenants according to DCR (Development Control Regulations) 33(7).

²¹*Ibid.*

11. Policy Review: National Urban Rental Housing Policy

India has continued to struggle with the challenge of inadequate housing amidst rapid urbanisation and worsening urban poverty. Over the years, government policies have failed to fill the gap, focused as they are on only ownership housing, while neglecting rental housing. Additionally, despite some market innovations, such as the emergence of co-living spaces, India has still continued to struggle to provide adequate homes for the lower middle class and the economically weaker sections in cities. However, the government now appears to be willing to address the issue of urban rental housing in cities and regressive rental laws, through two policy initiatives - the 2015 draft NURHP and draft MTA, which attempts to revise old rent control laws.

A task force appointed by the ministry of housing and urban poverty alleviation (now ministry of housing and urban affairs – MoHUA) in 2013 proposed the formulation of NURHP, which was drafted in 2015. The draft NURHP was India’s first official acknowledgment by the government that home-ownership was “unlikely to solve the housing shortage in urban India keeping in view that majority of the urban housing shortage pertains to EWS (economically weaker sections) and LIG (lower income groups) categories” who are unable to afford decent housing.²²

Salient Features of NURHP (Draft)

While still to be approved and operationalised, the objective of NURHP has been to adopt a systematic and balanced approach to rental housing and to encourage it as an additional housing option to support future growth in India. The policy aims to supplement ownership housing by the inclusion of the rental housing market, with different models to address the diverse housing needs for various segments of the population. It emphasises the role of rental housing, particularly for the EWS/LIG, migrants and vulnerable groups, who, despite the availability of various incentives for ownership housing, may not be able to afford an owned residence.

NURHP defines rental housing as “a property occupied by someone other than the owner, for which the tenant pays a periodic mutually agreed rent to the owner,” who could either be an individual or a legal entity. This draft policy segments rental housing in India into five broad categories:

- **Formal and Informal:** In formal rental housing, the owner and tenant enter into a written agreement which is registered with a competent authority. In informal rental housing, there is no such registered agreement.

²²National Urban Rental Housing Policy (Draft), 2015.

- **Market-driven:** Individual owners, institutions or private rental housing operators (such as hostel-owners) finance the construction and management of the housing unit independently, without any assistance or aid from the government.
- **Need-based:** Rental housing, which addresses the needs of different groups (such as students, teachers, working women or men, nurses, construction workers, migrants), who have a source of income but find it difficult to afford rent.
- **Public:** Social rental housing owned by the government, local authority or its entities.
- **Social:** Rents are set at below market rates to make it affordable for those belonging to EWS and LIG. These accommodations may be owned and managed by the government, local authorities, public sector undertakings, non-profit organisations or private and charitable institutions.

As per NURHP, the “main factors preventing investment in rental housing are rent control laws; unrealistically low rental yields; poor maintenance of rental stocks; low quantity of housing constructed for rental purposes; holding back unoccupied houses for fear of losing control, etc.” It lays out a vision “to create a vibrant, sustainable and inclusive rental housing market in India.” The policy lists its broad objectives as:

- creating adequate rental housing stock by promoting social rental housing (SRH);
- promoting shelter facilities for the most vulnerable groups within the homeless population;
- promoting need-based rental housing on a short-/mid-/long-term basis for specific target groups;
- promoting private rental housing and institutional rental housing;
- facilitating fund flow from the government and private sector through innovative financial instruments to incentivise rental housing;
- promoting public-private partnerships.

NURHP views the Central government, state governments and urban local bodies as enablers and facilitators for urban rental housing by having in place relevant policies and regulations. It also envisions that the government will provide fiscal and non-fiscal incentives to tenants, including ‘tax exemptions, housing vouchers, etc,’ and will encourage states to “repeal/amend their respective Rent Control Acts and adopt the Draft Model Tenancy Act,” and also facilitate “income-tax concessions for institutional owners that create mass rental housing especially catering to the affordable SRH sector.”

As per the 2015 draft NURHP, since housing is a state subject, “it is the primary responsibility of State Governments to ensure housing for all,” and they must “develop State Rental Housing Policy in consultation with respective Urban Local Bodies (ULBs) based on local needs and demand assessment (as well as)... undertake appropriate reforms and create conducive environment to make Social Rental Housing viable.” NURHP asks state governments to come up with “their own rental housing policy along with schemes, with different models on rental housing (i.e., rent to own, shared ownership, model on management of rental properties with private partners in raising necessary funds, resources, etc) especially towards providing Social/Need Based Rental Housing.”

Drawbacks

NURHP makes an admirable effort to promote rental housing as a supplement to ownership-based housing; but there are some glaring omissions which need to be addressed. A significant shortcoming is the lack of clarity regarding the roles of the Central government, the state governments and urban local bodies. The government’s role is defined as that of a ‘facilitator’ or ‘enabler’. It will merely extend fiscal and non-fiscal concessions for rental housing created by states, through PPP or under CSR.

The policy also fails to address the issue of homelessness. As Mukta Naik, urban planner and a senior-researcher at the Centre for Policy Research, explains, “This is because the government still continues to treat homelessness as a livelihood issue which is why schemes for construction of shelters come under the National Urban Livelihood Mission instead of putting it under housing (ownership or rental) policies.”²³

Although it is a valiant attempt at formulating a rental housing policy, there is still an underlying bias towards promotion of home-ownership. Unlike many Central government schemes, which are linked to budgetary support for construction of homes, NURHP, in its present form, provides for no Central funding. The policy also washes its hands off any such fiscal responsibility by merely repeating that housing is a state subject and it is the primary responsibility of state governments to ensure housing for all.

Budgetary provisions have been mentioned only in the form of a fund to be set up for rental vouchers, which would be given on a pilot basis in select smart cities. The vouchers are meant to partially offset the cost of rent incurred by the urban poor. It should, however, be noted, that the rental accommodation for these urban poor

²³<https://indianexpress.com/article/business/business-others/draft-national-urban-rental-housing-policy-2017-not-so-strong-foundation-for-rental-housing-4664495/>.

would, most likely, be part of the existing stock of private housing at prohibitive market rates. Thus, the offset provided by any such rental vouchers would probably be marginal and would not serve to present formal rental housing as an affordable alternative to such groups. The Central government's low financial commitment will mean tremendous difficulties in housing the urban poor, as India's major cities have the highest demand for rental housing but rents remain exorbitant.

Overall, the Central government's role in NURHP has been restricted only to demand-side interventions, when there is an equal need to also increase supply of social rental housing stock. NURHP fails to address this issue in an equitable manner. For policies such as NURHP to be successful, and for India to realise its goal of 'housing for all', the government must provide incentives and encourage all states to be equal partners in the endeavour. Presently, NURHP is still stuck in the draft phase with a group of ministers citing its 'sensitive nature' as the reason for the delay in presenting it for discussion in Parliament.²⁴ One can only hope that whenever a draft is presented again, it will perhaps be a more robust and balanced policy.

²⁴<https://www.economictimes.com/news/politics-and-nation/govt-decides-to-put-urban-rental-policy-on-the-back-burner/articleshow/67359843.cms>

12. Policy Review: The Draft Model Tenancy Act

The draft Model Tenancy Act, 2015, (MTA) as put forward by the housing ministry, was intended to replace the various archaic RCAs that capped rentals, resulting in landlords getting a pittance for properties in prime localities. Codified legislation dealing exclusively on rent-related matters in the real estate market has long been ignored in India and this lack of exclusive legal framework is one of the reasons for hampering growth of the rental housing sector.

The draft MTA, 2015, was an effort made by the housing ministry to codify the law on tenancy; but a majority of the states have failed to implement it and, for years, it has failed to gain traction. MTA went through multiple revisions until in the Union Budget of 2019. Then, it was, once again, proposed as a necessary precedent to promote rental housing and take a progressive step towards the 'Housing for All' goal. The ministry of housing and urban affairs (MoHUA) released a revised draft MTA, 2019 on 10 July 2019, with the aim to regulate rental housing by a market-oriented approach while simultaneously balancing the interests of landowners and tenants. On 2 June 2021, the Union Cabinet finally approved the draft MTA. India's various states and UTs are now free to enact this legislation or amend their existing laws on rental housing.²⁵

Salient Features of the Model Tenancy Act, 2021

The objective of MTA is to bring within its ambit the rules for residential and non-residential premises and further develop policies to promote balanced rental housing. It outlines the role of various stakeholders and attempts to balance the interest of landowners as well as tenants.

MTA has two notable changes that will have a positive impact on the rental housing sector in India. Firstly, it lays down the rules for setting up of a 'Rent Authority', to promote transparency, fix accountability and promote fairness in all legal transactions between the landowner and the tenant. Secondly, it outlines a process for speedy dispute resolution between landowners and tenants, wherein timelines have been provided, to avoid the long-drawn out disputes that are presently handled by the civil courts.

While being a step in the right direction, there are still some gaps that need to be addressed before enacting it into law. Since housing is a state subject in India, it remains to be seen whether states would choose to enact MTA in its present state or

²⁵Unless otherwise stated, in this report, MTA refers to the Union Cabinet-approved draft MTA, 2021.

opt for partial adaptation. What follows below is an analysis of MTA, highlighting its most significant features.

Rent Authority, Rent Court and Rent Tribunal

One of the most significant parts of MTA is that it takes rental properties outside the purview of civil courts, by creating its own quasi-judicial mechanism to handle disputes among landlords and tenants. MTA proposes a three-tier quasi-judicial mechanism to govern tenancy agreements in residential and commercial premises by instituting district-level Rent Authorities and Rent Courts along with state-level Rent Tribunals.

Under the currently prevailing rent control regulations, the adjudication of tenancy-related disputes takes place in civil courts. Not only is this process time-consuming, it is also a drain on the financial resources of the parties involved. Addressing the need for an efficient dispute resolution mechanism, MTA makes a provision for Rent Authorities, Rent Courts and Rent Tribunals to replace civil courts in the adjudication of tenancy-related disputes.

MTA states that the district collector or the district magistrate should appoint an officer not below the rank of deputy collector to be the Rent Authority within their jurisdiction. The collector or magistrate should also appoint an officer not below the rank of additional collector or additional district magistrate to be the Rent Court. While the Rent Tribunal will be appointed by the state government or the UT, in each district, where the person appointed, will not be below the rank of a district judge or additional district judge.

According to MTA, a Rent Authority will have all the powers that are vested in a Rent Court in respect of any proceeding initiated for tenancy agreement, revision of rent, repairs & maintenance of property, duties of property manager and consequences of violation, and withholding essential supply or service. Essentially, the Rent Authority manages all operational issues under MTA and also has basic powers of addressing disputes between the landlord and tenant in select cases.

MTA stipulates that any appeal on the order passed by the Rent Authority should be made within a period of 30 days to the Rent Court and any further appeal should be made before the Rent Tribunal.²⁶ MTA also gives the Rent Court and Rent Tribunals freedom to regulate their own procedures for filing of application, issuing of notice,

²⁶Section 32 and Section 37; MTA.

filing of reply and rejoinder, etc.²⁷ Civil Procedure Code 1908 will only apply to these bodies with respect to service of notice and for according the power of a civil court.

Perhaps, the most significant benefit of this three-tier quasi-judicial mechanism is the stipulation that all cases brought before the Rent Court or Rent Tribunal should be expeditiously disposed within a period not exceeding 60 days from the date the case or appeal was received.²⁸ This is a significant improvement on the current scenario where the cases in civil courts drag on for decades. MTA also stipulates that there can be no more than three adjournments and each adjournment will have to have a reason, with a reasonable fee attached.²⁹ Ideally, this should further help in dispensing timely justice in matters of tenancy disputes.

MTA also grants executing powers to the Rent Court with respect to the orders passed by either Rent Courts or Tribunals. On the basis of an application filed by the party in whose favour an order was passed, the Rent Court is permitted to either deliver possession of the premises to the party, freeze bank accounts of the opposite party to recover dues as per the order, or appoint appropriate officials from the local administration to execute the order.³⁰ The execution of an order from the Rent Court or Tribunal is time-bound under MTA and has to come into effect within 30 days of passing the order.

Tenancy Agreement

MTA prescribes that any leasing out or taking on rent of a property will be done only through a written agreement, which, in turn, needs to be informed to the Rent Authority within a period of two months from the date of the tenancy agreement.³¹ Further that all information provided in the tenancy agreement will be taken as evidence of facts relating to tenancy and any other connected matters. The Rent Authority, on the basis of such a tenancy agreement, will then provide a unique identification number to both parties, and upload details of the tenancy agreement on its website in the local language within seven working days after submission.³²

MTA, and this process of uploading tenancy agreement details to a database, requires that the Rent Authority have in place a digital platform where both parties can submit the required documents. To this effect, MTA requires that the Rent Authority set up such a digital platform in the local language within three months from the date of its

²⁷Section 35(1); MTA.

²⁸Section 35(2); MTA.

²⁹Section 35(6); MTA.

³⁰Section 38; MTA.

³¹Section 4(1); MTA.

³²Section 4(4); MTA.

appointment.³³ This is an important step in structuring the rental market. By making it mandatory to register rent agreements, there is now a system within which the rental markets have to function.

MTA does not stipulate or impose any fixed tenancy period; rather, it states that the tenancy agreement will govern the duration of tenancy which can be extended at the tenant's request through a new agreement. While RCAs have favoured tenants and have primarily served to protect tenants from being evicted, MTA has provisions to compensate a landlord when a tenant does not vacate the premises as per the terms of the agreement. If the tenant fails to vacate the property at the end of the tenancy period by notice or agreement, he/she is liable to pay twice the monthly rent for the first two months and four times the monthly rent thereafter, until the tenant continues to occupy the said premises.³⁴

Protecting the rights of the landowner, MTA prohibits tenants from sub-letting or transferring their rights in the tenancy agreement. In case a supplementary agreement is signed between both parties to allow the tenant to sub-let a premise, they are again required to jointly submit the supplementary agreement to the Rent Authority within a period of two months.

Rent and Security Deposits

MTA does away with the concept of 'standard rent' which is one of the biggest drawbacks of the existing RCAs. Instead, MTA allows both parties to mutually agree upon a rent amount in the written tenancy agreement. This will allow landlords and owners to set the rent for their property, based on existing market prices. MTA also allows for revision in the rent as per the terms already agreed upon in the written agreement.

This means that rent payable, and any revisions thereof, will be governed exclusively by the tenancy agreement. Further, any dispute relating to the revision of rent will be resolved by the Rent Authority.³⁵ In cases where the landlord refuses to accept rent or issue a receipt, MTA asks the tenant to make rent payments by postal money order to the landlord for two consecutive months. After this, if the payments are still not accepted, the tenant is allowed to deposit the rent with the Rent Authority.³⁶ Thus, the tenant is protected from any future dispute arising for non-payment of rent and the Rent Authority is given the right to mediate in a potential dispute.

³³Section 4(3); MTA.

³⁴Section 23; MTA.

³⁵Section 10; MTA.

³⁶Section 14(1); MTA.

Protecting the rights of tenants, MTA stipulates that a security deposit for a premise given on rent should not exceed two months' rent for residential premises or six months' rent in case of non-residential premises.³⁷ This is an important addition which protects the tenants from being taken advantage of, by uncapped security deposits which are often not refunded to the tenant at the end of the tenancy period. MTA further stipulates that the security deposit will be refunded to the tenant on the day the landowner gets possession of the vacant premises from the tenant, after making any deductions for any liability of the tenant.

Rights and Obligations of Owner and Tenant

MTA clearly specifies and sets apart the rights and obligations of owners and tenants which should, potentially, help with the resolution of disputes. Concerning repairs & maintenance, MTA lists and separates the items for which a landlord or a tenant would be responsible.³⁸ While this list is not meant to be exhaustive, MTA makes it binding for both parties to carry out repairs & maintenance on the items, unless otherwise stated in the tenancy agreement. MTA ensures that a tenant will take reasonable care of the premises during the tenancy period and will not intentionally damage the premises.³⁹

In cases where common facilities are shared by both parties, MTA requires that the repairs & maintenance of such facilities be determined by the tenancy agreement. If either the tenant or the landlord fails to carry out the necessary repairs, MTA stipulates that the costs incurred can be deducted from the security deposit or the rent, respectively.⁴⁰ The landlord is, however, prohibited from withholding any essential supply or service to the premises occupied by the tenant.⁴¹

The landlord has been permitted under MTA to engage a property manager, whose duties can include collection of rent, inspecting the premises, carrying out repairs, among others. The landlord must provide all relevant details about such a manager to the tenant, including the name and purposes for which the property manager is authorised.⁴² In case the property manager acts against the instructions given by the landlord, he can be removed and the tenant can be compensated for any loss incurred. Under MTA, the landlord and the property manager have the right to enter the premises on the condition that a 24-hour notice before the entry would be given to the tenant.⁴³

³⁷Section 11(1)MTA.

³⁸ Section 15(1) and Schedule II; MTA.

³⁹Section 16; MTA.

⁴⁰Section 15(3) and 15(4); MTA.

⁴¹Section 20; MTA.

⁴²Section 18; MTA.

⁴³Section 17; MTA.

Eviction

Under Section 21 of MTA, a landlord cannot evict a tenant during the continuance of the tenancy agreement except under the following circumstances:

- (i) where the tenant refuses to pay rent;
- (ii) tenant has not paid arrears of rent and other charges payable;
- (iii) the tenant has misused the premises or carried out any structural change without the consent of the landlord;
- (iv) where the landlord requires to carry out repair of the premises or part of it which cannot be completed without evicting the tenant;
- (v) where the tenant has given a notice to the landlord to vacate the premises and in consequence of that notice the landlord contracted to sell the said premises.

The legal heirs of the landlord can also move the Rent Court for eviction and recovery of possession of the premises after the death of the landlord where there is a *bonafide* requirement of the premises let-out on rent by the legal heirs.

Compared to rent control legislation of various states, the terms under which a landlord can evict a tenant to repossess the property have been made much clearer in MTA. Should MTA come into force in its current state, the clarity provided under eviction should be beneficial for landlords in protecting their rights on the leased out property.

Deficiencies in MTA

While MTA is a much-needed and most welcome change in the policies governing tenancy arrangements in India, it still lacks clarity on some aspects, according to experts. This limited, or lack of, clarity could pose a challenge at the time of implementation.

- It is unclear whether leases entered into the under Transfer of Property Act 1882 and other relevant legislations will automatically be covered by MTA.⁴⁴ The Act is also meant to be applicable prospectively, having no impact on existing tenancy agreements.
- MTA is applicable to any building which is let on rent for the purpose of residential or commercial use, except hotels, lodging houses, *dharamshalas*, inns, and for industrial use. There is no clarity on the treatment of premises that provide PG facilities. MTA is also not applicable to government-owned premises, or premises owned by religious or charitable institutions, or to premises owned by organisations and given on rent to its employees as part of

⁴⁴<https://vinodkothari.com/2019/07/an-analysis-of-the-model-tenancy-act-2019/>.

a service contract. According to this condition, premises acquired by PSU banks, insurance companies, etc, are also not covered under MTA. As consumer activist AV Shenoy points out, while rents for such properties are presently governed by the rules under RCAs, eviction is illegally being carried out under the Public Premises Act. MTA provides no clarity on the applicability of the Act to such premises.

- The term 'rent' is not defined under MTA, which makes it open to interpretation about the form in which rent is payable, i.e., whether it has to be necessarily in cash or kind or goods or services rendered.⁴⁵
- MTA makes no reference to the overriding effect its implementation will have on existing laws on tenancy, leases signed under the Transfer of Property Act and licences under the Indian Easements Act, 1882. There is no clarity whether properties leased or licensed under old legislation will be required to uphold the objectives of MTA.
- Section 47 of MTA implies that all present RCAs will be repealed after the enactment of MTA. However, the repeal of RCAs can be governed by political exigencies and may not be easy in cities like Mumbai where tenants have occupied residential properties in prime areas for a pittance.⁴⁶
- MTA does not address the situation that could arise from the failure to execute a Tenancy Agreement, the failure to obtain lessors' consent for sub-letting, the inability to refund security deposits and the failure to observe obligations imposed on both parties. Although a three-tier quasi-judicial system has been provided under MTA, the presence of such a system and the lack of clarity on the failure to comply on certain aspects of MTA, may inadvertently lead to an increase of litigation before such judicial bodies.
- MTA does not place a cap on the rental revision percentage, which may lead to further disputes between landlords and tenants.⁴⁷
- MTA fails to adequately address the restricted and cumbersome process of evicting tenants and repossessing the rental premises. While there is clarity on the terms under which a tenant can be evicted, the process remains as restrictive as it is under rent control legislations.⁴⁸ Eviction can be done only on the grounds mentioned under the Act and only after taking the permission of the Rent Court. In the absence of a tenable legal recourse to evict tenants, homeowners are still unlikely to have any incentive to rent out vacant homes.
- While the introduction of a mandatory digital platform in the local vernacular language has been provided to facilitate registration, problems with digital literacy and access are bound to be present, especially in the informal rental

⁴⁵*Ibid.*

⁴⁶<https://www.bloombergquint.com/opinion/model-tenancy-act-2019-opportunities-and-challenges>.

⁴⁷Khaitan & Co and Knight Frank; *op.cit.*

⁴⁸<https://theprint.in/opinion/4-challenges-model-tenancy-act-must-overcome-to-provide-affordable-housing/679338/>.

housing sector. The sample form for registering agreements (provided in Schedule I of the Act), also requires submission of irrelevant documentation such as Aadhaar and PAN card. This provision could be seen as violating the right to privacy as noted by the Supreme Court in *KS Puttuswamy vs Union of India*. The apex court had ruled that mandatory requirement of Aadhaar numbers may be made only for expenditure on a subsidy, benefit or service incurred from the Consolidated Fund of India. No subsidy is being provided presently for which an Aadhaar card would be required; nor is there any legal provision for an amount of rent which requires submission of a PAN card. Mandatory submission of such information will create unnecessary paperwork, while also potentially violating privacy as such information will be uploaded to the digital platform.

- The requirement of having details of tenancy agreements uploaded on a digital platform in the local vernacular language might also prove to be detrimental to tenants who are primarily migrants from their home state.
- MTA fails to address and protect tenants from rental discrimination commonly experienced by various groups such as bachelors, unmarried couples, religious minorities, non-vegetarians and others. This issue needs to be addressed, since the objective is to ensure adequate access to rental housing for all and this may only be possible through a socially inclusive housing market.
- MTA is also silent on the limitation period for various issues such as deciding the matter related to withholding of essential services, adjudicating on issues of revision in rent, violations committed by the property manager, etc.
- There is no clarity on the transfer of tenancy to legal heirs, in case the original tenant expires. While tenancy agreement can be transferred in most cases by challenging it in a small causes court under various RCAs, MTA does not have a provision it. According to MTA, on the demise of the original tenant, a new agreement is required to be executed and it is likely that the landlord and the new tenant (legal heir) may disagree on the revised terms.
- MTA, as it stands in its present state, largely addresses the formal rental housing market and tends to exclude the informal market. The proposed mechanism for registration of tenancy agreements may not appeal to the informal rental market, especially for lower-income groups. Furthermore, there is no penalty for not registering an agreement with the Rent Authority and the provisions of MTA are applicable only to tenancy agreements that are registered under the Act. Thus, the informal rental housing market will be completely bypassed.
- A vast majority of the rental housing spaces in India are acquired through intermediaries or brokers. MTA does not define the role of brokers in such transactions; this is a serious loophole that needs to be fixed at the state

government level. There is a need to establish licensing or certification of agents from a recognised authority, such as RERA, and for framing of rules for leasing transactions undertaken by a property agent. Junaid M, manager at Quicklease, a rental housing accommodations aggregator that primarily operates in the Delhi-NCR region, shared his feedback saying that the “rental brokerage service is one of the most disrespected professions in our country mainly because of no regulations/licensing requirements. RERA mandates the registration of agents with respective state RERA authorities only for the purpose of facilitating the sale and purchase of properties. There are no rules for brokerage charged to owners or tenants on rental agreements, resulting in ambiguity and ultimately leading to disputes.”

Comments from Legal Experts

According to advocate Avinash Phatak, retired deputy legal head, MHADA, “the Model Tenancy Act is not a pro-tenant Act as it has been touted to be, but is rather a pro-landlord Act. The Act is proficient in listing out conditions for eviction of tenants and completely dissolves the possibility for them to acquire ownership rights, as has been possible on some levels in existing Rent Acts.” While this is beneficial, in some cases of unruly and non-compliant tenants, MTA fails to address those who fall under the category of *pagdi* tenants.

The *pagdi* system (where a substantial value of the property is paid upfront as key money/deposit) is a traditional and unique tenancy model in India which has been present since the pre-Independence era. Similar to other renting arrangements, it also involves a tenant and a landlord and pays a nominal rent compared to market rates. However, the difference is that the tenant is also a co-owner of the property and has sub-letting and selling rights.

Under this system, for a change of tenancy, the new tenant has to pay a lump-sum amount which is in relation to the market value of the rental property (normally about 80% of the value of ownership property in the same locality). The sharing of this amount is normally one-third to the landlord and two-thirds to the outgoing tenant. The tenants have considerably greater right over the premises as they cannot be evicted. Landlords, under the *pagdi* system, have the option to sell the entire property or building under rent control; but, in reality, find it virtually impossible to find a buyer for their rent-controlled buildings. Although the number of people, who are tenants under such a system today, may not be as high, a large number of such tenancy arrangements continue to exist in Mumbai.

Further, as activist AV Shenoy points out, in the case of Mumbai “tenants can be granted ownership rights if their building undergoes redevelopment under DCR (Development Control Regulation) 33(7).” Essentially, tenants who currently live in a ‘cessed’ building (which pays a cess or tax towards a repair fund), are eligible to gain ownership rights to their rented premises once the building undergoes redevelopment. While this helps in providing security of home-ownership to previous tenants, it is actually reducing the stock of rental housing in the city. Cases of redevelopment and the rights conferred on tenants who live in ‘cessed’ buildings are not covered in MTA. Such issues might be present on a local, city or state level, but there is a need for them to be addressed under MTA.

Advocate Phatak also criticises MTA for oversimplifying certain important aspects which, in turn, inadvertently dilute its effectiveness. For instance, MTA is clear on defining who can be considered a tenant, landlord or property manager, but fails to define the term ‘occupant’. In contrast, as per Section 2(25) of the MHADA Act of 1977:

- (25) “occupier” includes –
- (a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable ;
 - (b) an owner in occupation of, or otherwise using, his land, or building ;
 - (c) a rent-free tenant of any land or building ;
 - (d) a licensee in occupation of any land or building ; and
 - (e) any person who is liable to pay to the owner damages for the use and occupation of any land or building.

In advocate Phatak’s opinion, by completely ignoring the definition of an ‘occupant’, MTA does disservice to select group of people who will be left in the lurch if the Act were to be enacted in its present state. Quoting an example of a cobbler plying his trade on the premises of a residential building, advocate Phatak says that if the concerned building were to go into redevelopment, the cobbler being an ‘occupant’ as per the MHADA Act, is legally entitled to some nominal area in the redeveloped building. However, under MTA, the cobbler fails to fit into any of the prescribed definitions of a landlord, tenant or property manager and, thus, has no rights, if the building were to go for redevelopment.

Advocate Phatak also commented on the new quasi-judicial system being introduced in MTA, saying that “the Act prescribes a three-tier system, which is truly not necessary. Instead, it should be a two-tier system of Rent Court/Authority and the Rent Tribunal. Mumbai, for instance, already has a ‘Competent Authority’ who deals with Leave & Licence cases, while the Commissioner handles appeals. When a two-

tier system works, there is no need to introduce a third tier to oversimplify things and add additional layers.”

MTA also empowers the state government to appoint collectors and additional deputy collectors as the Rent Authority or Rent Court. This, according to advocate Phatak, will prove to be detrimental in the long term. He believes that the state government will, in turn, be forced to create a legal department to assist such authorities to prepare draft orders and also perhaps attend hearings, as is the case in MahaRERA. Consequently, “orders being passed in an administrative nature, if challenged before the tribunal or High Court, have a greater possibility of increasing multiple proceedings.” A simple solution to this problem, as advocate Phatak suggests, would be to “appoint judicial officers having at least ten years of experience as civil judges.”

Advocate Divya Malcolm, founder/proprietor, Malcolm & Malcolm, Advocates, in an interview for this report, commented, “The Model Act can be adopted only prospectively and none of the features of the Model Act appear to be drastically innovative. The Rent Control legislation of most states provides for a dedicated resolution mechanism. The Model Act only throws up greater questions.”

She points out that, “Maharashtra learned to get around its rent control legislation with a wonderful invention called ‘Leave & Licence Agreement’. All big-ticket rental arrangements are on Leave & Licence basis. Certainly, these agreements are not intended to be covered by the Model Act. What beats me is that, although Leave & Licence Agreements are not governed by the Rent Control legislation, arbitration is not tenable for resolution of disputes.”

She also questions whether MTA can actually be the panacea for housing problems that is touted to be. She says: “To think that the MTA is a solution to the urban housing woes is a fallacy. A large majority of the population which is unwilling to let out homes may not change their minds overnight. Gujarat amended its Rent Control Legislation so as to exclude homes built after 2001. Did it change the dynamic of housing? A 3% return on investment may be the real stumbling block. Most of us take housing loans for a roof over our heads and not to profit from a non-existent rental market.”

Conclusion

Overall, the Model Tenancy Act, 2021 is a progressive step in matters related to rent and rental housing in the Indian real estate sector. It formalises the rental housing market, implementing a uniform legislation aimed at alleviating the issue of housing shortage and maximising the rent yield. The law provides for the interest of tenants

and landlords in tenancy, faring better on multiple aspects than other legislations preceding it.

By combining a range of clauses covering aspects from security deposit to rent tribunals, the policy is on the right path towards protecting the rights of the tenants as well as the property-owners. Taking all factors into consideration, effective implementation of MTA should help in promoting transparency, fixing accountability and promoting fairness in the rental housing segment.

Although many provisions offer a win-win situation for tenants and landowners, there is scope for improvement in terms of clarity. Since the effectiveness of its implementation remains in the hands of various state governments, one can hope that the deficiencies in MTA are amended before enactment. However, the states' prerogatives, coupled with their probable unwillingness to adopt the policy, could dilute the effectiveness of the law mainly in absence of institutional support, proper resources and dedicated efforts.

13. Policy Review: Affordable Rental Housing Complexes

Over the years, the government of India has launched many schemes which provide sustenance-level facilities to the economically weaker section (EWS) and low-income group (LIG) population. To tackle the growing problem of housing shortage, several schemes have been launched periodically, but almost all of them have been ownership-driven. Even the latest housing policy scheme, the Pradhan Mantri Awas Yojana – Urban (PMAY-U), launched in 2015 with a target to provide ‘housing for all’ by 2022, has been largely targeting home-ownership.

The government has now come to realise that, even with all the incentives provided, most urban poor in India cannot afford to buy a house. Affordability, being not just the upfront cost of purchasing a house or availing a loan, but also operational expenses of living, which could include travel expenses of commuting to work, cost of access to social infrastructure, such as schools and hospitals, etc, among others.

Affordable housing is also one of the key problems for the growing population of seasonal migrants – those who migrate from their home towns or villages to cities for seasonal jobs like construction or labour contracts. The severe lack of affordable housing became a prominent issue during the COVID pandemic, when India was forced to declare a nationwide lock-down. The country saw a massive exodus of reverse migration, where thousands of workers, facing a long-term loss of their livelihoods, undertook long journeys to return home to their villages and towns.

A large proportion of such urban migrants live in slums, informal settlements and unauthorised colonies or on pavements, to save on accommodation costs. They spend a substantial time commuting to their workplaces walking, cycling or availing public transportation, wherever possible, to reduce travel expenses. Affordable rental housing could serve as a potential solution to both, the problems of such seasonal migrants as well as the larger issue of housing shortage that India faces.

In July 2020, perhaps reacting to the lapse in availability of affordable rental housing especially for the urban migrant workforce, MoHUA launched a sub-scheme under PMAY-U providing for affordable rental housing complexes (ARHCs).

Overview

The main objective of the scheme is to offer ease of living and provide access to dignified as well as planned housing to the urban poor near their worksites. The

scheme intends to benefit multiple stakeholders including dwellers, developers and urban local bodies.

The primary beneficiary of the scheme is the EWS/LIG segment. These include: urban migrants such as semi-skilled/unskilled labour, street vendors, industrial workers and people employed in the services like s hospitals, hotels and educational institutions. It is being launched through the PPP model, where industries, manufacturing units and institutions are incentivised, to develop ARHCs on their unutilised land. The government hopes that such properties would deter migrant workers from undertaking long journeys to their native places, when faced with a calamity or pandemic such as COVID.

Implementation and Operation

All projects under ARHCs will be utilised exclusively for rental housing for a minimum period of 25 years. ARHCs are to be implemented through two distinct models:

1. Repair, Develop, Operate and Transfer

Under this model, a significant number of vacant houses, which were created under previous government housing schemes such as the Rajiv Gandhi AwasYojana (RGAY) and the Jawaharlal Nehru National Urban Renewal Mission (JNNURM), would be utilised. As per the dashboard of MoHUA, there are around 86,085 such government-funded vacant homes available across 14 states/UTs in India.⁴⁹

Completed housing units under such schemes would be converted into rental housing complexes, with the government emphasising on conversion through concessionaire agreements for a period of 25 years. States and UTs would have to select the appropriate 'concessionaire' (public or private entity) to undertake the process of such conversion via a transparent bidding process.

Such concessionaires/entities would then be responsible for making the complexes liveable by undertaking repair work, maintenance of buildings and fixing infrastructure-related concerns of water, sewage, sanitation, roads, etc. They would also ensure development of essential social infrastructure and commercial facilities, including health centres, community centres, shops, ATMs, etc.

⁴⁹<http://arhc.mohua.gov.in/VacantHouses.html>.

On completion of 25 years, these housing complexes would be transferred to urban local bodies that would restart the next cycle, either in the same way or on their own.

2. **Construct, Develop, Operate and Maintain**

Under this second model, the government plans to encourage private and public entities to develop ARHCs on their own unused land by offering special incentives and benefits. Such entities would themselves have to undertake construction, operation and maintenance of ARHCs on their vacant land for 25 years. They may use ARHCs to provide accommodation to their own workers and labourers as well, simultaneously, serve the requirement of neighbouring entities.

For housing units operating under the first model, initial affordable rent of ARHCs will be fixed by the local authority based on a local market survey. Under the second model, rent will be fixed by the concessionaire/entity undertaking construction, operation and maintenance of the housing complex, by conducting a local market survey. Subsequently, the rent can be increased by 8% biennially, subject to a maximum increase of 20% in aggregate over a period of five years.⁵⁰

ARHCs will be operated through a rental agreement between tenants and the public/private entity managing the housing complex. Both parties will have to sign a rental agreement and abide by the applicable rules and regulations under the Act. Presumably, this agreement would be governed by the respective rental housing Act of the particular state. The information about how such agreements would work is lacking on the official website; it only mentions that tenants have to abide by the contracts' terms and vacate premises without any dispute. Further, that a decision to evict a tenant found failing to abide the terms and conditions of the rent agreement lies fully with the managing entity and its decision is to be considered final. Although, at present, there is no grievance redress system, the ARHC scheme states that such a system will be set up at the state/UT level as well as the managing entity level to address grievances related to ARHCs.

The government plans to promote development of such rental housing complexes using concessional project financing, income-tax and GST exemptions on profit and gains, technology innovation grants, concessional loans at priority sector lending rates and tax reliefs on par with other housing schemes.⁵¹

⁵⁰MoUHA: "Affordable Rental Housing Complexes (ARHCs) – FAQs"; <http://arhc.mohua.gov.in/FAQ.html>.

⁵¹<http://arhc.mohua.gov.in/>.

Expected Benefits

Through successful implementation of ARHCs, the government hopes it would provide ease of living to migrant workers and urban poor and uplift their existing lifestyle. Such complexes are expected to provide decent accommodation in urban areas at affordable rents to the urban poor situated closer to their workplaces. It is also expected that ARHCs would ensure sustained supply of human resources for industries, manufacturing units, etc, in the nearby areas. Driving new investment and future job creation in the rental housing sector is also an additional benefit. Most interestingly, government hopes that the successful implementation of ARHCs will deter future growth of unplanned slums and informal housing in India.

Challenges

The success of the ARHC scheme will largely depend on whether it will equally satisfy the following aspects of rental affordability:

- ability to pay the rent without having a negative impact on the consumption of minimum basic non-housing goods/services.
- an equitable balance needs to be maintained between cost of land which is cheaper in the urban peripheries and transportation costs to the nearest employment hub.
- access to adequate space, water supply, electricity, sanitation, sewage management, open spaces, etc.

There are several challenges that this scheme would have to overcome to be successful.⁵²

- Instead of direct intervention by the State, this scheme depends heavily on other market players for implementation. For instance, it mentions 'implementation agencies' that would carry out repairs of old vacant government houses or build new housing units. With a possibility that such a scheme might find no takers from the private sector, the government may be hard-pressed to find an appropriate 'implementing agency' and the scheme maybe bound to fail even before it is launch.
- The policy is not explicitly clear on the means of identifying potential beneficiaries and, furthermore, there are no explicit income criteria mentioned for eligibility. This may inadvertently lead to the scheme being missed by the most vulnerable migrant populations and cornered by those who are relatively better off.
- The housing unit allowed to an individual can only be used for residential purposes and no commercial activity is allowed inside the premises. There is a

⁵²Center for the Advanced Study of India (CASI), University of Pennsylvania: "Affordable Rental Housing Complexes for Urban Migrants: Problems and Prospects"; March 2021; <https://casi.sas.upenn.edu/iit/manavk-indivarjonnalagadda>.

possibility that such a condition might not be in tune with the way of life for many urban migrants for whom the housing accommodations are also a space for them to carry out home-based commercial work.

- This scheme offers no flexibility to individual beneficiaries who will invariably plan to expand their family and life in the city. Migrants are usually known to adopt an incremental housing process which allows them a cost-effective and flexible housing option in urban settings.
- Foregoing a participatory process, the scheme does little to empower migrants in terms of their access to housing. Instead, it heavily favours private entities, such as real estate developers, job contractors and informal employers, who already exercise disproportionate control over the lives of migrants.
- Land cost remains a challenging proposition in urban areas and it may hinder private participation, if not planned carefully, with incentives for the participating entities.⁵³
- New social and security set-ups in proximity to ARHCs will require municipal and development authority's active role throughout.

Rental housing schemes, such as the ARHC, are definite steps in the right direction; but, by themselves, they may not do enough to stimulate the rental housing market or make a dent in the housing shortage problem. Such type of social housing requires close partnership among public and private entities, along with a robust oversight mechanism for long-term success. Furthermore, as provision and regulation of housing remains a state subject, the effective adoption and implementation of such a social housing policy is dependent on governments of each state and UT.

⁵³Savills India: *Rental Housing in India: A Study of the Upcoming Wave*; 2020.

14. Online Survey on Rental Housing: Results and Analysis

Moneylife Foundation conducted an online survey to evaluate and understand the present status of the rental housing market in India taking into account the perspectives of tenants as well as landlords. This survey was promoted through mailers and social media platforms (Twitter, WhatsApp, Telegram, Facebook and LinkedIn). A total of 1,196 individuals (randomised sampling) participated in the survey.

The survey was designed in a targeted manner to restrict responses to certain questions to only those respondents who identified themselves as tenants, landlords or owners. Accordingly, of the 1,118 respondents who answered the question, 540 identified themselves as owners (48.3%), 373 respondents (33.36%) were tenants under a rental agreement and 151 respondents (13.51%) were tenants under a Leave & Licence Agreement. The remaining smaller segment of respondents comprised tenants as either paying guests (1.34%) or under a *pagdi* system (3.49%).

The following analysis of the data extracted from the online survey has been divided according to the relevant segment of population – owners and landlords, and tenants.

Owners and Landlords

Of the 48.3% respondents identifying themselves as owners, 29.48% (138 respondents) stated that they do not plan to lease out their owned premises. However, almost half the number of owners (44.78%), who responded to the survey, indicated that they had presently leased out their premises to tenants. Considering the numerous issues surrounding rental housing in India identified earlier in this report, perhaps it should not come as a surprise that 25.75% of owners have kept their flats/houses vacant rather than leasing them out.

When questioned on the reason for not leasing out their property, a large number of owners (301 respondents) identified low rental yields as the primary reason. An almost equal number of owners identified ‘fear of tenants occupying homes permanently’, ‘possibility of long-drawn out legal battles with tenants’ and ‘lack of protection offered from regulatory bodies’ as reasons for not leasing out their owned premises.

One of the owners (name withheld on request) mentioned that, “the interest on a home loan taken for the property was much higher than the percentage of income” he was earning from leasing it out. When taking into consideration other overhead expenses like parking charges, high maintenance, brokerage, damages to property, etc, the eventual return on investment is hardly worth it. Another prudent owner, pointed out

that “selling and investing in long term tax saving investments yields better returns without the operational hassles” of leasing out a property.

The potential risk of damage to the property is also a deterrent for most owners, as some respondents stated that, ‘tenants do not maintain the property and are careless’. Others mentioned that tenants present a risk of ruining relationships with the housing society members, leaving the owner with the difficult task of mediating disputes with neighbours for frivolous reasons.

A number of owners also expressed concern over tenants being unable to pay rent during the COVID pandemic. While owners were willing to be lenient during this difficult period, some tenants have taken advantage of the situation and have yet to clear the arrears. Such incidences act as a deterrent for owners and landlords to confidently lease out their premises, when they are certain that there will be lack of support or accountability from regulatory bodies.

The problem of brokers overcharging and being generally unreliable due to the lack of regulation from government bodies was also highlighted by some owners. In an open-ended question, allowing respondents to share their experience, some owners of premises in a *pagdi* system raised concerns about the applicability of MTA the vast imbalance in terms of rights that tenants in such systems enjoy compared to owners.

Tenants

Of the 532 respondents who identified themselves as tenants, a majority, 59.21% (315 individuals), conveyed that they were satisfied with their present rental accommodations and, generally, had no complaints. A small segment, 52 tenants (9.77%), said they were dissatisfied with their rental accommodation.

In response to the question asking whether they had faced any prejudice or discrimination as tenants, a surprisingly large number of people (71.73%) stated that they had never experienced such biased treatment. But 28.27% admitted that discrimination was the norm and that housing societies as well as owners have biased approach to tenants. Some of the most common reasons for these, as observed from the survey, include marital status, occupation, religion, caste, food habits (vegetarian or non-vegetarian), regional preference (whether the tenant is an original resident of a particular state), etc.

Respondents also point out that housing societies, generally, have discriminatory and ‘illegal’ policies concerning tenants -- disallowing pets, restricting access to parking spaces or gym and other facilities, restrictions on timings for entry/exit, number of visitors, etc. A tenant (who wishes to remain anonymous) mentioned that housing “societies sometimes enforce irregular penalties on tenants compared to owners, with regard to use of common facilities, parking spaces, etc.”

Of the 509 tenants who responded to the question, 66.4% consider their present rental accommodation as a temporary arrangement, with future plans to purchase and own a house, while 33.6% were satisfied in their rental accommodation and have no interest in buying a house. Affordability was the predominant reason for opting to rent instead of own, for most respondents of this survey, with 62.7% of them choosing this as their reason. The nature of their profession and the location of their present job were identified as the two biggest motivating factors.

On the question of disputes with landlords/owners, the respondents identified 'maintenance responsibilities' as the single most important reason, with 38.51% of them mentioning it as their primary reason, closely followed by 31.26% selecting 'refund of deposit amount'. Both these reasons are interconnected with landlords refusing to refund the deposit for damages to the property or failure to complete routine maintenance. However, more importantly and surprisingly, almost the same number of respondents (38.30%) stated that they had a good relationship with their landlord/owner and had no complaints as such.

Other Feedback from Respondents

Ashish Gupta who completed the survey as an owner living in the Mumbai suburbs said, "real estate ownership for the purpose of lease is a horrible choice as everyone right from the tenant to the broker, to the society, to the security guard, and of course the municipal government and income tax authorities, they all seem to be under the assumption that the landlord is making tons of money (and that they should get a cut). While the reality is that the owner doesn't even recover (the) savings bank interest equivalent" on the investment but rather runs the risk of losing the property. He further adds that managing the property itself is a Herculean task that requires a lot of time.

Another owner and a resident of a housing society(name is withheld on request) wants "societies to get more benefits from rented apartments in the form of fees and charges for use of common amenities and facilities." This owner goes on to suggest that owners and tenants should mutually sign a strict memorandum of understanding (MOU) with the society, prior to commencement of the tenancy. This, in their opinion, would lower the number of disputes and disagreements. While, *prima facie* it seems feasible and logical, such an MOU or separate additional charges for tenants may not be legal under the respective cooperative societies Act of a state/UT.

Prakash Lekkala, who is a tenant living in Bengaluru shared his experience stating that "brokers corner the market and I had to find accommodation without them. I don't see a value add from the broker, but I end up paying one month's rent to them even when the listing for the concerned property was made online." He also goes on to say that, "unexpected maintenance costs are always pushed to the tenant. While

this is understandable for less durable equipment such as switches, bulbs, etc, it is unacceptable and unfair for the tenant to bear expenses for structural issues such as roof leaks.” Even for refund of deposit amounts, tenants are usually cheated and do not receive the entire amount as landlords “charge for amounts not mentioned in the rental agreement and often arbitrarily increase costs.”

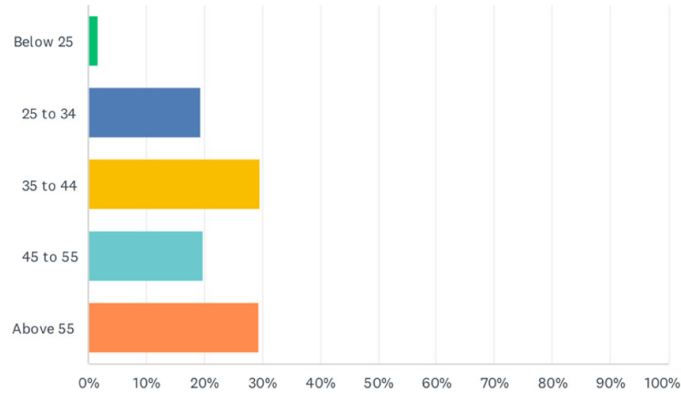
Another respondent, who is an owner living in Mumbai, mentions that “it is not economical to give (your) home on rent due to inadequate tax incentives, very low rental yield and high operational costs. On top of which, the tenant is sometimes required to deduct TDS over a specified limit, which makes it more tedious and cumbersome.”

YPCN Sarma, who is an owner living in Hyderabad, points out that “income from rent is taxable, while cost of property maintenance is usually higher than actual rent received along with all other taxes involved.” This acts as a deterrent for most owners who do not perceive investment in real estate for the purpose of leasing it out as a wise financial decision. A possible solution could be tax incentives; but those are very likely to be limited based on the budget allocated by the government for this purpose.

Moneylife Foundation’s Online Survey Results

Q1 What is your age?

Answered: 1,196 Skipped: 0

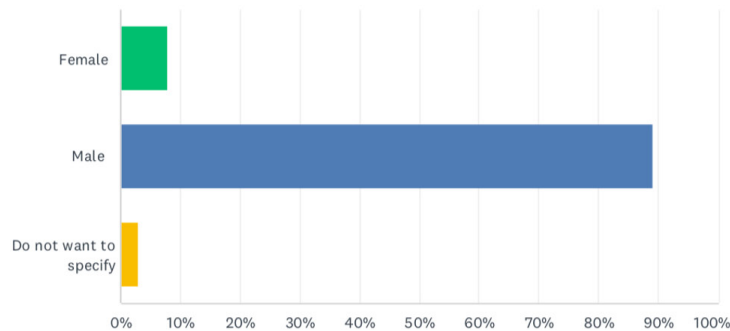


ANSWER CHOICES	RESPONSES	
Below 25	1.76%	21
25 to 34	19.40%	232
35 to 44	29.60%	354
45 to 55	19.90%	238
Above 55	29.35%	351
TOTAL		1,196

Finding: A significant number of respondents was over the age of 35 and a substantially lesser number was below 25 years of age.

Q2 What is your gender?

Answered: 1,193 Skipped: 3

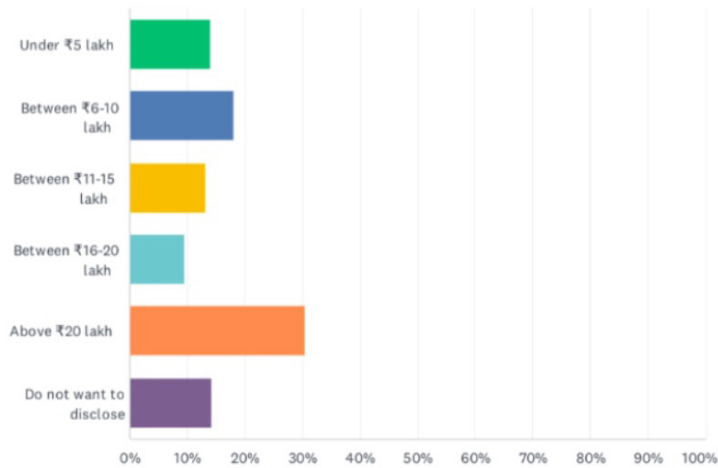


ANSWER CHOICES	RESPONSES	
Female	7.80%	93
Male	89.19%	1,064
Do not want to specify	3.02%	36
TOTAL		1,193

Finding: Majority of the respondents to the survey were male – almost 90% of the total respondents.

Q3 What is your approximate annual household income?

Answered: 1,174 Skipped: 22

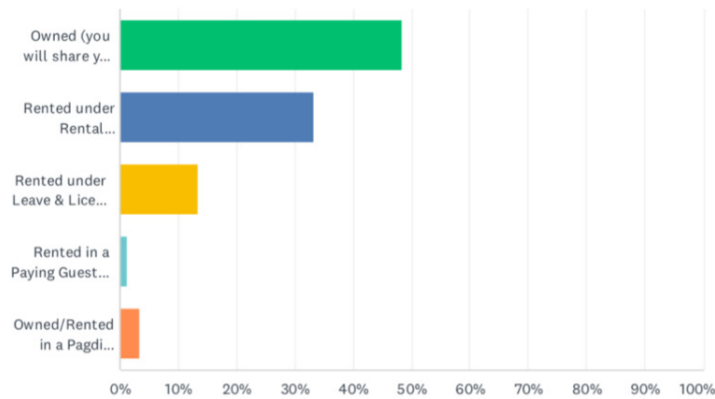


ANSWER CHOICES	RESPONSES	
Under ₹5 lakh	14.14%	166
Between ₹6-10 lakh	18.14%	213
Between ₹11-15 lakh	13.29%	156
Between ₹16-20 lakh	9.63%	113
Above ₹20 lakh	30.58%	359
Do not want to disclose	14.22%	167
TOTAL		1,174

Finding: A significant segment of the respondents identified themselves as having an annual household income above Rs20 lakh. It is not clear from the responses whether these respondents were owners or tenants.

Q4 Are your living quarters owned or rented?

Answered: 1,118 Skipped: 78

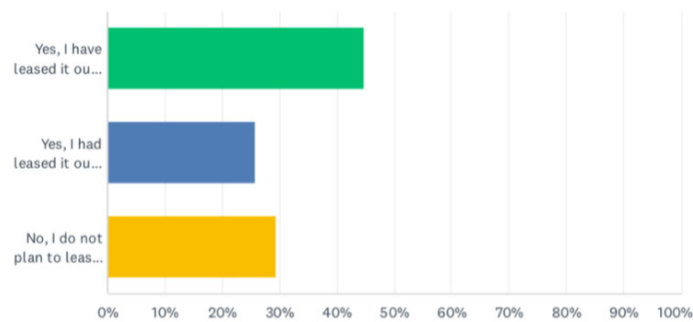


ANSWER CHOICES	RESPONSES
Owned (you will share your feedback in the following questions, as a owner/landlord)	48.30% 540
Rented under Rental Agreement (you will share your feedback in the following questions, as a tenant)	33.36% 373
Rented under Leave & Licence basis (you will share your feedback in the following questions, as a tenant)	13.51% 151
Rented in a Paying Guest facility (you will share your feedback in the following questions, as a tenant)	1.34% 15
Owned/Rented in a Pagdi system	3.49% 39
TOTAL	1,118

Finding: A significant segment of the respondents (51.7%) identified themselves as tenants, when considering all forms of rental arrangements - rental agreements (33.36%), Leave & Licence Agreements (13.51%), renting under a *pagdi* system (3.49%) and paying guest facilities (1.34%). A little less than half --48.3% -- identified themselves as owners/landlords.

Q5 Have you presently or in the past, leased out your owned residential premises to a tenant?

Answered: 536 Skipped: 660

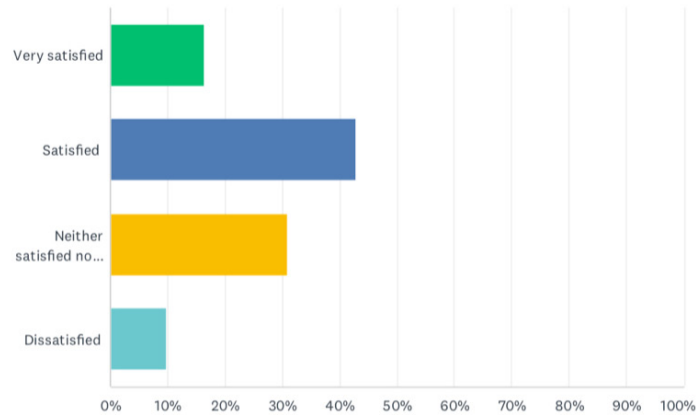


ANSWER CHOICES	RESPONSES	
Yes, I have leased it out presently.	44.78%	240
Yes, I had leased it out in the past. But it is presently vacant.	25.75%	138
No, I do not plan to lease it out.	29.48%	158
TOTAL		536

Finding: A significant portion of owners who responded to the survey indicated that they had presently leased out their premises, while 25.75% indicated that their owned premises were presently lying vacant and 29.48% do not plan to lease it out.

Q6 How satisfied are you with your present rental accommodation?

Answered: 532 Skipped: 664

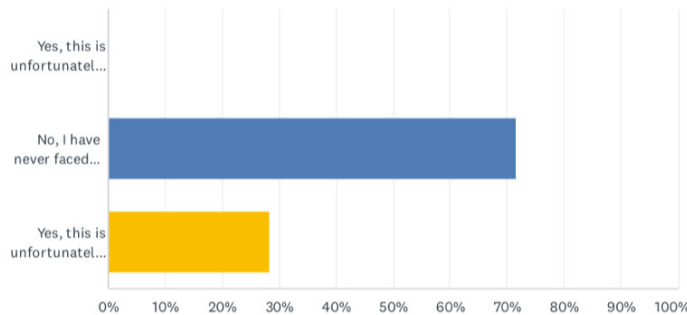


ANSWER CHOICES	RESPONSES	
Very satisfied	16.35%	87
Satisfied	42.86%	228
Neither satisfied nor dissatisfied	31.02%	165
Dissatisfied	9.77%	52
TOTAL		532

Finding: A large number --59.21% --of the respondents are satisfied with their present rental accommodation, while 9.77% indicated that they were dissatisfied. While this question does not allow the respondents to elaborate on the reasons for their dissatisfaction, the subsequent questions present a clearer view on these.

Q7 Have you ever faced any form of prejudice or discrimination from landlords/owners when opting to rent?

Answered: 513 Skipped: 683

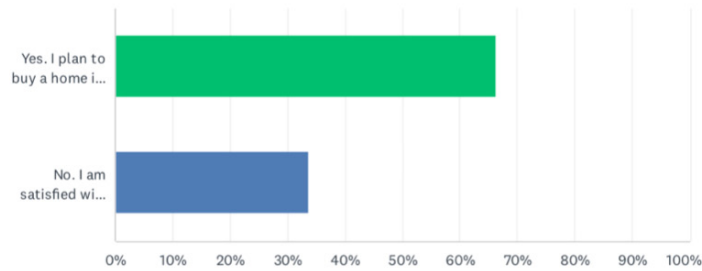


ANSWER CHOICES	RESPONSES
Yes, this is unfortunately a norm.	0.00% 0
No, I have never faced such discrimination.	71.73% 368
Yes, this is unfortunately a norm. (please specify)	28.27% 145
TOTAL	513

Finding: A surprisingly large segment of the respondents (71.73%) indicated that they had never faced any discrimination or bias from owners/landlords. The smaller percentage of those who did indicate being discriminated against highlighted issues of bias based on marital status (with preference given to male bachelors), religion, caste, food habits (vegetarian or non-vegetarian), occupation, etc. The responses also indicated bias against tenants from housing societies that often disallow pets, apply restrictions on the time of entry/exit and also additional charges for use of common facilities within the housing society.

Q8 Are you interested in purchasing a home in the future?

Answered: 509 Skipped: 687

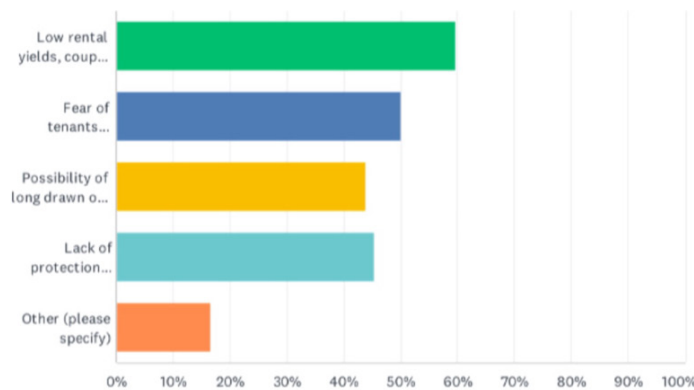


ANSWER CHOICES	RESPONSES	
Yes. I plan to buy a home in the future.	66.40%	338
No. I am satisfied with living in rented accommodation.	33.60%	171
TOTAL		509

Finding: Most of the tenants who responded on this survey have future plans to purchase and own a home. It is not clear whether this is due to their dissatisfaction in rental housing or the natural result of traditional values, instilled over generations, on preference for owning a home rather than renting it.

Q9 As owner of a residential property, for which of following reasons is leasing out your property NOT a tenable option? (Check all that apply)

Answered: 504 Skipped: 692

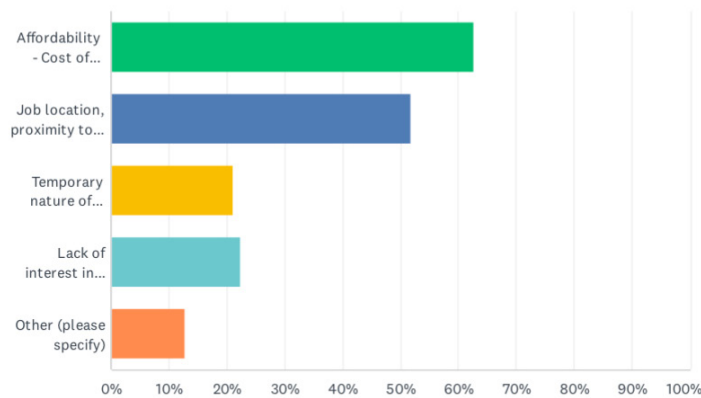


ANSWER CHOICES	RESPONSES	
Low rental yields, coupled with high maintenance costs.	59.72%	301
Fear of tenants occupying homes permanently, causing difficulty in eviction.	50.20%	253
Possibility of long drawn out legal battles with the tenants over a dispute.	43.85%	221
Lack of protection offered from regulatory bodies.	45.44%	229
Other (please specify)	16.67%	84
Total Respondents: 504		

Finding: Targeted solely towards owners/landlords, this question reveals that low rental yields and high maintenance costs, are the most significant deterrents when it comes to leasing out one’s premises. Fear of tenants occupying homes permanently and long-drawn legal battles are also a major deterrent. Much of the feedback received in this question indicates that some owners are reluctant to lease out their properties due to a low rate of return on investment with much of the already meagre earnings being used up for maintenance and upkeep.

Q10 What has been the biggest motivating factor for you when choosing to rent instead of owning a house? (Check all that apply)

Answered: 496 Skipped: 700

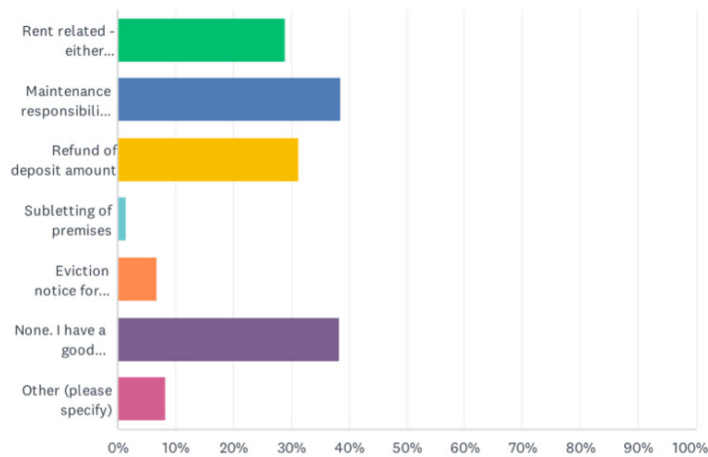


ANSWER CHOICES	RESPONSES	
Affordability - Cost of owning vs renting.	62.70%	311
Job location, proximity to work and your present choice of profession.	51.81%	257
Temporary nature of accommodation offered by rental housing better suits your needs.	21.17%	105
Lack of interest in settling down in one city/town.	22.38%	111
Other (please specify)	12.70%	63
Total Respondents: 496		

Finding: Targeted solely towards tenants, this question sheds light on the factors that motivate them to choose rental accommodations over owning a house. Results indicate that general affordability of the accommodation and proximity to present job are the biggest motivating factors.

Q11 What are the most common reasons for which you have had a dispute or disagreement with your tenant/landlord? (Check all that apply)

Answered: 483 Skipped: 713



ANSWER CHOICES	RESPONSES	
Rent related - either payments, rent increase or otherwise.	28.99%	140
Maintenance responsibilities of Flat	38.51%	186
Refund of deposit amount	31.26%	151
Subletting of premises	1.45%	7
Eviction notice for frivolous reasons	6.83%	33
None. I have a good relationship with my landlord/tenant and have no complaints.	38.30%	185
Other (please specify)	8.28%	40
Total Respondents: 483		

Finding: Disputes over maintenance responsibilities of the flat and refund of deposit amount are the most common amongst those who responded to the survey. Surprisingly, 38.30% indicated that they have a good relationship with their landlord/tenant.

15. Global Models of Rental Housing Regulation & Implementation

An overview of the approach to housing across countries shows that the path followed by each country is unique to its specific requirements. However, countries, irrespective of the level of their economic development and political systems, have promoted housing for the vulnerable sections by having focused schemes for them, either by provision of direct subsidy, vouchers, access to bank loans or by improving the access to housing.

While India continues to struggle in formulation of policies for formal affordable rental housing, many countries worldwide are already successfully addressing their own housing shortage problems through formal and informal rental housing. In this chapter, an attempt has been made to elucidate and highlight in detail, some such case studies that have successfully invigorated their respective rental housing market and balanced the needs of all stakeholders involved.

The following international countries were chosen as conditions prevalent there provide examples of good practices, strategies or models for rental housing.

Asia-Pacific Region

In the Asia-Pacific region, countries like Australia, China, Hong Kong, Singapore and South Korea, encourage rental housing on local and central/federal levels. While housing in such countries continues to remain dominantly owned, care has been taken by each of the governments to equally stimulate and promote rental housing as an affordable alternative.

Australia

Rental housing in Australia can broadly be categorised in two groups -- social (which is subsidised by the government) and private. It is further sub-divided into six distinct sectors, viz., public housing, community housing, indigenous housing, affordable housing, aged housing and disability housing. While each of these sectors caters to different categories of people, the rental regulations applicable to each are largely the same. Australia does not have national rent control laws and tenancy law is administered by the individual states.

In 2008, the Australian government introduced the National Rental Affordability Scheme (NRAS) with an aim to increase the supply of new and affordable rental housing. This was an initiative undertaken in partnership with state and territory

governments to tackle the rising cost of housing in Australia and the problem of affordability faced by many Australians in meeting their basic financial commitments. The scheme aims at addressing the shortage of affordable rental housing by offering annual financial incentives for up to 10 years to rent dwellings built for NRAS tenants at 80% or less than the market value rent.⁵⁴

Designed as a supply-side intervention, the scheme provides financial incentives to large-scale investors and organisations that provide new affordable housing units to people on low to moderate incomes. The rents under this scheme are set at 20% below the market value rent for a period of 10 years. However, it is important to note that NRAS homes are not categorised as social housing, but are rather as affordable private rental homes.

Interventions on the demand side are in the form rebated or discounted rents. All State Housing Authorities (SHA) in Australia operate a dual rental system, where they determine both the rent for each of the properties (the property rent) and a rent for each of the households (the household rent).⁵⁵ The property rent is a ceiling or maximum rent payable on each property. Most SHAs derive the property rent from the rent paid for an equivalent dwelling in the private rental market, called the 'market rent' or 'market-driven rent'. Market rents are more accurately described as market-derived rents because the properties are not let on the open market and subject to demand/supply forces. Rather, their rent is determined through an administrative process of which a central component is an assessment of the market rent, based on that of similar properties in the area.

The household rent is usually referred to as 'rebated rent' or an 'income-related rent', which is calculated on the basis of the income of each tenant. While the rent formula used to calculate household rents varies between SHAs, most apply an upper benchmark of 25% of tenant income.⁵⁶ A rent is 'rebated' where the Social Housing Organisation (SHO) does not charge the full amount but reduces it or provides a discount. SHAs use an income-related formula to determine the household rent and then rebate the difference between the property rent and the household rent, i.e., $\text{rebate} = \text{property rent} - \text{household rent}$. It should be noted that the 'rebate' is the theoretical difference between the rent paid by the tenant and the 'ceiling' rent for the dwelling; it is not a cash payment to the tenant.

⁵⁴Department of Social Services, Government of Australia: About the National Rental Affordability Scheme; <https://www.dss.gov.au/housing-support-programs-services-housing-national-rental-affordability-scheme/about-the-national-rental-affordability-scheme-nras>.

⁵⁵ Australian Housing and Urban Research Institute: "Rental Systems in Australia and Overseas"; 2014; https://www.ahuri.edu.au/_data/assets/pdf_file/0013/2830/AHURI_Positioning_Paper_No74_Rental_systems_in_Australia_and_overseas.pdf.

⁵⁶*Ibid.*

Australia and New Zealand are the only countries operating a dual system of property rents and household rents. They are also the only countries that use private market rents to derive property rents and measure subsidies to tenants on the basis of the difference between these market rents and the household rent actually charged.

China

Traditionally, housing policies in China have been ownership-driven and there has always been an acute amount of social pressure to own a home; “having to rent (in China) was almost pitiable.”⁵⁷ In the past decade, the lack of demand for rental accommodations in China meant that rents have been incredibly cheap. The cost of purchasing a home being relatively affordable, only “manual migrant workers were renting out bunks in dormitories and rooms in suburban villages.”⁵⁸

The housing scene in China has changed drastically in recent years. A large part of the population is now accustomed to migrating to different parts of the country, seeking out the best opportunities and renting has also started to lose its taboo status. China’s housing market has stabilised in recent years now that the construction boom has been curbed, and “there is a growing suspicion among the young generation, that going into long-term debt to pay an overinflated price for a house that statistically will be ready for demolition around the same time they have paid it off, may not be the best of life decisions.”⁵⁹ For the first time, renting has now become a viable option for China’s younger generation. A part of this is due to increased intervention in rental housing focused policies from the government. *Forbes* magazine notes that tech giants like Alibaba, Tencent and JD.com are making big investments in the rental sector, as are other local major real estate developers.⁶⁰

Rental housing in China can broadly be separated in two sections – public rental housing and cheap rental housing. Initially, the Ministry of Construction encouraged social rental housing for the urban poor through its Lian Zu Fang Programme, which literally means low-rent housing.⁶¹ It was launched in 1998, but saw execution only in 2006 due to lack of funds and administrative difficulties.

Public rental housing (PRH) was introduced in 2009 and is a fairly new form of rental housing that is built or subsidised by the government. The system was developed by

⁵⁷<https://www.forbes.com/sites/wadeshepard/2019/10/29/china-now-has-an-answer-to-its-housing-crisis-calls-rent/?sh=233d23ad1a60>.

⁵⁸*Ibid.*

⁵⁹*Ibid.*

⁶⁰*Ibid.*

⁶¹Asian Development Bank: “India: Promoting Inclusive Urban Development in Indian Cities”; Technical Assistance Consultant’s Report; 2013.

local governments in close partnership with commercial property developers and was targeted at lower-middle and low-income households who were facing housing difficulties, new employees and qualified migrants, with stable jobs, who have residence in cities.

The rents in PRH units are set by the local government and are lower than market rents. Tenants residing in PRH units are allowed to purchase their units after a five year tenancy.⁶² Since 2009, PRH has gradually gone on to replace economical and comfortable housing (ECH), which are built for sale and has become the dominant form of housing in urban China. It should be noted, however, that governments have to bear most of the cost in the PRH scheme.

Cheap rental housing (CRH) was introduced in 1998 as a safety net for the poorest urban residents. The rents for CRH units are set much lower than those for PRH. The major source of funding for CRH is from the investment return of the Housing Provident Fund (HPF) and other local incomes.⁶³ HPF is modelled after Singapore's Central Provident Fund (CPF) and is a compulsory housing saving programme, where employers and employees are obliged to contribute a certain percentage of their salaries to their HPF accounts. However, local governments receive little or no financial support from the central government under this scheme and end up bearing the huge fiscal burden of producing new CRH units and subsidising rents.⁶⁴ This scheme is yet to effectively address the housing problems of the poorest in China.

While demand-side interventions from the government in China have been focused on providing subsidies on rent, there have also been some incentives put forward for the developers and investors, namely, in the form of waivers on tax, stamp duty, transfer fees, etc. The government does not levy any tax on urban land used for public rental housing, and also offers exemptions on deed and property tax.⁶⁵

Japan

Private home-ownership has been the dominant form of housing in Japan for decades. According to the Housing and Land Survey in 2003, the level of owner-occupied housing was 61.2%.⁶⁶ After World War II, the home-ownership sector in Japan was vigorously stimulated by generous State subsidies along with economic development and the growth of the middle class. The ratio of private rental housing was the second

⁶²Royal Institution of Chartered Surveyors (RICS): "International Models for a Delivery of Affordable Housing in Asia"; 2019; <https://www.rics.org/globalassets/rics-website/media/knowledge/research/insights/international-models-for-delivery-of-affordable-housing-in-asia-rics.pdf>.

⁶³*Ibid.*

⁶⁴<https://www.sul.mit.edu/copy-of-subway-and-new-firm-formati>.

⁶⁵<http://www.diva-portal.org/smash/get/diva2:437080/FULLTEXT01.pdf>.

⁶⁶Yosuke Hirayama and Richard Ronald: *Housing and Social Transition in Japan*; 2007; <https://library.oapen.org/bitstream/id/9e469da1-1165-4f32-9271-5b654a2fa4dc/1005904.pdf>.

highest at 26.8% in 2003.⁶⁷ However, historically the Japanese government has never directly supported private rental housing and there has been little assistance for the construction of private rental housing and absolutely no provisions for rental subsidies. Direct provision of social rental housing by the public sector has been residual, with the ratio of publicly rented housing in 2003 being 6.7%.⁶⁸

Although Japan has not traditionally supported rental housing through supply- or demand-side subsidies, it did enact the Public Housing Act in 1953 to promote the construction of public rental houses for low-income people. Under this Act, the government is mandated to extend fiscal assistance for local government bodies in the form of a subsidy for the construction of public rental houses and a subsidy to compensate the operational margins, including rent assistance, for very low-income renters.⁶⁹ Being limited to low-income renters, the criteria for selection of occupants are established with a specific formula.

The average rent for such public rental houses is lower than that for private rental houses. There is also an income limit set for eligibility and rent assistance for public rental houses that is restricted to the lower 40% of the income bracket.⁷⁰ Residents of public rental houses are recommended to leave their units when their income increases above the threshold, but actual eviction has been quite difficult.

While Japan has traditionally favoured and promoted home-ownership, there is a slight shift towards social rental housing, in recent years. Japan enacted the 'Act to Promote the Supply of Rental Housing for People Who Require Consideration in Securing Housing' in July 2007. This is the first in a series of steps that the country has taken to build a residential safety-net, to ensure that the elderly, retirees, people who have been evicted from employee housing and other low-income groups, would have access to basic rental housing. This new residential safety-net aims to accomplish three major objectives: a rental housing registration system for people who require consideration in secure housing, financial assistance for renovation of registered rental housing and its residents, and supply of quality public rental housing for those in need.

The Act encourages effective use of existing housing stock by means of priority residence schemes and other measures to streamline the management of publicly-operated housing. It also encourages the private sector to supplement publicly-operated housing by supplying public rental housing and improving information

⁶⁷*Ibid.*

⁶⁸*Ibid.*

⁶⁹Masahiro Kobayashi: "The Housing Market and Housing Policies in Japan"; Asian Development Bank Institute; 2016.

⁷⁰*Ibid.*

systems to support people moving into such rental housing. It also introduces rental claim guarantee schemes and streamlines conditions in providing financial support for housing.

In 2017, the Act was further enhanced by the Ministry of Land, Infrastructure and Transport (MLIT) with the Regional Excellent Rental Housing Program. This scheme reinforced Japan's initiative to build a residential safety-net for their growing population of elderly, by promoting the supply of quality rental housing, subsidising the expenses required to develop public rental housing and by reduction of rents.

Singapore

Since self-government began in 1959, Singapore has managed to build an impressive stock of housing through heavy State involvement in the past six decades. The Housing and Development Board (HDB), established in 1960 with an initial mandate to provide basic rental accommodation for the poor, was a key institution.

A Home Ownership Scheme (HOS) was introduced in 1964 and, since then, home-ownership has been promoted as an integral part of nation building. Through this scheme, eligible households were given the opportunity to purchase 99-year leasehold interest in their flat, but not in the land or common areas, at a subsidised price. These units were initially sold at a discount but could be traded in the open resale market after the flats had been occupied for a minimum of five years. HDB has built about one million residential units over the past 50 years.⁷¹

Public-private hybrid houses in Singapore are sometimes defined as owned units, as rental units, as HDB or as private units, while land ownership is defined by freehold, State-owned leasehold (and number of years of remaining leasehold), fully-owned or partly-owned status. A vast majority of the residents in Singapore live in dwellings built by the private sector and the public housing stock is predominantly owner-occupied. The resident home-ownership rate was 87.2% in 2010, lower than the 92.0% of 2000 but still among the highest in the world.⁷² The total housing stock in 2010 was 1,180,500 units, of which HDB holds 898,500. The remaining 258,200 are owned by the private sector.⁷³

Rental housing in Singapore is represented by a very small portion of the housing stock. While 95% of HDB units are designated to be owner-occupied, rental units represent only 5% of the public housing stock. The private rental market operates

⁷¹ UN Habitat for a Better Urban Future: *Housing Practices Series Singapore*;

https://unhabitat.org/sites/default/files/2020/08/singapore_-_housing_practise_series.pdf.

⁷²Ira Gary Peppercorn and Claude Taffin: *Rental Housing: Lessons from International Experience and Policies for Emerging Markets*; The World Bank; 2013.

⁷³*Ibid.*

freely and serves the needs of expatriates. The British colonial government first implemented rent control in 1947 in the country, but it was lifted in 2001.

Singapore's rental housing sector is divided into the regulated rental sector and the unregulated private sector. In HDB subject housing, units that have been privately-owned and occupied for five years can be leased to citizens and permanent residents with prior approval from HDB at market determined rents. HDB social rental housing comprises smaller, low-cost rental units provided directly by HDB for low-income households. This represents the social housing sector for the residents, especially since rent control in the private housing sector was phased out.

Some portion of HDB's rental units also cater to transitional families, those waiting for their home-ownership flat, as well to foreign workers. The private rental stock consists of high-quality dwellings to serve foreigners and locals with high income. Rent control being abolished in 2001, rents are entirely determined by market forces.

Private developers play a limited role of supplying expensive dwellings to the higher-income groups as well as expatriates and foreign investors. The vast majority of residents live in public housing and no financial incentives are available for the production of private rental housing. Real estate investment trusts and institutional investors are not involved in the private rental housing business.⁷⁴ Although subsidies for home purchases in Singapore have moved from supply-side subsidies to demand-side subsidies, over the years, there are no direct subsidies to tenants.

Additionally, Singapore also lacks any tenant protection laws. The terms of rental lease are negotiated within the contract and the tenant is supposed to make a security deposit equivalent to one month's rent. The deposit is refunded without interest at the expiration of termination of the lease. In some cases, in addition to the deposit, one month's rent is pre-paid. The lease period is, generally, at least one year and can be extended by mutual agreement.

Having promoted home-ownership through various policies since 1964, Singapore's current home-ownership rate is among the highest in the world. However, the small public rental housing sector serves the housing needs of low-income households, leaving the private rental sector to operate freely, catering to the demands of residents as well as foreigners.

The European Union

⁷⁴*Ibid.*

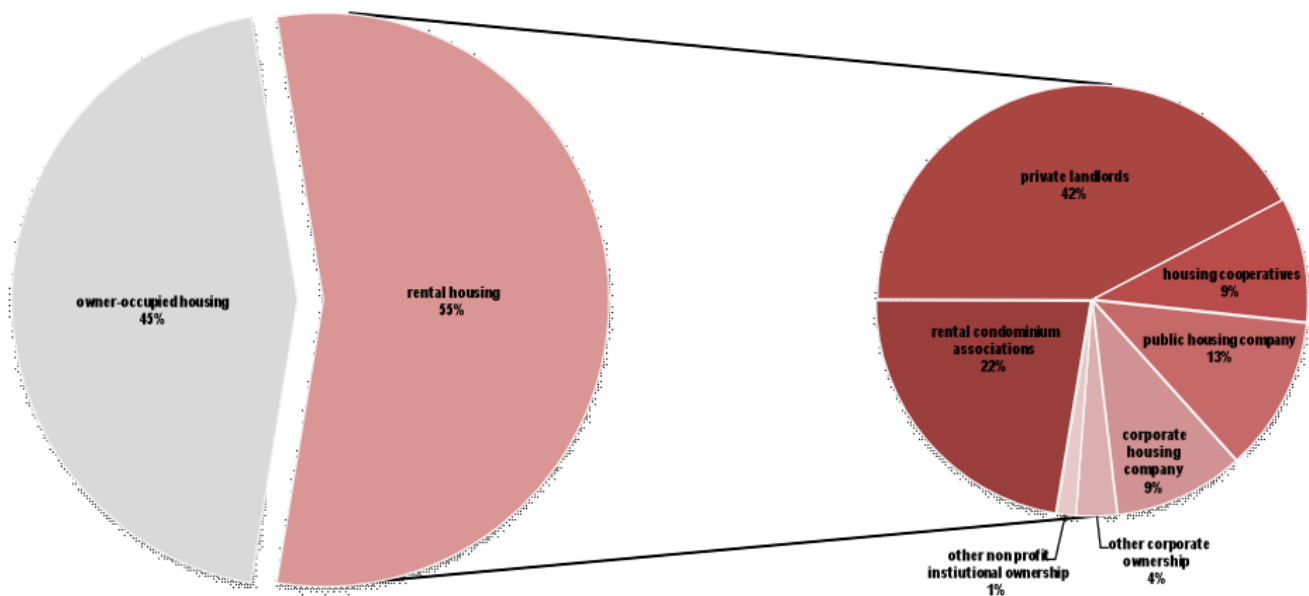
Many countries in Europe have well understood the interplay of city planning norms and reservations towards promotion and supply of rental housing. Such countries have introduced mandatory regulations and incentives to promote low-rent housing, especially in partnership with the private sector.

Germany

Germany has one of the lowest ownership rates in the world and more than half of all households in the country are rented.⁷⁵ There are several contributing factors for this – population is concentrated in urban areas; there is no cultural bias for home-ownership; tenants enjoy a high level of protection; and rental investment has long been favoured by tax laws through accelerated depreciation.

The rental sector offers a wide range of dwellings at moderate prices and buying a house is relatively expensive in Germany.⁷⁶ First-time home-buyers in Germany are much older than elsewhere in the world and a large number of households choose to remain tenants for their whole life, although they can afford to purchase a home. Home-ownership is also not heavily subsidised in the country and households are incentivised to rent out their premises rather than occupy them.⁷⁷

Germany: share of rental housing units by ownership



Source: Statistisches Bundesamt census data 2011

⁷⁵<https://www.brookings.edu/essay/germany-rental-housing-markets/>.

⁷⁶Ira Gary Peppercorn and Claude Taffin: *op. cit.*

⁷⁷<http://www.rentalcal.eu/the-german-rental-market>.

Subsidised housing in Germany came about as a result of World War II when a large portion of the country's housing stock was destroyed. Such policies were introduced to combat housing shortage at that time and to provide housing at a subsidised lower cost. However, it is important to note that only 4% of the housing stock today consists of social rental housing, while private rental housing makes up a much larger proportion of rental housing in the country.⁷⁸

The rental regulations in Germany strike an important balance between the interest of tenants and landlords, as landlords have acceptable rental yields and tenants' rights are well protected. Further, there are generous tax deductions for landlords and possibilities to increase the rent after modernisation, which has helped to maintain and improve the quality of private rental sector stock. The tax system treats rental housing as an investment and, hence, provides for depreciation allowances, mortgage interest tax relief, deduction of maintenance costs and other such reliefs.⁷⁹

The balancing of interest between tenants and landlords is a central feature in the German housing market and tenancy security has largely remained unchanged for decades. Rental housing is regarded as a stable and reliable form of housing, almost as secure as owner-occupied housing. Contrary to rental housing policies across the world, the German system is characterised by its friendliness and prioritisation towards the needs of the tenant.

For instance, apart from non-compliance of the tenant (non-payment of rent, damage to the property or anti-social behaviour), the only legitimate reason a landlord can invoke the right to terminate a lease is personal occupancy.⁸⁰ However, even in such cases, it may be difficult to make the tenant leave. If the tenant refuses to comply and appeals to the courts, the landlord will not necessarily win, because the judge takes into account the situation of both parties. If the judge finds that the tenant is in a more fragile situation than the landlord, the recovery may be long and difficult. In addition, because individual landlords in the country own around five rental units, on average, the recovery for personal occupation may relate to only a small number of cases.⁸¹ Thus, it essentially ensures that the tenant has a virtual right to security of tenure. This safety in the tenancy regulations, coupled with relatively low rents, is the main reason for a lower rate of adoption for home-ownership in the country.

The basis for all lease agreements in Germany, regardless of the type of landlord – individual or company, public or private – is the civil code. The lease tenure in

⁷⁸OECD: "A Revival of the Private Rental Sector of the Housing Market"; 2014; https://www.oecd-ilibrary.org/economics/a-revival-of-the-private-rental-sector-of-the-housing-market_5jxv9f32j0zp-en.

⁷⁹*Ibid.*

⁸⁰Ira Gary Peppercorn and Claude Taffin: *op.cit.*

⁸¹*Ibid.*

Germany is necessarily indefinite and rent is set, based on a system of ‘local reference rent’ (LRR) called *mietspiegel*.⁸² LRR is a locally determined average of rents for similar units, limited to rents agreed upon or raised in the previous four years. Rent tables are published and widely available for public reference in larger urban cities in Germany. This system of LRRs allows enough room for the influence of market forces while ensuring reasonable profits for landlords and also protecting tenants against excessive rent increases.

The landlord is allowed to set a new rent up to 20% above the LRR where there is a housing shortage and up to 50% or above, in other cases.⁸³ In existing rental contracts, the LRR is considered to be a strict upper limit and no increase is permitted as long as the rent is higher than the LRR. Furthermore, landlords are also not allowed to raise the rent by more than 20% in three years.

Another important feature of the country’s housing policy is that of temporary subsidies – which ensures that social rental housing returns to the private market after the end of the subsidisation period (typically, around 10-15 years).

United Kingdom

In the past decade, home-ownership in the United Kingdom (UK) has been on a decline, falling from an all-time high of 70.9% in 2003 to 63.9% in 2018 and this decline has coincided with a revival of the private rental market.⁸⁴ People belonging to lower-income households, the younger millennial generation and those living in urban areas now prefer private and social rental housing, over the more expensive alternative of buying a house. Renting has become common among younger households, with only 41% of households aged between the ages of 25 and 34 years owning their homes.⁸⁵

While traditionally housing policies in the UK have promoted home-ownership, the trend has started shifting towards renting due to the absence of any form of rent control.⁸⁶ UK has forms of social and private renting options, but social rental housing for low-income groups and the underprivileged has been on the decline since 1980, when prime minister Margaret Thatcher introduced the ‘Right to Buy’ policy.⁸⁷ This policy essentially allowed social tenants to purchase their homes at a significantly subsidised price and is considered to be one of the factors responsible for the significant rise in home-ownership from 1980 until 2002.⁸⁸

⁸²OECD: “A Revival of the Private Rental Sector of the Housing Market”; 2014; *op cit*.

⁸³Ira Gary Peppercorn and Claude Taffin: *op. cit*.

⁸⁴<https://www.brookings.edu/essay/UK-rental-housing-markets/>.

⁸⁵*Ibid*.

⁸⁶<https://www.brookings.edu/essay/UK-rental-housing-markets/>.

⁸⁷*Ibid*.

⁸⁸*Ibid*.

The majority of social homes in the UK are now provided by Housing Associations which are private, non-profit organisations. These Associations have been operating an increasing share of social housing properties in the UK since the 1970s and, although they are formally independent of the government, they are regulated by the State and receive public funding. The share of social rental housing provided by such Associations is lower compared to private rental housing, but has remained stable at around 10% over the past decade.⁸⁹

In a 2019 report, the government of Britain recognised that “it should not matter whether you rent in the private or social sector. Tenants deserve the same high standards of services, regardless of who their landlord is. But this is a two-way relationship, and landlords quite rightly expect their tenants to meet the conditions of their tenancy. Landlords need powers to enforce tenancy agreements or to remove tenants who are in significant breach of their agreements.”⁹⁰ In recent years, the UK government has been aiming at attaining a fair and balanced relationship between the landlord and the tenant. One of the changes in policy being considered is putting an end to ‘no fault’ evictions, providing tenants with more stability and protection from frequent moves at short notice.⁹¹

The revival of the private rental housing market in the UK is primarily driven by market forces and innovation. Firstly, the price-to-rent ratio has roughly doubled between 1997 and 2018, making owner-occupied housing less affordable, over the years.⁹² Secondly, the introduction of ‘Buy to Let’ mortgages in 1996, which offer loan terms similar to traditional residential mortgage loans, along with rising inequality, has made it easier for high-income earners to invest in rental properties.⁹³

The adoption of the Housing Act, 1988, which introduced the concept of Assured Shorthold Tenancy (AST) as the default legal residential tenancy in England and Wales, has also contributed to the revival. Empowering landlords with easier eviction rights, AST is a fixed-term tenancy wherein the landlord can end such an agreement with the timely service of an eviction notice. AST agreements are usually for a period of at least a year and, after the tenancy period ends, landlords can terminate the agreement at two months’ notice.

⁸⁹*Ibid.*

⁹⁰Government of UK: “A New Deal for Renting, Resetting the balance of rights and responsibilities between landlords and tenants”;

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819270/A_New_Deal_for_Renting_Resetting_the_Balance_of_Rights_and_Responsibilities_between_Landlords_and_Tenants.pdf.

⁹¹*Ibid.*

⁹²<https://www.brookings.edu/essay/UK-rental-housing-markets/>

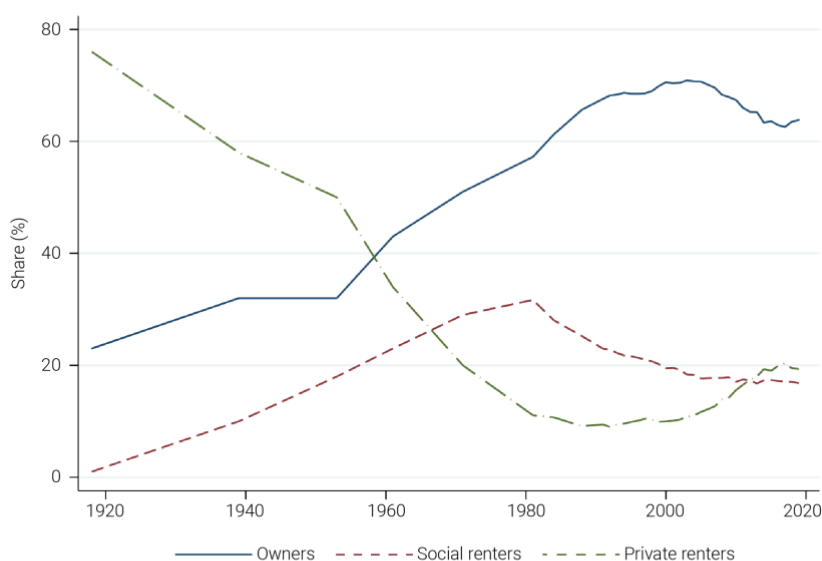
⁹³*Ibid.*

UK also has a ‘Shared Ownership Scheme for Council and Housing Association Tenants’ which is managed by Housing Associations across the country. Through this scheme, the applicant (a first-time buyer or someone who was a home-owner but cannot afford one now) can buy a share of their prospective home that equates to either 25% or 75% of their home value, while paying the rest as rent.⁹⁴

Perhaps the most interesting new concept in UK’s rental housing market is that of a government-approved tenancy deposit scheme (TDS), where the deposit amounts collected from tenants have to be deposited and registered by the landlord.⁹⁵ Although a fairly new system being applicable only to tenancy agreements that started after

Figure 1. Private rental housing lost market share during the 20th century

Tenure trends in England, 1920-2020



Sources: 1918: Estimates by Alan Holmans of Cambridge University Department of Land Economy; 1939 to 1971: ‘Housing Policy in Britain’, Alan Holmans, Table V1; 1981 to 1991: DOE Labour Force Survey Housing Trailer, 1992 to 2008: ONS Labour Force Survey. From 2009 onward we attribute each year to the 2-year English Housing Survey data (full household sample), which includes a 1-year lag moving window: 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19.



April 2007, TDS protects the deposit amounts collected from tenants and keeps them secure until the end of the Tenancy Agreement. Tenants can easily check the status of their deposit (whether it has been registered) and apply for its release at the end of the tenancy period through an online portal. Any dispute regarding the deposit is also handled by the agency securing the deposit and grievance redress options are through the usual online, email or telephonic modes. Currently, there are three government-approved TDSs available in England and Wales – Deposit Protection Scheme, My Deposits and Tenancy Deposit Scheme.⁹⁶

⁹⁴Asian Development Bank: “India: Promoting Inclusive Urban Development in Indian Cities”; 2013.

⁹⁵<https://www.gov.uk/tenancy-deposit-protection>.

⁹⁶*Ibid.*

The Netherlands

Housing in the Netherlands can broadly be categorised in two sectors, social housing and private housing. In the European Union, The Netherlands definitely has one of the highest proportions of social housing, where rent is subsidised to make it more affordable. A substantially large number of rental houses in Netherlands are available under the social rental sector as compared to the mid-market and expensive rental sector in the country.⁹⁷ Even though Netherlands faces some of the same issues in housing as the UK, that of overcrowding in its larger cities, the country has managed to achieve great success through the innovative use of PPPs and frameworks that allow for risk.⁹⁸

The Dutch rental housing system is highly regulated, with 93.5% of all rental dwellings being nationally regulated and only 6.5% being unregulated.⁹⁹ Informal and unregulated rental housing does not have limits on initial rents or on subsequent rent increases and is not as popular. Housing policies in the Netherlands have been aimed at either the social rental housing sector or the owner-occupied sector, while the private rental sector is largely ignored. Demand for housing under the private rental sector has also been minimal and primarily only for the younger generation who require housing on short notice, are unable to buy or do not get access to social housing.¹⁰⁰

Of the three million rental units in the Netherlands, approximately 75% account for social housing and are managed by Housing Associations.¹⁰¹ These Associations are not-for-profit private organisations which mainly provide social rental housing in the country and work within a strict legal framework of national laws and regulations. Housing Associations are responsible for renting out social housing units and are obliged to re-invest any surpluses gained back into social rental housing and other related projects.¹⁰² The Associations are also responsible for constructing houses and maintaining the locality, including parks, streets, parking spots, etc. A significant feature of the Dutch social housing system is that it is set in attractive neighbourhoods and the authorities are engaged in keeping communities liveable and safe.

All social rental housing units in the Netherlands are allocated on the basis of national and local government rules. However, organisations that manage and let out social housing have the liberty to set their own rent policy within the limits set by the

⁹⁷<https://economics.rabobank.com/publications/2019/july/growth-of-mid-rental-segment-in-the-netherlands/>

⁹⁸The URBED Trust: "Learning from International Examples of Affordable Housing"; 2019; www.urbedtrust.com/wp-content/uploads/2019/02/Affordable-housing-Shelter-Draft-7.pdf.

⁹⁹*Ibid.*

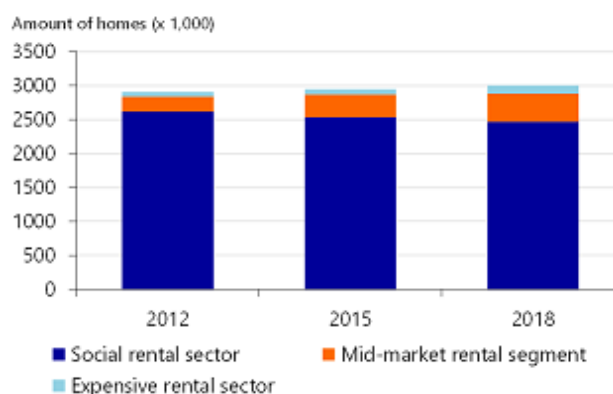
¹⁰⁰*Ibid.*

¹⁰¹<https://www.government.nl/topics/housing/rented-housing>.

¹⁰²Aedes, Dutch Association of Social Housing: "Dutch Social Housing in a Nutshell, Examples of Social Innovation for People and Communities"; 2016; <https://dkvvg750av2j6.cloudfront.net/m/6c2c81c93f5a9522/original/Brochure-Aedes-Dutch-social-housing-in-a-nutshell-examples-of-social-innovation-for-people-and-communities-2016.pdf>.

national rent regulations. Housing Associations are also required to rent out 80% of their vacancies to households with an income below a pre-defined national threshold or to households with a special-care requirement. On an average, social rent levels are approximately 30% below the maximum permitted rent.¹⁰³

The Netherlands has a substantial system of State aid and regulation in place to ensure investments in social housing and weaker neighbourhoods which, in turn, has limited the possibility of private investments in the rental housing sector.¹⁰⁴ Overall, rental policies in the country have led to the formation of a rental sector that is relatively large, on an international scale, is of good quality and has low degrees of social segregation.



North America

United States of America

The common perception for housing in the United States is that it is largely focused on home-ownership and government policies reflect this priority. While, traditionally, this has been true in the country, recent statistics show a slight dip in home-ownership, which could perhaps be attributed to the sub-prime mortgage crisis of 2007. The percentage of the population who are home-owners has fallen from a peak of more than 69% in the early 2000s to just over 66%, according to the US Census Bureau.¹⁰⁵

There is also a clear disparity in income levels between those who own and those who rent. Families whose income is above the median income have an ownership rate of 80.8%, while those below the median have only a 51.3% rate.¹⁰⁶ This divide over ownership and renting is further present along racial and ethnic lines as well, with predominantly white families opting to own a house than rent. The data seems to

¹⁰³*Ibid.*

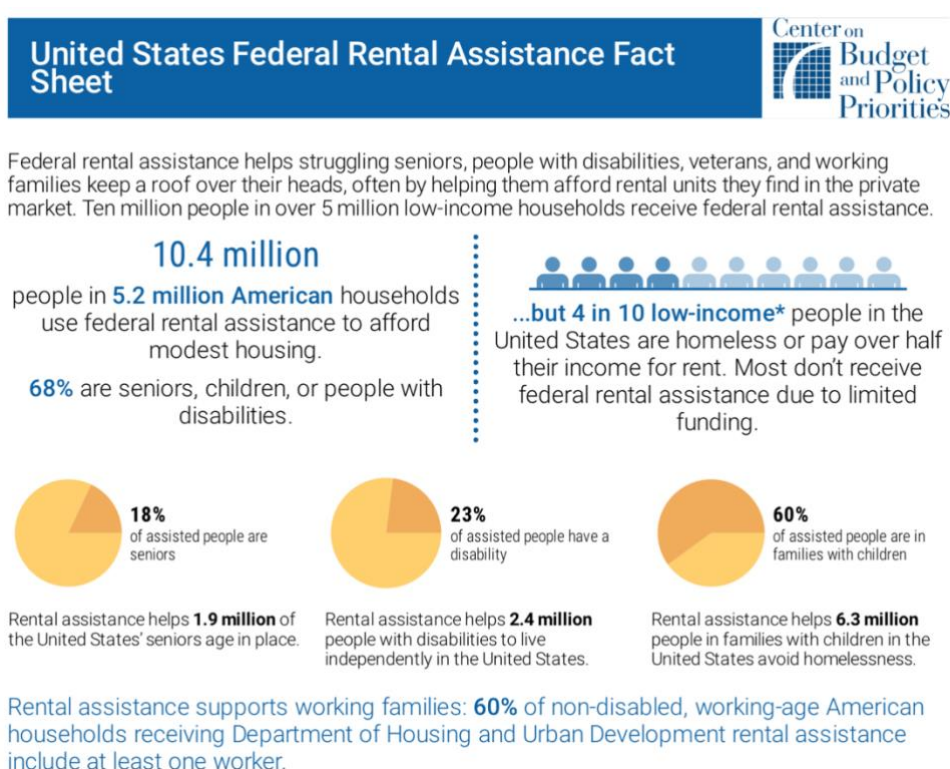
¹⁰⁴OECD: "A Revival of the Private Rental Sector of the Housing Market; 2014"; *op. cit.*

¹⁰⁵Ira Gary Peppercorn and Claude Taffin: *op. cit.*

¹⁰⁶*Ibid.*

indicate that “there are times when rental is the only option (in the USA) and there are times when it is a choice.”¹⁰⁷

The mortgage crisis is known to have caused pressure on the rental market in the country, with foreclosures skyrocketing and families, who were owners, losing their homes and then being forced to rent. After the crisis, there were stricter credit standards put in for loans and families chose not to buy a home because of fears that the real estate market would continue to decline. As Douglas C Yearley Jr, chief executive of Toll Brothers, the builder of high-end homes in the United States pointed out, “There’s no question that people are reticent to own. They’re renting and they’re happy renting because they’re scared.”¹⁰⁸



Much of the rental housing in the country is developed, financed and owned by a diverse group of private, for-profit companies and government entities, like local public housing authorities own a relatively smaller share of rental housing.¹⁰⁹ Even housing for low-income renters is mostly developed and owned either by non-profit organisations or private landlords. Private landlords can be either individual investors (single person or family) or large institutional investors, such as insurance companies, real estate investment trusts (REITs) and other corporate entities. Smaller rental properties (one to four units) are owned by individual investors, while larger (50+ units) rental properties are owned by institutional investors.

¹⁰⁷Ibid.

¹⁰⁸<https://www.nytimes.com/2011/05/31/business/31housing.html>.

¹⁰⁹<https://www.brookings.edu/essay/US-rental-housing-markets/>.

Compared to European countries, the United States does not have a robust system for social housing or subsidised housing for low-income groups.¹¹⁰ Such type of housing is referred to as ‘public housing’ in the country and is regulated by the US Department of Housing and Urban Development (HUD). Public housing is funded through two main streams on a Federal level -- the Public Housing Operating Fund, which covers the gap between rents paid by tenants and the operating costs of the premises, and the Public Housing Capital Fund, which funds renovation of developments and replacement of items such as appliances.¹¹¹ Such housing is provided by state and local housing agencies, who offer rental assistance to low income households. By 1990, however, new construction of public housing had largely been stopped and existing units have since been demolished or redeveloped.

Subsidies from the Federal government have largely been focused on home-owners as opposed to tenants, despite the fact that rented households, on average, are less affluent in the country. The small portion of rental subsidies that are provided, are targeted towards low-income families and, unlike benefits administered through the tax code, the amount of rental subsidies rely on annual appropriations from Congress.¹¹² Statistically, only one in four eligible low-income renting households receives any Federal rental assistance.¹¹³

United States uses a combination of demand- and supply-side subsidies, with the public and private sectors being actively involved. Federal rental assistance in the country is covered with three schemes – household-based vouchers, public (social) housing and the Low Income Housing Tax Credit (LIHTC) Program. Tenants who are eligible for rental vouchers pay 30% of their monthly income towards housing costs, and the difference between this percentage and what is known as the ‘fair market rent’ (FMR) is paid by the federal government.¹¹⁴ FMR represents an apartment that would rent at the 40th percentile of the local housing market, based on an analysis of new leases from the previous year. On the supply side, the LIHTC allocates Federal income tax credit to private and non-developers for new construction of below market rental housing.

However, the percentage of the population that receives subsidies is quite small relative to the overall need and, presently, subsidies only serve a portion of the low-

¹¹⁰Centre on Budget and Policy Priorities (CBPP): “United States Federal Assistance Fact Sheet”; 2019; <https://www.cbpp.org/sites/default/files/atoms/files/12-10-19hous-factsheet-us.pdf>.

¹¹¹<https://www.cbpp.org/research/public-housing>.

¹¹²Ira Gary Peppercorn and Claude Taffin: *op.cit.*

¹¹³*Ibid.*

¹¹⁴*Ibid.*

income market. Even with the multitude of public and private sector resources, obtaining good-quality, affordable rental housing continues to remain a challenge in the country and many people still live in substandard housing.¹¹⁵

Canada

Housing in Canada is largely ownership-driven, with only around 30% of the accommodation in the country being rented in 2015.¹¹⁶ The challenge, currently, for those who cannot afford to buy housing in Canada is a declining stock of formal rental housing. Over the years, more than 90% of the new housing built in the country has been owner-occupied.¹¹⁷ With fewer new rental units being added to the housing stock, affordable housing has become a scarce resource in recent years for lower-income Canadians.

Social (government subsidised and public) housing has always been a mandate of the country's national housing agency, Canada Mortgage and Housing Corporation (CMHC). But, over the years, pressures put on by Federal budget constraints have driven focus away from such subsidies. In the 1970s, Canada had implemented several housing policies which were focused heavily on improving supply of inexpensive rental accommodations – the Assisted Rental Program (to subsidise rents) and the Canada Rental Supply Program (to provide subsidies to developers). But both of these policies were, eventually, phased out following budget cuts in 1993 and the responsibility for implementing a housing policy was transferred from Federal to provincial, municipal and local jurisdictions. All levels of the Canadian government are now involved in housing programs, though the constitutional authority for housing is vested in the provincial government which, in turn, may delegate housing responsibility to regional and city governments.

In recent years, Canada has made renewed efforts to provide affordable housing on all levels for its citizens, whether it be rental or ownership-based housing.¹¹⁸ In 2017, Canada launched its first-ever National Housing Strategy (NHS), an ambitious \$40-billion plan to help ensure that Canadians have access to housing that meets their needs and that they can afford. The primary focus in this strategy is on meeting the housing needs of vulnerable populations and the underprivileged. The strategy came into effect in 2018, with the National Housing Strategy Act, which commits the government to a long-term policy on improving supply of housing with supply- and demand-side interventions.

¹¹⁵*Ibid.*

¹¹⁶<https://www.thecanadianencyclopedia.ca/en/article/housing-and-housing-policy>.

¹¹⁷*Ibid.*

¹¹⁸<https://www.cmhc-schl.gc.ca/en/professionals/industry-innovation-and-leadership/industry-expertise/affordable-housing/about-affordable-housing/affordable-housing-in-canada>.

The NHS has introduced a Rental Construction Financing Initiative and a Rental Assistance Program, with the former aiding in supply-side interventions and the latter on the demand side. The Rental Construction Financing Initiative has been introduced to provide low-cost loans for the construction of sustainable rental apartment projects across Canada.¹¹⁹ The Rental Assistance Program, on the other hand, provides financial assistance based on the amount needed to fund the difference between the occupancy charge (rent) and the monthly gross household income for low-income households.¹²⁰ Under this Program, households will not pay more than 30% of their income for housing accommodation.

Although Canada had largely ignored the rental sector, after bolstering it with subsidies from 1970s to 1990s, the growing need for affordable rental housing in the country has urged the government to take action and it has responded with the NHS. Time will tell whether the proposed schemes will have a positive impact on the housing sector.

Lessons for India from Global Rental Models

The most important observation from case studies of various countries across the world is the role rental housing plays in fulfilling the affordable housing needs of a population. Although home-ownership is seen as the dominant form of housing in most countries, rental housing plays a vital role when it comes to affordable housing. Timely interventions from the government in the form of subsidies for developers and consumers are also a must. For India to achieve its goal of 'housing for all', the rental housing market will have to undergo a transformation on multiple levels. India can learn valuable lessons about rental policies and their implementation, about incentives for developers and subsidies for tenants, from examples across the world. Some important learning points are listed below.

- Almost all countries have done away with rent control regulations. Limits on rent and rent increases are still present in housing policies, but they are structured in ways to benefit tenants and landlords. In many cases, limits on rent are present only in social housing catered for the less privileged population.
- Healthy housing markets in countries like UK, Germany, the Netherlands and Australia, offer a range of options when it comes to rental housing – private, public, social, etc. Ideally, the housing policy of a country should promote all

¹¹⁹<https://www.cmhc-schl.gc.ca/en/professionals/project-funding-and-mortgage-financing/funding-programs/all-funding-programs/rental-construction-financing-initiative>.

¹²⁰Canada Mortgage and Housing Corporation (CMHC): "Federal Community Housing Initiative, Phase II (FCHI-2), REFERENCE GUIDE 2021"; <https://assets.cmhc-schl.gc.ca/sites/cmhc/nhs/federal-community-housing-initiative/fchi2-reference-guide-en.pdf?rev=2d41f648-6287-4443-94b7-6503c3f25401>.

forms of rental housing to cater to the needs of people from various income groups.

- Social rental housing plays a significant role in filling the gaps of affordable housing stock in a country. Where buying a house is difficult and private market rents are also high, government-subsidised social rental housing can help meet the basic housing needs of the poor. India's ARHC scheme takes the right step towards achieving this goal; but effective implementation will require strong participation from the private sector and fiscal support from the government.
- Many countries have made it a standard practice to tabulate local market derived rents, on a regular basis, whether it is in the form of the local reference rent in Germany, fair market rents in the US or the dual system of property and household rents in Australia. These reference rents serve as the comparable limit when enforcing and regulating affordable social rent levels. Having a transparent system for the amount of rent, whether private, public or social, will only strengthen the rental housing market.
- The government can intervene to boost the construction of buildings for private and social rental. In some countries, the government provides subsidies to private developers to make the construction for rent more profitable or to offset high development costs. If providing subsidies is deemed expensive, the government can also assist with low-interest loans to developers or individual landlords for improvement of their existing rental units or for building additional units, thus, increasing the supply and quality of low-income rental housing.
- Rental assistance schemes, 'rebated rents' and rental vouchers are all excellent subsidies for low-income tenants, but they require some form of budgetary commitment from the government. The US system of rental vouchers has not been able to reach all of its beneficiaries due to the insufficient funds being allocated for it by the government. India's draft NURHP makes a reference to implementing rental vouchers, but fails to make any fiscal commitment towards these.
- Policies encouraging 'buy to let' for individual or institutional investors and conversely 'rent to buy' for prospective tenants can play an important role in promoting and revitalising the rental housing market.
- A central depository scheme such as the tenancy deposit scheme (TDS) in UK could be considered, to safeguard and secure the deposit payments made by tenants. As in the UK, the implementing agency could be a private entity operating under the ambit of governmental oversight. This would potentially help in mitigating conflicts over refund of deposit amounts.

16. Co-Living Spaces: A Potential Alternative to Traditional Renting

With growing urban population across the world, shortage of affordable housing is a burgeoning issue. Millennials (Generation Y or Gen Y), a population group generally considered to be in the age bracket of 18-35 years, who migrate to highly populated, high-priced metropolitan areas continue to have difficulties in finding affordable, convenient living options. Purchasing a home is not an option for such individuals nor is it a priority for them, since they are usually seeking temporary short-term residence. Traditional renting options have their own set of problems – high rent, unregulated deposit amounts, no certainty about the duration of tenancy, additional monthly expenses on utilities other than rent, etc.

In recent years, a new form of housing – ‘co-living’ -- has gained popularity worldwide, especially among the younger millennial population. Co-living has been popularised by the rise of housing start-ups offering affordable housing in homes or apartments, where common facilities are shared between room-mates. Although the concept of community living or living in a community has been around for generations, housing start-ups have managed to adapt the concept with innovative technology, catering directly to the specific needs of the younger generation.

Such co-living spaces can take many forms, encompassing everything -- from single family homes renovated to accommodate tenants, or apartments in a high-rise building that have been converted into dormitory-style lodging. Residing in such homes allows one to have flexible lease terms, either short-term or long-term, with additional facilities like cleaning services, professionally furnished common areas, amenities and utilities --all being part of the package.

Emergence of Co-living Spaces in India

India has the largest millennial population in absolute terms, globally. At 440 million, the group constitutes nearly 34% of the country’s population, which now has a median age of nearly 28 years.¹²¹ They are also the chief wage-earners in India, with a 47% share in the working age population.¹²² Being the largest demographic group in India, millennials are characterised by high levels of disposable income and as digitally-connected individuals, driving various consumer segments towards rapid growth and development.¹²³

¹²¹Deloitte: “Trend-setting millennials: Redefining the consumer story”; 2018; https://rls.net.in/wp-content/uploads/2018/02/Trendsetting-Millennials_RAI-Deloitte.pdf.

¹²²*Ibid.*

¹²³Morgan Stanley: “Millennials to Anchor India’s Growth Story”; 2017; <https://www.morganstanley.com/ideas/India-millennials-growth-sectors>.

This generation also has a reputation for job-hopping. Being “unattached to organisations and institutions, people from this generation are said to move freely from company to company, more so than any other generation.”¹²⁴ They are digital nomads who are not yet ready to put down roots, but are willing to travel and work remotely, across locations. Big purchases, such as a home, at the start of their career are also not a priority for them and they are largely interested in rental accommodations. Thus, factors like growing workforce mobility and an ever-increasing urban migrant population have increased the demand for organised shared housing in India.

However, the concept of shared rental accommodation is definitely not new. In India, migrant workforce and students have been using such shared living options in the form of paying guest (PG) set-ups, dorms or hostels, for many generations. But such informal rental facilities are plagued by problems and are often poorly managed, lacking even basic amenities to support a comfortable, yet affordable, lifestyle.

Being informal, such arrangements also lack the rigidity or support of government rules or regulations and landlords usually have the upper hand by imposing inconvenient restrictions on tenants. Millennials moving into new cities for work or education are, often, left to deal with negative perceptions and bias from landlords and home-owners. Additionally, conflicts due to violation of lease agreement, hidden charges, unreasonable costs of maintenance & repairs, loss of security deposit, etc, are among the many risks posed by the informal rental housing market in India. Such problems, coupled with the limited availability of quality accommodation that meets their basic requirements, make the stay in unorganised informal rental housing, a not-so-favourable option for millennials.

The absence of an organised rental housing market has been an under-explored opportunity for the co-living market to emerge across select urban cities in India. Meeting the growing demand from the younger generation, co-living provides:

- a personal space that offers quality stay, powerful sense of community and privacy;
- a choice in the living arrangement of either a single or shared room, with shared common spaces for social interaction;
- a place potentially free of gender, religion or any other form of discrimination;
- a place with low entry costs and flexible deposits, no brokerage and affordable rents in highly desirable urban centres;

¹²⁴<https://www.gallup.com/workplace/231587/millennials-job-hopping-generation.aspx>.

- a place without a fixed tenure on the lease, giving the tenant freedom to exit and terminate the arrangement without notice period;
- complete autonomy on entry and exit in the residential premises with no interference from middlemen and landlords;
- tech-friendly, comfortable plush spaces with free Wi-Fi, housekeeping services and modern amenities;
- flexibility in tenure, convenience, reduction in time spent on commuting with easy access to social and physical infrastructure.

Co-living Spaces vs Typical Rented Accommodation

A comparison of the costs, facilities and services of co-living spaces and typical rented apartments in India clearly highlights the attraction it has for the millennials.

	Co-living Spaces	Typical Rented Apartment
Monthly Rent	To Operator	To Landlord
Security Deposit	2-3 months' rent	Varies; in some cases as high as 8-10 months' rent
Tenure	Flexible in most cases; varies, based on operator	Minimum 11 month lock-in period
Flexibility	Flexible terms of exit without notice period	Stringent terms with at least 1 month notice period.
Common Area Maintenance	Included in the rent	Not included
Utility Charges	Included in the rent	Not included
Meals	Some operators offer it as an optional cost included as part of rent	Not included
Housekeeping	Included	Not included
Amenities	Modern amenities with Wi-Fi and common areas for social interaction	Amenities to be sourced by the tenant at an additional cost

In the traditional format of renting, a tenant would be required to bear costs of utility bills, groceries and meals, domestic help, furniture and appliances (in case of unfurnished apartments), which adds to the overall cost of living. In comparison, a co-living set-up covers the costs of these additional elements, which, in the end, means that the tenant saves a lot more on extraneous expenses.

The facilities offered in a co-living space can differ among various operators, but a set of standard facilities such as a fully-furnished room, housekeeping services, Wi-Fi, all-

inclusive utility charges, 24/7 security, app-based service and communication, and community events in the residential premises are common. Facilities, like meals, kitchen and dining, laundry, parking, gaming room, AV/music room and gym, are offered at a premium. Some operators even offer add-on services for a terrace garden/deck, library or books on rental or access to a doctor on call.

Operating Models

Globally, players in the co-living industry have many business models and generate revenues in various ways. However, co-living industry in India is still in a nascent stage and at a level of experimentation. Recognising the potential and the gap in the existing rental housing market, several start-ups have ventured into this space. The absence of a regulatory framework and a lack of clarity on design specifications, approvals or licences for properties to operate as co-living spaces, has given the emergent co-living industry a lot of scope to evolve.

In the present market, there are operators who provide shared rental accommodation, as well as those who merely act as aggregators, offering a marketplace for prospective tenants to make their choice. A smaller section of operators comprises developers who are showing an active interest in developing and managing co-living spaces from the ground up.

In the 'lease and operate' model, which is more prevalent in India, the operator of the co-living space only leases the property from the owner, makes some necessary renovations and then lets out the property to tenants.¹²⁵ The operator in this case, takes care of the maintenance and day-to-day functioning of the property, and also collects rent from the occupants. By leasing the property and managing the co-living business, the operator enters into a profit-sharing partnership with the owner of the property.

Contrarily, in the 'complete ownership' model, operators own the property and also manage the co-living space themselves. In such cases, existing residential property-owners have made the investment to renovate and modify their premises to enter the co-living market. In this model, since no third-party operators are involved, the profits gained are ploughed back into management and expansion of operations.

In yet another model, which is quite similar to the 'lease and operate' model, operators sign a management contract with the existing owners of a property and act as custodians.¹²⁶ In this case, responsibility of the upkeep of the property lies with the owner and not the operator, who only receives a commission for managing a co-living

¹²⁵JLL India & FICCI Real Estate Committee: "Co-living: Reshaping Housing in India"; 2019; https://fikki.in/events/24295/ISP/Co-living_Reshaping-Rental-Housing-India.pdf.

¹²⁶*Ibid.*

space. In this model, tenants are required to sign a direct lease agreement with the property-owner, through the operator.

Co-living Operators in India

The co-living market in India is evolving at a rapid pace and there has been positive investor interest at national and international levels in the industry.¹²⁷ Today, with the growing demand for organised rental housing in the country, there is a multitude of companies foraying into the co-living market. While most companies offer their services to working professionals and students, some are specifically designed and cater to a select group of people.

Operators such as Stanza Living and Oxford Caps (which has recently been acquired by Abuzz)¹²⁸ primarily offer their living spaces for students, while Grexter Living only serves working professionals in Bengaluru (at present). The list of co-living operators in India is growing at a fast pace, with more than 15 such companies presently offering their services across cities. Some of the better-known operators and the services they provide are highlighted below.

ZoloStays: Founded in 2015, ZoloStays¹²⁹ operates on a lease/revenue share model and caters mainly to working professionals and students in 10 major cities – Bengaluru, Mumbai, Chennai, Delhi, Coimbatore, Kota, Pune, Gurugram, Hyderabad and Noida. Its website (<https://zoloStays.com/>) mentions Zolo co-living spaces being available in more than 220 properties across the aforementioned cities.

Rent for a premium stay (Zolo Select) starts at Rs8,000 and is inclusive of all amenities along with access to the swimming pool, gym, etc, while, for ZoloStandard properties, the rent starts at Rs4,500. All living spaces in ZoloStays offer amenities like Wi-Fi, DTH, washing machine, housekeeping, security, food, etc; but the premium option of accommodation offers access to additional services. The rent, in most cases, is inclusive of food (meal served twice in a day); however, there are some locations which offer food on a subscription basis.

There is no minimum duration of stay; however, tenants are required to serve a notice of 30 days before leaving. Tenants are required to pay a deposit amount equivalent to one month's rent, which is refunded to the tenant within a period of 30 days after exiting the premises. To move out of the property, tenants only need to put in a request through the app/website interface and, once approved, they have to return to the caretaker the on-boarding kit and keys.

¹²⁷<https://www.entrepreneur.com/article/342928>.

¹²⁸<https://entrackr.com/2021/05/exclusive-abuzz-acquires-kalaari-and-times-internet-backed-oxfordcaps/>.

¹²⁹<https://zoloStays.com/>.

NestAway: Founded in 2015, NestAway¹³⁰ operates both as an aggregator and on a management contract model with the owner of the property. It caters to working professionals and students, and has a presence in Bengaluru, Mumbai, Delhi NCR, Thane, Navi Mumbai, Pune, Hyderabad, Mysore, Kota, Bhubaneswar, Visakhapatnam, Coimbatore, Kolkata and Chennai.

According to its website (<https://www.nestaway.com/>), in fully-furnished homes, NestAway offers a standard package of amenities along with furniture, internet connection, DTH connection, etc. However, in semi-furnished homes, no additional amenities are provided and the tenant is required to set up any connection at additional cost as per need. Furthermore, operating on an aggregator model, the amenities offered differ, based on the property and the owner. NestAway's web and mobile app portal will list the amenities offered in a particular home and the terms and conditions.

NestAway takes care of the rental agreement requirements by preparing and facilitating an online lease where local laws permit or otherwise a physical hard copy of the lease, between the tenant and the owner. There is a mandatory requirement for two months' rent as deposit, which is refunded within 30 days of leaving the property.

Being an aggregator, rents differ based on the location, amenities and the city, and can range anywhere from Rs8,000 to Rs24,000 per month.

Colive: Founded in 2016, Colive¹³¹ operates on a lease/renew share model and primarily serves working professionals in three cities - Bengaluru, Chennai and Hyderabad. Colive offers the tenant a choice to select from shared rooms (double or triple occupancy), single rooms or couple rooms.

Its website (<https://www.colive.com>) states that rent varies, based on property type (ColiveGold/Colive Platinum), location and amenities provided, and is usually between Rs5,000 and Rs30,000. Similar to other operators, Colive provides a standard range of amenities such as Wi-Fi, laundry service, etc, as part of the standard tenancy package, while other services, such as terrace lounge, access to game room, etc, are provided as a premium add-on. Meals are provided at some select Colive locations, based on the availability and demand from residents, at an added cost.

¹³⁰<https://www.nestaway.com/>.

¹³¹<https://www.colive.com/>.

Tenants are required to pay a deposit amount equivalent to two months' rent along with an additional booking fee of Rs4,000 (which would be adjusted against the deposit) at the time of booking. The deposit amount is refunded on the 15th of the subsequent month after checkout. Depending on the property, the tenant is also required to commit to a lock-in period between three and six months, during which a penalty will be levied, if the tenant terminates the agreement and vacates the premises.

Stanza Living: Founded in 2017, Stanza Living¹³² operates on a lease/revenue-share model and primarily caters to students across 13 cities – Bengaluru, Chennai, Coimbatore, Dehradun, Delhi, Hyderabad, Indore, Greater Noida, Pune, Vadodara, Vidyanagar, Ahmedabad, Visakhapatnam and Vijaywada.

As per property listings on its website (<https://www.stanzaliving.com/>), rent varies, based on location and amenities provided, and can be between Rs5,000 and Rs25,000 per month, inclusive of some basic amenities (Wi-Fi, housekeeping, laundry services, etc). Designed primarily as a PG facility, all rooms are shared accommodations between two or three room-mates. Meal plans are available at certain locations on a subscription basis and as an added cost to the rent. Tenants can modify their subscriptions to avail certain add-on services such as meals on a month-to-month basis through the official mobile app.

Tenants are required to pay a deposit amount of equivalent to one or two months' rent, depending on the property, along with Rs999 booking fee which is adjusted against the deposit. For students, the minimum duration of stay is usually the annual duration of their academic cycle and three months for a working professional.

Advantages for Operators and Owners

The huge demand for organised shared rental accommodation has meant that operators and property-owners have attractive investment opportunities. Taking advantage of this demand in the market can potentially mean innumerable benefits for operators and owners of the rental property.

- co-living spaces in popular employment hubs and transit hubs with affordable rental units offer owners and operators an opportunity to earn a higher operating income.
- relatively increased and stable rental yields from steady occupancy levels compared to informal rental housing; potential rental yield in co-living set-ups is typically three to four times the yield from traditional rental housing.¹³³

¹³²<https://www.stanzaliving.com/>.

¹³³JLL India & FICCI Real Estate Committee: *op.cit.*

- opportunity of owning new rental assets in prominent city centre or leasing out existing vacant assets.
- for operators, co-living presents an opportunity to gain market share from existing unorganised informal rental market through tie-ups with landlords and local developers.
- operators who provide a combined service of co-living and co-working space, typically make a profit margin of 10%-20% at the operating level.¹³⁴

Future of Co-living Spaces in India

A change in the housing needs of a major portion of India's population has driven the need for better, organised and technologically sophisticated rental living spaces in major cities of India. Furthermore, the absence of a robust regulatory infrastructure and the flawed framework of the RCAs have doubly ensured that consumers will go for options that offer them a better service. However, for co-living spaces to become a larger success in India, the development of a strong and balanced regulatory policy is a must. A legal and regulatory framework needs to be in place to provide clarity over approvals and licences for co-living operators. This, along with fiscal incentives for developers and operators getting into co-living will allow the market to evolve and grow.

The unorganised nature of the present informal rental market in India offers huge potential for development of co-living spaces, but it remains to be seen whether it would sustain its attractive appeal in the future. Millennials seeking better opportunities in cities and looking for easy access means that the demand for co-living spaces is expected to remain on the rise. With proper support from the government, co-living spaces can truly become a viable alternative of housing for the new generation of Indians.

¹³⁴*Ibid.*

List of Abbreviations

- ARHC** - Affordable Rental Housing Complex
BDD - Bombay Development Department
BIT - Bombay Improvement Trust
CSR - Corporate Social Responsibility
DCR - Development Control Regulations
EWS - Economically Weaker Section
JNNURM - Jawaharlal Nehru National Urban Renewal Mission
LIC - Life Insurance Corporation
LIG - Low Income Group
MbPT - Mumbai Port Trust
MBRRB - Mumbai Building Repairs and Reconstruction Board
MHADA - Maharashtra Housing and Area Development Authority
MoHUA - Ministry of Housing and Urban Affairs
MTA - Model Tenancy Act
NURHP - National Urban Rental Housing Policy
PG - Paying Guest
PMAY - Pradhan Mantri Awas Yojana
PPP - Public-private Partnership
PSU - Public Sector Undertaking
RAY - Rajiv Gandhi Awas Yojana
RCA - Rent Control Act
RERA - Real Estate Regulatory Authority
UT - Union Territory

About Moneylife Foundation

Moneylife Foundation, launched on 6 February 2010, is a non-profit organisation registered with the charity commissioner of Mumbai. The Foundation is engaged in spreading financial literacy, consumer awareness and advocacy for safe and fair market practices. To this end, it organises workshops, round table meetings and awareness campaigns for grievance redressal. It undertakes research and publishes white papers. It also has regular counselling sessions on consumer protection and files petitions on public interest cases. It is one of the fastest-growing and foremost NGOs for consumers and investors. Recognising its contribution it was awarded the 10th MR Pai Memorial Award in September 2014 for outstanding work.

The Foundation's mission is to make savers & investors financially aware, empower consumers to fight for their rights and enable citizens to think and act responsibly. It represents the voice of those of us who work hard, earn and save but do not have a say in the decisions that affect us. The Foundation's specific objectives are:

- To create interest in financial markets and enhance financial literacy.
- To protect investors and consumers of insurance, banking and other financial services through information, counselling and grievance redressal.
- To hold regular workshops and expert talks on financial issues.
- To provide a forum of networking among organisations involved in similar work and also support voluntary organisations working in this area.
- To collaborate with /assist/support organisations/ NGOs/ civil society groups that engage in public intervention to create a just, fair and a corruption-free society.
- To educate the public about their legal rights in areas of investor protection and financial products and services.
- To help prevent corruption and malpractices at all levels of the financial markets.
- To undertake qualitative and quantitative research and analysis in areas of finance, economics, politics, public policies, environment, business and all other allied fields.

- To provide a forum for committed volunteers and experts to involve themselves in a meaningful way for improvement in financial literacy and consumer protection.
- To create and promote enlightened public opinion on various issues affecting citizens, investors and consumers.
- To encourage, support and assist research and studies in financial, economic, social and related areas that affect individuals.
- To litigate and take any other lawful measures to safeguard the rights and interests of the investors and consumers.

Moneylife Foundation's work encompasses the following areas:

1. Awareness Sessions: Spreading financial literacy and awareness about the rights of consumers and citizens through workshops, lectures, articles and awareness campaigns. Sessions have been conducted on banking, Aadhaar, real estate, consumer awareness, right to information, food & health, senior citizens' issues, taxation and documentation, and many others.

2. Daily Counselling Sessions: As direct solutions to the problems that savers, consumers and citizens face, guidance is provided to them through one-on-one counselling.

3. Helplines: The Foundation runs two free helplines with the help of our voluntary advisers and experts. The Legal Helpline offers guidance on a vast variety of legal issues and real estate matters, especially those pertaining to cooperative housing societies. The Credit Helpline guides people in financial distress on dealing with loan defaults, credit scores and so on.

4. RTI Centre: A Right to Information Centre was launched in September 2017 to create awareness on the Right to Information Act. With the RTI Centre, the Foundation undertakes various activities with the aim to promote transparency through the RTI Act. A smartphone app – 'RTI Advice', has also been designed and published to assist users with their RTI applications, with advice from experts who are former information commissioners or activists.

5. Research Projects: A focus area for the Foundation has been to influence policy changes through in-depth research and recommendations, specific issues that affect a large number of people. Research studies have been undertaken and their

recommendations have been published for the benefit of a large section of people whose voice does not reach the policy-makers. The Foundation has published research reports on “Retirement Homes in India”, on “Reverse Mortgage Loans in India” and on “Efficacy of RERA from a Consumer’s Perspective”.

6. Representations: The Foundation does advocacy for safe and fair market practices through workshops, round table meetings, research and presenting memorandums to regulators and policy-makers.

7. Legal Action: At times, the Foundation has also filed public interest litigations (PILs) on matters that have affected our members and has taken up the issues with the Supreme Court. Recent PILs have been on LIC’s Jeevan Saral and egregious bank charges that consumers are paying.

The Foundation has set up Moneylife Knowledge Centre, a lecture hall and reading room with more than a thousand books on business, economics and finance. Although among the smallest, *Moneylife* is the only media company to have undertaken such a non-profit initiative.