

# POLICY BRIEF



## IMPACT OF ANTI-COMPETITIVE PRACTICES IN THE CONSTRUCTION INDUSTRY ON HOUSING FOR THE URBAN POOR IN INDIA

---

### I. Executive Summary

This study on anti-competitive practices in India's affordable housing focuses on the effects of such practices in the construction industry on safe and affordable housing for the disadvantaged. It explores viable market-driven solutions and advocates for more robust competition policies and legislation as key measures to combat anti-competitiveness in the industry.

The study aims at evidence-based policy development and program implementation. Key findings from the study reveal the prevalence of micro-level monopolies, where influential local groups wield power in construction, and the existence of diverse and complex regulatory barriers that lead to significant delays and costs for both the economically disadvantaged and builders. Other factors limiting construction activities include restrictive development regulations that hinder innovative construction methods and increase costs; cartelization in raw material industries; and government policies which result in the monopolistic control of land and inflate housing prices.

Streamlining regulations, introducing single window clearance, and reducing transaction costs are essential for achieving the goal of affordable and safe housing for all in India.

### II. Problem Statement

Access to adequate, safe, and affordable housing is a recognized universal right and a crucial target for sustainable development. In India, the issue of affordable housing is critical, with approximately 18 million people lacking proper shelter. According to the UN, in 2021, 35 percent of the urban population in India resided in substandard housing, equivalent to 170 million individuals. Urbanization and population growth have only intensified the demand for housing. India presents significant opportunities for affordable housing due to substantial unmet demand. However, while the statistics offer an attractive proposition for investors and entrepreneurs, the housing landscape is surprisingly littered with failed attempts and a lack of players in the market. Real estate developers and builders in India primarily target the middle or high-income housing segment, resulting in a gap in the lower-income housing segment. There is a demand for 11.2 million houses in India's affordable housing market. Even with this huge market opportunity, there has been an investment of only 17% in the sector by private entities since 2011 (Live Mint, 2021). Hence, it is important to understand and analyze the lack of private players and efficient competition in the sector.



### III. Key Findings and Analysis

#### 1. Micro-level Monopolies

Urban local bodies, such as municipal corporations and councils, are responsible for managing the development and planning of urban areas. With the 74th Constitution Amendment Act granting them more power, they have greater control over land use, zoning, building regulations, and other aspects of urban development.

This authority leads to abuse of power in certain cases in the form of biased decision-making and the exploitation of power for personal gain. Additionally, conflicts of interest may arise between the local bodies and private developers, resulting in delays in the approval of projects. Urban local bodies publish building by-laws through circulars or notifications, which are crucial for construction guidelines. However, when these documents are not easily accessible online, they hinder newcomers' understanding of regulations. As a result of this lack of transparency, only established regional players continue to operate, causing market inefficiencies.

#### 2. Cartelization in the Cement and Steel Industries

An investigation arm of the Competition Commission of India established that market leaders in the cement industry have colluded in 13 states, with more than 50 industry executives engaged in cartelization. The cartel formation entailed fixing sale prices and controlling the supply of products in the market. The steel industry has been similarly under the radar of regulatory authorities. Steel prices have risen despite the cost of key inputs like raw materials and power declining, indicating anti-competitive conduct in the industry.

#### 3. Import Tariffs

The Indian government levies tariffs on building materials to protect its industries. When these tariffs change, the overall cost of construction projects and housing markets becomes unpredictable. This makes it difficult to complete contracts and manage budgets effectively.

For example, if the cost of building materials increases due to tariff changes, it can lead to budget overruns and financial difficulties for construction projects. This uncertainty can also cause delays or incomplete projects, as reported in various instances. In simpler terms, the changing import tariffs on building materials can have a significant impact on the financial stability and progress of construction projects in India.

#### 4. Presence of Lobbying and Interest Groups

Local cement manufacturers routinely lobby for increases in import duties on cement and associated raw materials, citing the protection of domestic industries from global competition. On several occasions, the government has levied duty charges on key materials. Such moves significantly increase the cost of essential raw materials, which could otherwise be imported at cheaper prices from countries with a comparative advantage in their production. The presence of powerful groups influences laws and regulations at the expense of the public interest. These lobbies have contributed to unfair competition and policy capture.

#### 5. High Transaction Costs

Affordable housing markets have slim profit margins and are sensitive to prices. As a result, high transaction costs are a significant factor in increasing the final project cost. Delays in regulatory approvals not only extend project timelines but also result in financial losses for developers. Each regulatory agency has its own unique rules, leading to a complex and time-consuming process to ensure compliance. Builders operating in multiple cities face challenges in complying with diverse local regulations, discouraging them from taking on projects in many locations.

#### 6. Building Regulations

The by-laws in India impose heavy restrictions on construction, like low Floor space index (FSI), floor area ratio (FAR) and building height, thereby hindering new and innovative methods that developers might use. Consequently, these regulations deter many builders from entering the market and limit potential supply.

These laws also prevent smaller players from entering the affordable housing segment due to their inability to comply with the regulations within their profit margins. National building codes have several mandatory norms intended to improve the quality of housing, but often, they end up as hindrances for builders in the construction process.

## **7.Flow Space Index (FSI)**

The imposition of low FSI limits has resulted in a decrease in housing supply, causing a rise in housing prices. When cities are not allowed to expand vertically, they expand horizontally, which increases commute distances and leads to traffic congestion. Additionally, low vertical expansion causes families to live in cramped conditions in city centers to avoid moving to the suburbs. Although the aim of setting low FSI and FAR limits in Indian cities was to control population density and traffic congestion, this objective has not been met, as traffic congestion and high population density are still prevalent in major Indian cities.

## **8.Monopolistic Control over Land**

In India, a substantial amount of government-owned land, around 235,000 acres with public sector undertakings(PSU) and 38,000 acres with the railways, remains unproductive, reducing the housing supply. During the 12th Five-Year Plan, 3 million hectares of surplus land were identified, but over 30% was entangled in litigation, leading to illegal land occupation and slum development. Many beneficiaries of government schemes lack clear property rights over allocated plots, highlighting land entitlement issues. The Indian land title system lacks transparency due to incomplete documents held by local authorities, increasing the risk of litigation for housing projects and discouraging investors.

## **9.Weakened Independence of Competition Enforcement Body**

The Competition Commission of India (CCI), as a regulatory body, has been exercising its power to dismantle anti-competitive practices. However, the body does not enjoy complete independence in its operations.

The CCI has conducted timely probes against the anti-competitive conduct of many industry players and has imposed penalties for violations. However, the outcome of such verdicts, especially in the cement industry, has not fostered competition. For instance, the CCI, as an institution, has attempted to break the anti-competitive practices exercised by companies. However, there have been instances of companies further appealing their cases to the Supreme Court (SC). On many occasions, the SC has rebuked the CCI and National Company Law Tribunal (NCLT) for shoddy rulings. In the case of cement cartelization, the SC stayed the orders of NCLT, thereby giving a favorable ruling to the powerful private entities.

Additionally, the CCI lacks financial independence, which hampers its ability to protect competition in India. The budgetary allocation from the government is inadequate, and also serves as a tool to penalize or restrict the CCI's operations.

## **10.Welfarism and its Implications**

Housing has been viewed as a welfare activity over the years, as is evident from the programs and schemes aimed at addressing the housing needs of citizens. Many of the housing projects implemented by the government are not economically viable and require ongoing subsidies to maintain. The government was proactively engaged as a provider from the time of independence until recently, when the focus shifted from a provider to an enabler.

Discussions from stakeholder consultations also highlighted that the role played by the government as a provider distorts the market. Government employment generation schemes such as the National Rural Employment Guarantee Act (NREGA) also marginally worsen the shortage of labour force in the construction sector. Although wages under NREGA are below market-level wages, the scheme distorts the mainstream labour market; even when cities provide relatively higher wages, the associated travel costs and the costs of living and accommodation push rural workers to remain in their villages.



## Policy Recommendations

The study on affordable housing revealed a few recurring themes that explain the barriers to growth in the affordable housing market. They center around multiple regulatory barriers, a weak policy environment, and anti-competitive conduct among industry players. The policy approach undertaken by India has been largely welfare oriented. It is essential to move beyond the welfarist and need-based approach to a market-oriented approach in the construction sector and create an enabling environment for private investment and entrepreneurship.

The following policy suggestions, if implemented effectively, can create an enabling environment that will promote growth and development in the construction sector, and affordable housing in particular, and help address some of the challenges faced by the sector.

- **Simplify Regulations**

Simplify the regulatory environment for affordable housing construction, including building codes and safety standards, to reduce costs and delays in the construction process. Additionally, there is a need to develop a repository of local rules and circulars in the public domain to make compliance easier. The stakeholder discussions undertaken for the study indicated that there is an absence of knowledge repositories and circulars on government websites, which makes it difficult for new builders to navigate the local and regional rules and regulations. Such a system has led to the emergence of micro-monopolies, where only influential regional players get access to important circulars.

- **Provide Single-window Clearance**

The government needs to introduce a single-window clearance system for construction projects. The system would allow developers to obtain all necessary clearances and approvals from a single agency, which will reduce the time and cost involved in obtaining clearances.

A single window system has been in place for special projects in the past and has been a very effective tool in increasing the pace of work.

- **Change FSI/FAR Limits**

India has a very low FSI limit, which restricts the addition of housing units. The limit prevents developers from accommodating more households in a single project. FSI limits in India need to be regularly revised to meet the growing population demand, city-specific demand, and housing requirements.

- **Incentivize Developers**

Developers can be incentivized to construct affordable housing through the provision of tax breaks and other incentives such as reduced property tax rates and streamlined approval processes. In addition, the government can simplify and streamline the land acquisition processes, reduce the time and cost involved in acquiring land, and provide a transparent and predictable regulatory framework for land acquisition. India has a lot of surplus land lying idle with various government departments; effective usage of such surplus land by converting it to efficient and sustainable projects can be beneficial for both the government and the market.

- **Encourage Innovation and Technology Adoption**

Innovation and new technologies in construction, such as prefabrication, 3D printing, and modular construction, can increase productivity and reduce costs. These methods can be an alternative to conventional methods of construction, which are highly labor-intensive, time-consuming and cost-heavy, and hence should be encouraged.



- **Enhance Access to Finance for the Low income group (LIG) Segment**

It is important to provide easy and affordable access to finance, including long-term financing. To give access to cheap credit to the LIG segment, public-private partnerships (PPPs) with housing finance institutions and microfinance institutions can be explored. PPP operators can enter into a project-specific tie-up with microfinance institutions, who can provide LIG segments with credit at competitive rates, through exclusive financing rights and a title guarantee from the PPP operator.

- **Remove Barriers that Hinder Innovative Financing Models**

Compliance with regulatory requirements and reporting standards can pose challenges, particularly for smaller organizations or innovative financing models that may not fit traditional frameworks. Simplifying regulatory compliance procedures and providing flexibility in reporting requirements can support the development and growth of new financing models. Additionally, the availability and accessibility of mortgages for affordable housing can be limited by laws related to mortgages and collateral. Traditional lenders often require substantial collateral and have stringent eligibility criteria, making it difficult for low-income individuals to access mortgage financing. Alternative models of collateral and mortgage that are inclusive and flexible can promote innovative financing models for affordable housing.

- **Promote Insurance**

Insurance schemes like mortgage and title insurance, when appropriately designed and implemented, can enhance the confidence of lenders, reduce their risk exposure, and make affordable housing projects more attractive for financing.

By providing mortgage insurance to lenders, companies assume a portion of the risk associated with lending, making it more feasible for lenders to extend loans to borrowers with lower down payments or weaker credit profiles. Title insurance can contribute to the availability of affordable housing financing by offering protection against legal issues related to property titles. In India, where land ownership and title disputes can be complex, title insurance can give lenders confidence in financing affordable housing projects. By reducing the risk of legal complications and potential losses, lenders may be more willing to provide financing for affordable housing initiatives.

- **Increase the Independence of the Competition Enforcement Body**

The tenure of members of the CCI needs to be increased to ensure that it extends across election cycles. This increased term will help resolve the issue of credible commitment to policy and limit any form of governmental intervention in CCI's operations. The CCI framework should also guard against government interference in financial and administrative matters. Provisions enabling financial independence should be considered by the government so that the CCI can explore additional sources of income in consultation with the members of the CCI.

- **Stamp Duty Reduction**

Stamp duty reductions for affordable housing units within a size and price threshold would make urban living more affordable.

- **Streamline Land Litigation Process**

The land litigation process in India can be complex and time-consuming. One of the major causes of land disputes in India is the lack of accurate and accessible land records. The government can invest in digitizing land records and making them easily accessible to the public,

which will help reduce disputes. Land disputes often get stuck in the court system for years, which leads to a lengthy litigation process. The government can also increase the number of courts and judges dealing with land disputes and streamline the legal process to speed up the resolution of disputes. Additionally, the use of alternative dispute resolution mechanisms such as mediation and arbitration can be promoted, which can help resolve disputes faster and at a lower cost. Encouraging transparency in land deals by mandating the registration of all land transactions and publishing details of these transactions online would help reduce disputes related to fraudulent land deals.

7

Anti-competitive practices in the construction industry have a significant impact on the urban poor in India. These practices have led to a shortage of affordable housing options and limited the ability of low-income individuals and families to secure, safe and adequate housing. The lack of competition in the sector has also led to a lack of innovation and slow progress in meeting the demand for affordable housing, further exacerbating the problem. Ultimately, anti-competitive practices can perpetuate poverty and inequality, with the most vulnerable populations being the most affected. It is essential to take measures to promote fair competition and discourage anti-competitive practices in the construction industry. It is imperative that stakeholders work together to address these issues and create a more equitable, market-efficient, and sustainable housing market in India.



**Authors:**

- Nissy Solomon, Hon. Trustee (Research & Programs), CPPR
- D Dhanuraj, Chairman, CPPR
- Anu Anna Jo, Senior Associate (Research), CPPR



## Acronyms

CCI	Competition Commission of India
FAR	Floor Area Ratio
FSI	Floor Space Index
NCLT	National Company Law Tribunal
NREGA	National Rural Employment Guarantee Act
PPP	Public-Private Partnership
UN	United Nation
PSU	Public Sector Undertaking

