

**Urban Development and Housing Department
Government of Bihar**

STATE SLUM POLICY
(Post Regional Consultations)

DRAFT

July 2010

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1 GOAL AND OBJECTIVES

The Ministry of Urban Development and Poverty Alleviation, Government of India, formulated the National Slum Policy in 2001¹. The policy has remained as a Draft but it provides the overall framework for action at state and local levels.

The proposed 'Bihar Slum Policy' has been developed within the framework of the National Slum Policy and is to guide the state and local governments in addressing slum specific issues. The key objectives of this policy are:

- To integrate slum settlements and the communities residing within them into the urban area as a whole by creating awareness amongst the public and in Government of the underlying principles that guide the process of slum development and improvement and the options that are available for bringing about the integration.
- To strengthen the legal and policy framework to facilitate the process of slum development and improvement on a sustainable basis.
- To establish a framework for involving all stakeholders for the efficient and smooth implementation of Policy objectives.

2 GOVERNING PRINCIPLES

This policy has been developed within the framework of the following guiding principles:

- The policy requires the state to tackle the problems of slums in a definitive manner targeted to **make cities slum free**².
- The policy requires that the **identification and listing of slums should be a systematic and regular process**. This contributes to developing a reliable database for better targeting of interventions.
- The policy requires that the option for **in-situ up-gradation** be explored first before relocation. It also requires local governments to provide certain minimum basic services to all settlements within their jurisdiction irrespective of land tenure or occupancy status.
- The policy requires that the State and ULBs will take cognizance and action to ensure that the **future need for land and resources** for housing of the poor and weaker sections of the community are addressed

¹ The (Draft) slum policy is shaped within the framework of the 74th Amendment (to the constitution).

² Guidelines for Rajiv Awas Yojana (RAY); Draft October 2009; Government of India.

- The policy requires that a framework for **mainstreaming of urban poor** with special emphasis on addressing the most deprived should be provided and that the process of slum development be comprehensive.
- The policy requires that **livelihood security** and opportunities be considered while planning for the development of slums, especially where relocation is the option.
- The policy requires that provision of **basic services be considered a 'right'**, irrespective of the status of land and tenureship³.
- **Justice and equity** are the underlying principles of any targeted intervention. The state government should consciously promote participatory planning for ensuring this 'inclusive' approach. The state government may have to undertake significant capacity building of all stakeholders, create an enabling environment for participation and develop a platform for free and fair exchange of views to achieve this guiding principle in letter and spirit.
- **Gender-equality in development activities and appropriate maintenance of rights** should guide policy formulation especially while providing entitlements to land and property and under various programmes, including health and education. Poor women are more adversely impacted by poverty and service deprivation. Women also tend to be left out of the planning process therefore are unable to benefit fully from most interventions.
- **Community participation in the planning, design and implementation of interventions, especially in the case of relocations**, results in a higher likelihood for long term sustainability and use of infrastructure created.
- **Identifying and implementing innovative solutions to problems of land tenure** is a prerequisite for slum improvements. The absence of security of tenure is a key disincentive for residents to invest in improved housing and living conditions. Allocating clear land ownership or long-term leasehold to associations or residents wherever possible but with an understanding that urban land is a scarce resource and an inter-agency mechanism, involving stakeholder consultation, is needed to balance competing demands and the proper utilisation of public lands. Innovative ways to enhance security of tenure need to be adopted and practiced.
- Several of the guiding principles assume the institutionalisation **of decentralisation and participation** or the implementation of the 74th amendment in letter and spirit.

³ Charter defined in the Sub mission -2 (BSUP) under JNNURM covers the provision of land tenure, affordable housing, water, sanitation, education, health and social security.

State Governments and ULBs should seek likely and unlikely partnerships for inclusion and enhanced service provisions in slums.

- State and ULBs will be accountable to ensure food and shelter rights to the homeless population.
- For a holistic focus on urban poverty, government should **promote networking across departments and programmes at state level**. These 'Mission Mode' approach requires innovations in programme implementation and inter departmental coordination.

3 POLICY STATEMENT

3.1 Definition of a 'Slum' or 'Slum like Clusters'

A compact area of at least 20 'slum like households' satisfying the set criteria exist in unhygienic environment usually with inadequate infrastructure and lacking proper sanitation and drinking water facilities⁴.

Criteria of slum like household based on census 2011 house listing and census data:-

- a) Predominant material of Roof of the House: Roof made of any material other than concrete. Concrete would include both RBC and RCC.
- b) Availability of drinking water source: source of drinking water not available within the premises
- c) Type of latrine: household not having latrine facility within the premises
- d) Type of drainage: household having no drainage facility

In the context of Bihar, main **characteristics of a slum** are:

Essential Characteristics

- 1) High overall household density – at least 40 families per acre and predominantly small plot/house; high occupancy rate, single-room houses, cohabitation by two or more families
- 2) Quality of housing and location

⁴ The concept of slums and its definition vary from place to place depending on the socio-economic conditions. On the basis of various definitions in the **Slum Area (Improvement and Clearance) Act, 1956, Census 2001, NSSO, 1993, 2002 and in the context ongoing and forthcoming schemes of Government of India**, this definition for Bihar has been adopted. Refer to Annex for 'Definition of Slums'

- Building material: Houses built with non-permanent materials; in dilapidated condition (as per definition above⁵)
 - Location: Unsafe on account of inappropriate location i.e. along major roads, highways, railway lines, HT lines, prone to flooding, water-logging, housing around high industrial pollution areas and on or near a designated garbage dumping site
- 3) Inadequate access to safe drinking water and improved sanitation
- Less than 50% households have access to safe drinking water supply⁶
 - Less than 50% families having individual toilet or access to a community toilet
 - Less than 50% households having legal electric connections

Additional Characteristics

- 1) Inadequate availability of settlement level infrastructure - Street lighting, storm water drainage, garbage collection and predominance of narrow and kutcha streets.
- 2) At least 60% of families living below the poverty line (as per the criteria of the State Government).
- 3) Insecurity of tenure.
- 4) Inadequate access to education and basic health care facilities

3.2 Slum identification and up-gradation

3.2.1 Listing and registration of Slums

ULBs will systematically list and map all slums existing prior to December 2009⁷ within their jurisdiction and evolve a unique reference code. This listing needs to be repeated periodically.

All listed slums are to be reviewed every three years. ULBs will de-list those settlements that no longer meet the defined criteria and add new slums if any.

ULBs should provide core basic services⁸ to all listed slums (irrespective of tenure). The state government will define norms and standards for core basic services and their provision separately.

⁵ As per definition specified in Census 2001 (refer annex)

⁶ Household connection or access to public/common water tap at a distance of less than 250m

⁷ Slum listing is mandatory under 'Guidelines for Rajiv Awas Yojana; Draft – October 2009'; Government of India. Bihar has no existing listing of slums.

3.2.2 Classification into tenable and untenable

Listed slums are to be classified as 'tenable' (eligible for in-situ up-gradation) or 'untenable'. Slums located at the following sites will be untenable.

- Those located at a distance less than 50 metres from existing drains, less than 100 metres from canal/lakes and less than 500metres from the bank of rivers;
- Those on railway land⁹;
- Environmentally sensitive areas¹⁰ like forest land, green belts, waterlogged;
- Where there is insufficient land for rehabilitating at least 75% of the existing population (considering a floor area ratio with maximum of G+3 stories¹¹);
- Those located on right of way of all highways and major roads;
- Those on disputed land;
- Those on any other area delineated for specific public activity as per Master Plan.

All other slums will be listed as tenable. The ULBs will prepare and publish and /or display the list of tenable slums. This process of identifying eligible slums will be participatory to the extent possible and will involve consultations with Civil Society and the District Magistrate's office as required.

Slums situated on locations mentioned above will be listed as untenable and may be relocated as deemed appropriate by the ULBs. *For this purpose, a separate policy/guideline for resettlement and rehabilitation will be issued defining the cutoff date and stating the provision of alternate sites for relocation¹².*

3.2.3 In-situ up-gradation

All ULBs in the state shall make a serious endeavour to take up the work of up-gradation of slums, which are listed as tenable under the section 3.2.2. 'Up-gradation' would mean facilitating housing, provision of basic services i.e. water supply, sewerage, toilets, street-

⁸ Minimum access to water; sanitation and health.

⁹ ULBs have no jurisdiction on railway lands. These are under the Railway Board. From the ULBs perspective, such slums are untenable

¹⁰ The Ministry of Environment and Forests has defined 'Environmentally sensitive areas'. In Bihar's context those mentioned above are relevant.

¹¹ This is an accepted good practice as per Government of India under JNNURM. Building bye laws for Bihar are yet to be finalized.

¹² For example, in Ahmedabad, a policy has been formulated to give protection to slums existing prior to 1st May 1976

lighting, street-paving, storm water drainage, collection and disposal of solid waste. Up-gradation would also include facilitating provision of social services such as health, education, income generation activities, and electric connections. Where individual services are not possible, common services will be provided.

Where in-situ up-gradation projects are taken up, proper layout planning including plot re-alignment and equalization of land¹³ may be undertaken as necessary in consultation with local residents.

3.2.4 Re-location

Slums not meeting the criteria mentioned in section 3.2.2 may be vacated¹⁴ or relocated as deemed appropriate by the ULBs. Relocation may also be considered where slums are situated on very expensive plots that could be commercially exploited to raise finances urgently necessary for the ULB. Relocation may also be done for few dwelling units which need to be removed from their present locations because of widening of internal streets or making provision for community hall and community open space, etc.

- All relocation will be carried out in consultation with affected slum dwellers and taking cognizance of the distance to workplace and other livelihood opportunities.
- State Government will consider allocation of state government land to ULBs free of cost¹⁵ and facilitate in getting relevant grants for the purpose of rehabilitation of displaced slum dwellers.
- Innovative and viable options to facilitate communities to purchase and own the land (for in situ or re-location) will be considered and facilitated by the State Government. Options may include long term lease, hire purchase and loan facilities.
- Options and scope for private sector participation in development of commercially viable land ensuring benefit to all residents will be explored¹⁶.
- Slum adoption scheme will be launched and business houses, trusts and NGOs shall be involved for slum up-gradation
- ULBs will adhere to appropriate mechanisms and guidelines for relocation

¹³ An agreement between land owners that whatever particular use is developed on their land they get the same land value for it when it is developed

¹⁴ ULBs are to undertake a biometric survey of slum dwellers as per the mandate of the Rajiv Awas Yojana. ULBs have no obligation to relocate slum dwellers not covered under the biometric survey even if living in a listed slum.

¹⁵ The Rajiv Awas Yojana mandates states to develop action plans for 'slum free cities' including redress of land availability. The state can provide land free of cost if required to redress land availability.

¹⁶ This is in places where land is scarce or has high commercial value. The state can consider instruments like FSI, land use change, zoning relaxations etc.

- Residents listed in untenable sites are entitled to receive basic minimum services till their relocation.

3.3 Tenure Security

The Draft National Slum Policy mandates states to allocate clear land ownership or long term lease to slum dwellers wherever possible. Slums eligible for in-situ up-gradation will have to participate in sharing costs to be incurred for this up-gradation.

3.3.1 Government/Municipal land

If the eligible slum dwellers desire to have ownership rights on government or municipal land they occupy, such rights may be given after charging a certain percentage of the market value of the land as may be determined by the state government/ULBs. State Government/ULBs may also decide to transfer the ownership rights to slum dwellers free of cost. In such cases, the ownership of land will only be transferred in the name of the resident welfare association while individual titles will be given by the state legislature to a house or a flat so as to encourage group housing, enable collective action for reconfiguration of the existing layouts and ease of provision of infrastructure and access to bank loans.

In such cases, the ULBs shall endeavor to facilitate transfer of government or municipal land through negotiated settlement with the slum dwellers at a price not exceeding 33% of the market value; as may be ascertained from the stamp duty records. Representatives of all the stakeholders will be invited to participate in the negotiations to promote transparency. Slum dwellers will be required to pay the amount up front and could take loans from micro-finance institutions for this purpose. The contribution of each dwelling unit will be worked out after adding the proportionate cost of open land, streets, etc., to each square meter of land occupied by the slum dwellers.

The association or society of slum dwellers may allot on long lease, not sell, sub plots preferably to the woman or jointly with the main male householder; in the latter case too, the woman is given the first preference.

The sub-plot allotment will be for the portion of the land occupied and will be made after charging the actual cost per square meter of land occupied by the slum dweller and the proportionate cost of open lands.

The slum dwellers, who have paid the cost of leasing the land as above shall have a right to sell their dwelling unit with the lease on the land to any other low-income group person anytime with prior approval of the association or society.

3.3.2 Private land

Slum dwellers residing on private land for at least 10 years and wanting title to the land will have to collectively buy the land. In such cases, the ULBs shall endeavor to facilitate transfer of the land through negotiated settlement with the owner at a price not exceeding 33% of the market value as may be ascertained from the stamp duty records. Representatives of all the stakeholders¹⁷ will be invited to participate in the negotiations to promote transparency. Such a transfer will again be in favour of a registered association or housing cooperative society of the slum dwellers. Slum dwellers will be required to pay the amount up front and could take loans from micro finance institutions for this purpose. The contribution of each dwelling unit will be worked out after adding the proportionate cost of open land, streets, etc., to each square meter of land occupied by the slum dwellers.

The association or cooperative society of slum dwellers may allot sub plots in the joint name of the wife first and then the husband. If such an arrangement is not possible, the same may be done in the joint name of the main earning member and a female member of the family – in the latter case too, the female member will get precedence.

The sub-plot allotment will be for the portion of the land occupied. In such cases, the slum dwellers will have a right to sell their dwelling unit along with land to any other low-income group person anytime with prior approval of the association or cooperative society. It will be open for the slum dwellers to raise finance from banks and other financial institutions.

3.3.3 Sale of land to higher income groups

The society or association cannot sell the entire land or part thereof for non-residential purposes or even for residential purposes to anyone who does not fall in BPL category without the prior permission of the ULB. This is to ensure that the slum dwellers are not lured by private estate developers to sell away their lands situated on prime locations at a higher price.

3.3.4 Other forms of Tenure

Other forms of tenure may also be considered, if so desired by the community. This may include: group tenure, collective tenure, co-operative tenure etc.

3.3.5 Land for future expansion

ULBs should build up a stock of land for accommodating the housing requirements of low income households in future. An inventory of all urban land within the ULB should be

¹⁷ Stakeholders include representatives of the private owner and slum dwellers.

prepared along with identification of ownership and use and updated on a periodic basis. Further, land use plans should be prepared for each ULB, with allocation of at least 15 percent of the land for low income housing. ULBs may also consider acquiring land in the peripheries and bringing them within the ULB limits.

3.3.6 Transfer Fees

The association or cooperative society of slum dwellers will consider levying a transfer fee on all sales proposed to be made by slum dwellers in favour of other eligible buyers and utilize this amount only for maintenance of internal infrastructure services laid and for the provision of social infrastructure for slum dwellers. Accounts of such income and expenditure shall be maintained by the association/society in the proforma that may be prescribed by the state government.

3.3.7 Regularization of sale transactions made without a valid sales deed

Sale deeds for dwelling units in eligible slums prepared on plain paper or on stamp paper of lower denomination will be considered valid. The state government will have to make suitable amendments in the law for this purpose. The short fall in stamp duty payable for such transactions shall be either waived or an amount as may be prescribed by the state government, shall be levied for regularising such transactions from time to time, and that any further sale of such property in favour of slum dwellers will be made on a stamp paper of a lower value as may be prescribed by the government.

3.3.8 Relaxation in rules for Building Permission

Once a slum is upgraded or the title of the land is transferred under this policy in favor of the slum dwellers' association or cooperative housing society duly recognized by the ULB, it will be permissible for the slum dwellers to upgrade their shelter only and not reconstruct entirely on the basis of guidelines that may be prescribed from time to time by the state government without obtaining the permission for construction of building under the Municipal Act or Town Planning Act.

The slum dwellers' association or cooperative housing society duly recognized by the ULB, shall have to ensure structural safety and stability of the facilities and they shall have to get a certificate from registered structural engineers or qualified civil engineers. All documentation related to shelter upgradation including structural safety certificates will have to be submitted to the ULBs. In this regard, the State may consider relaxations of the rules in the existing Building Bylaws

3.4 Planning for integration and mainstreaming

The state and ULBs shall endeavor to integrate slums into city level planning through use of available planning mechanisms and funds. The key aspects that are to be considered are:

- Ensure that all Master Plans and Land Use plans allow for **high density, mixed land use** in all slums/informal settlements. This will be necessary to facilitate micro enterprises including vending in such identified zones. Master Plans and Land Use Plans will have to earmark zones for BPL housing in all new land development schemes.
- ULBs to include/extend city level infrastructure creation to designated slum areas. **City Development and City Investment Plans** that take into account this mandate are to be prepared through a participatory planning process. These plans should define and prioritise means of convergence of all existing and forthcoming central government schemes¹⁸.

3.5 Provision of Basic Services

ULBs are mandated to provide basic services in all poor settlements. Core basic services are also to be provided in the slums to be relocated¹⁹. 'Core' services will include safe drinking water, sanitation and solid waste management as per the norms prescribed for the urban areas in the state and to be revised from time to time.

At the first instance efforts are to be made to provide services at individual level. Where this is not possible, community level services including other means of accessing shared services are to be provided. The following principles should guide service provision:-

- Planning and implementation of community level infrastructure should involve the beneficiaries especially women; community should be involved in O&M of assets created;
- The involvement of NGOs and CBOs for community mobilization should be encouraged;
- At least 20% of the ULB budget for basic service provision should be earmarked for the urban poor. The issues of cross subsidization of the urban poor and their involvement in the collection of O&M charges should be addressed;

18 BSUP, IHSDP, ILCS, SJSRY and forthcoming Rajiv Awas Yojna, etc. - targeted at the urban poor

¹⁹ National Sanitation Policy states that the tenure status and likelihood of a settlement getting relocated at some point in the future should not deter providing sanitation facilities as environmental improvements far exceed the initial investment incurred.

- The needs of women, children and disadvantaged groups should be taken into account in the planning and siting of community level infrastructure; and
- Conscious efforts should be made in pooling available resources from all schemes/programmes across departments for holistic impacts of infrastructure improvements²⁰.

3.6 Improving Access to Social Services

Social services do not reach those in dire need for a range and variety of reasons²¹. Working conditions in slum settlements are difficult thus deterring service providers. Motivation levels on the need to access social services are low either on account of lack of knowledge or expense involved. The state and ULBs should ensure that physical infrastructure creation keeps pace with demand and use of such infrastructure. ULBs are encouraged to:

- Explore involvement of NGOs and CBOs to create demand and use of social infrastructure;
- Create awareness on the tangible and intangible benefits of infrastructure;
- Explore possibilities of linking with other programmes that provide social services like health and education both for increasing use as well as creating awareness on the benefits of infrastructure creation and use.
- Ideally, the state should adopt a ‘Mission Mode’ approach for holistic interventions. In the interim, individual departments will continue with programmatic interventions in slums.

3.7 Economic Empowerment & Poverty Alleviation

The state government will ensure poverty alleviation through a ‘Mission Mode’ approach. This will involve institutional arrangements that are suitably decentralized at local government levels. Poverty alleviation interventions in the Mission mode should be guided by the following principles:

- Involvement of ‘community leaders’ in livelihood promotion;

²⁰ In Bihar, the water supply function has not been transferred to all the ULB. The ULB should coordinate with the service providing agency in ensuring access to slums.

²¹ Typical reasons for lack of access by poor communities in Bihar include absent staff, transaction costs (e.g. procedures for enrolment), unaffordable cost of services, distrust or a lack of knowledge of services, practical difficulties in access (e.g. distance or time of day), attitudinal problems of the service providers.

- Community mobilization to improve credit worthiness of slum dwellers and facilitation of linkages to formal sector micro-finances²² ;
- ULBs facilitate skill up-gradation and strengthening of market linkages for community organizations through their own interventions, NGOs and other institutions;
- Special attention to be paid to the needs of women and the most marginalized.

3.8 Community Mobilisation with Support of NGOs, CBOs, etc.

NGOs and Community based organizations (CBOs) should be mobilized and supported by the ULBs to motivate slum dwellers to participate in the slum up-gradation process. Women's groups will be encouraged to actively participate in the process. NGOs not having sufficient experience and expertise to work in the informal sector will be trained through appropriate state and local level institutions so as to involve as many urban NGOs as possible into the partnership.

NGOs would be encouraged and supported to play a key role in community mobilization, community participation, capacity building, promoting income generation activities, promote linkages with micro-finance institutions for shelter up-gradation and income generation activities, facilitating slum dwellers' access to social services such as primary health care, primary education, etc. NGOs will also be encouraged to facilitate federating community based organizations and in strengthening them to participate actively in sub ULB level governance structures like Area Sabhas and Ward Committees²³.

3.9 Financing Mechanisms

The financing mechanisms will be participatory in nature. ULBs shall endeavour to create partnerships between communities, NGOs, social and charitable institutions, business houses and ULBs to meet the costs of the projects. This will be in addition to raising finances through levy of cess and other charges for slum improvement in the future.

Share of ULBs

The municipal corporations and municipalities will meet their share of cost for slum up-gradation within their means. While reforms mandates earmarking 25% of budgetary allocation to provide basic services for the poor, Bihar should adopt an incremental

²² Creating an enabling environment for ensuring universal access to integrated financial services especially for women and disadvantaged sections of society in line with the Micro Financial Sector (Development and Regulation) Bill, 2007.

²³ Although the 74th constitutional amendment makes it mandatory to create ward committees, the Bihar Municipal Act 2007, contains a discretionary provision for this.

approach and increase budgetary allocation in proportion to improvements in its own revenues. To start with, a minimum of 10% of the municipal budget should be earmarked for slum up-gradation.

Share of the community

The slum dwellers will have to share the cost of internal infrastructure and housing structures. ULBs will decide on the cost of sharing in line with the Central Government and State Government guidelines. ULBs should work towards creating an enabling environment for individual families to access loans from micro finance organizations²⁴. The slum dwellers may also be encouraged to obtain subsidized loans under such schemes as the Interest Subsidy Scheme for Housing the Urban Poor launched by the central government in 2009.²⁵

Share of Private Sector/Adoption of slums

Private sector and social institutions will also be encouraged to partner in slum improvement programmes on the basis of appropriate incentives for such participation. ULBs are to define their terms of such participation.

Dovetailing the grants of MLA's/MPs/Councilors

The finances available with the MPs, MLAs and municipal councilors for providing infrastructure facilities in their constituencies/cities will be dovetailed with slum improvement schemes and they could be made partners. They could be encouraged to contribute a fixed amount not exceeding 50% of the contribution of slum dwellers in the project as may be determined by the ULBs from time to time. This contribution will be given due recognition by the ULB and if the MP/MLA/Councilor so desires, his/her contribution will count towards reducing the share of slum dwellers to that extent. MP, MLA/Councilors will be encouraged to allot their funds as their share for the up-gradation of one or more of the pockets taken up in slum up-gradation project.

Availing of National and State funds

ULBs will avail of the funds from various Government of India schemes meant for slum up-gradation and provision of basic services. All central government and state government schemes and grants for the urban poor will be channelized through ULBs to get optimum advantage of the resources available. The State Government may make an

²⁴ As per the Micro Financial Sector (Development and Regulation) Bill, 2007, slum families can avail loan up to Rs. 1.5 lakhs for housing construction and up-gradation.

²⁵ Launched by GoI in 2009, ISHUP, target EWS and LIG. It provides 5% subsidy on interest against a maximum loan of Rs. 1. 60, 000 lakhs for construction and up gradation of houses.

endeavor to provide some matching grants to ULBs to support early completion of slum up-gradation activities in the urban areas in the state.

Operation and Maintenance

The ULB will carry out regular operation and maintenance of services in the slums as in other parts of the city or facilitate provision of operation and maintenance through NGOs and/or the private sector. Before going ahead with any infrastructure creation, ULBs should through the slum dwellers' association or housing cooperative society duly recognized by it, commit O&M²⁶. ULBs through NGOs and CBOs should encourage the creation of a corpus in each slum for petty repairs and maintenance.

Land Use Classification

The ULB will designate any land being used for in-situ up-gradation as high density mixed use²⁷. This will be subject to the condition that any commercial/trading ventures existing on such lands shall only be those that are non-polluting, environment friendly and which provide services/employment opportunities to local slum dwellers.

Residents' Association

It will be a pre-requisite for the residents to form an association or a cooperative housing society that must be recognized by the concerned urban local body. This association or society will normally consist of all resident families in that area where at least one third families will be represented by women and it will have at least one third women in their governing council. Its office bearers will have the authority to interact with the ULBs and other governmental agencies for the well being of the slum dwellers.

Creating of Housing Stock for Urban Poor

Migration of people from rural to urban areas is not likely to stop and meeting the housing gap will remain a challenging task. To bridge this gap, the state government will promote the construction of housing stock by the private sector for the Economically Weaker Sections.

3.10 Provision for Homeless populations

State Government and ULBs will provisions for the following for addressing the needs of urban poor

²⁶ As has been enacted in Madhya Pradesh

²⁷ Mixed land use will include, residential and commercial activities so as to enable the slum dwellers to retain their livelihood options.

- a) Undertake a periodic census survey to count homeless population in their cities/towns
- b) Ensure adequate shelter (atleast one per lakh of population). 30% of these shelters will cater to particularly vulnerable populations such as women, aged, disabled, etc.
- c) To make provisions for food, social security, healthcare and education to homeless populations
- d) State/ ULBs may involve private sector/trust/NGO for creation and operation and maintenance of such services.

3.11 Legal Reforms

The state government will enact appropriate legal reforms as may be required to achieve the goals of this policy.

ANNEXURE 1 POLICY CONTEXT AND EXISTING URBAN POVERTY SCENARIO

Cities and towns now form the front line of globalisation and development in the new urban millennium. Within a generation, the majority of the developing world's population will live in cities and towns; while the number of urban residents in developing countries will increase by 2.5 billion, equal to 70% of the current urban population of the entire world. It is not merely the scale of urbanisation that is unprecedented, but also the nature of the process. Poorly managed urbanisation results in significant social and environmental costs, most starkly evident of which is the massive growth of urban poverty. Income inequality is worsening, sharpening the distinctions between and among social classes. The urban challenge of this decade is to create the conditions for reducing poverty: enhanced employment opportunities, improved access to basic services, legal and social protection and adequate access to land, housing and financial services. In many regions of the world, national governments acknowledge their failure in providing security of tenure, infrastructure and services to the poor²⁸. Slums in cities and towns grow in size and in share of the urban population. Many governments – central and local – place significant emphasis on the Millennium Development Goals that state that “by 2020”, to have achieved a significant improvement in the lives of at least 100 million slum dwellers worldwide.”

The Government of India has initiated several programmes to improve the livelihoods of the urban poor and thereby impact poverty. Over the years, these have included the Environmental Improvement of Urban Slums (EIUS), Urban Basic Services for the Poor (UBSP), Nehru Rozgar Yojana (NRY, now Swarna Jayanti Shehri Rozgar Yojana, SJSRY), National Slum Development Programme (NSDP) and currently, the Basic Service for Urban Poor and Integrated Housing & Slum Development Programme (IHSDP).

The scale of urban poverty has been growing over the years. In order to provide holistic support and planned interventions, there is a felt need for a policy framework and operational guidelines agreed to by all stakeholders. In response to this felt need, the Ministry of Urban Development and Poverty Alleviation, Government of India formulated the **Draft National Slum Policy** in 2001. The policy was widely circulated but even after 8 years is yet to be finalized. Irrespective of its status, this document provides a sound basis for ongoing action and future programmes at the central, state and local levels.

Draft National Slum Policy: Main Objectives

²⁸ Slums are the products of failed policies, bad governance, corruption, inappropriate regulation, dysfunctional land markets, unresponsive financial systems and a fundamental lack of political will. Each of these failures adds to the load on people already deeply burdened by poverty, and also constrains the enormous opportunity for human development that urban life offers. *The Challenge of Slums, Global report on Human Settlements: 2003, UN-HABITAT., Nairobi*

- To integrate slum settlements and the communities residing within them into the urban area as a whole by creating awareness amongst the public and in Government of the underlying principles that guide the process of slum development and improvement and the options that are available for bringing about the integration.
- To strengthen the legal and policy framework to facilitate the process of slum development and improvement on a sustainable basis.
- To establish a framework for involving all stakeholders for the efficient and smooth implementation of Policy objectives.

The National Policy emphasises the need to designate all existing settlements/slums as tenable, unless they expose residents to unsafe health risk or safety or residence on such sites is considered contrary to public interest. ULBs are mandated to provide basic services to all listed settlements while their long term future is decided.

In the case of settlements designated as untenable, resettlement is to be undertaken in accordance with clearly specified criteria, including the active participation of local residents. In the case of tenable settlements on public land, residents are to be granted full tenure status and property rights. The form of such tenure is not stated, though individual freehold ownership is implied. Alternatively, collective, group or co-operative tenure may be given. In the case of settlements on private land, ULBs are mandated to acquire the land using funds from local taxes, central or state resources or donor agencies through negotiation.

While several states have modified the Draft National Slum Policy to suit local conditions, Bihar has not done either this or developed a separate policy. In view of the fact that poverty levels in the state are on the rise, the time is right for developing a state specific policy.

Urban Poverty Scenario in Bihar

Bihar is the third most populous state in India. It is also the poorest of all states with the lowest per capita income and a massive 41.4 percent of the population below the poverty line. It ranks among the lowest on Human Development Indices, with conditions in many low income urban settlements being worse than the poorest rural districts. There are major gender disparities in education, income generation and family decision making. Domestic violence is higher in Bihar than in any other State.

There is a high percentage of Muslims and Scheduled Caste population in urban areas often found living as ghettoised groups with poor access to basic services. Bihar has no Slum Act and consequently no official slum notification process. Reliable and disaggregated slum data is not available. Local governments in the state have insufficient

resources or manpower to provide adequate basic services to slums. Although many pro-poor programmes are designed to operate in urban as well as rural areas, the Government of Bihar has until recently given little priority to urban slums.

A recent family survey carried out in 122 urban local bodies (ULBs) by the Department of Urban Development and Housing, GoB, has estimated that Bihar has an urban poverty of 41.2%. It is anticipated that, on an average, 13% of the urban population will be either extremely vulnerable or extremely dependent. As per census 2001, Bihar has a significant proportion of urban poor classified as Scheduled Caste - 870,000 (10% of the total urban population) although, Scheduled Tribes comprise just 40,649 (less than 0.01% of total urban population). As per 2001 National Census the literacy rate for both SCs and STs is lowest in Bihar (28.47% and 28.17% respectively). Bihar is one of the ten Indian States where Muslims constitute more than 10% of the population. The Bihar State Minorities Commission Report (2004) indicates that Muslims in Bihar are steeped in poverty with 44.8% of the urban Muslims below the poverty line. They also live in significantly worse conditions compared to their peers.

The majority of poor men and women work as daily labourers. A number of males are involved in small businesses or working in offices. Other significant employments include hawking, rickshaw or '*thela*' pulling. Both males and females are found to work as municipal sweepers and rag pickers. Many women from the slums are employed as domestic workers. The percentage of families with a woman as the main income earner varies across towns and between slums. The figures are generally in the range of 15-25%. There is a very clearly perceived difference between formal and informal employment and a clear preference for the former. Women labourers are paid significantly less than their male counterparts.

The National Family Health Survey 2006 showed that, despite a steady decline in infant mortality rate, 1 in 16 children still die in the first year of life and 1 in 12 die before reaching the age of five. Bihar ranks very low in antenatal care and institutional deliveries. Only one in five births (22%) in Bihar (across urban and rural areas) takes place in a health facility. Census 2001 states 11% full immunization in Bihar as compared to 54% nationally. The incidence of diarrhoea, fever and acute respiratory diseases is common among children but treatment is far from adequate. Use of ORS for treating diarrhoea among children remains low in the state. Other ailments like anaemia, tuberculosis and goitre are also prevalent.

The implementation of state run health programmes such as ICDS and JBSY has been poor. The National Family Health Survey states that the proportion of children receiving services from anganwadi centres under ICDS is actually lower in Bihar than in any other state (1 out of 10 children).²⁹ In case of the JBSY, even though the cash incentive does

²⁹ National Family Health Survey 3, 2005-06

help in attracting increased numbers of poor women to deliver in government hospitals – services provided are generally of poor quality of care and accessibility is poor.

School attendance in the state is low; only 67% in urban areas and 54% in rural areas. Gender disparity in education is quite evident: only 37% of women aged 15-49 and 70% men in same age group are found to be literate³⁰ (have passed class six or a simple literacy test). Most state-run education programmes in the state have focused on rural areas and subsequently, access has been inadequate for the urban poor. Poorer households send their children to anganwadi centre (below age six) till age six and thereafter tend to discontinue formal systems. Even anganwadi schools have poor infrastructure with classes often held on pavements or near the railway tracks.

Rural Bihar is home to some of the most poor in the country and although much of migration from rural Bihar is out of the State, there is also migration to nearby urban centres especially in the lean season³¹. This seasonal migration is mainly men from the poorest Scheduled and Backward Caste households for 8-9 months in a year, often for rickshaw pulling or to work as construction labour. In the case of the poorest unskilled labourers, migration helps to smooth incomes and improve food security.

There is no authentic data on slums and slum population since the state has no overarching Act or process of notification although, some local governments have undertaken an informal listing of slums. No accurate information is available regarding the proportion of land ownership types in Bihar's urban areas, though it was reported by the Revenue Board that approximately 40% of urban land is under public ownership and 60% under private ownership, with Waqf land representing an insignificant proportion³². No information is available concerning the de-facto rights applicable to each tenure category, or their availability to women as well as men.

ANNEXURE 2 DEFINITION OF SLUMS

The concept of slums and its definition vary from place to place depending upon the socio-economic conditions of society. The basic characteristics of slums are - dilapidated and infirm housing structures, poor ventilation, acute over-crowding, faulty alignment of streets, inadequate lighting, paucity of safe drinking water, water logging during rains, absence of toilet facilities and non-availability of basic physical and social services. Living conditions in slums are unhygienic and propensity for diseases is high. This legal definition however differs across states.

³⁰ Data from NFHS, 2005-06. Note, again, this is not slum disaggregated data, suggesting that the figures among slum populations are significantly lower.

³¹ The Role of Migration and Remittances in Promoting Livelihoods in Bihar, Priya Deshingkar et al, Overseas Development Institute, London, December 2006

³² Design report, SPUR, quoted by Geoffrey Payne, Land Management Expert

The Slum Area (Improvement and Clearance) Act, 1956

Under Section-3 of the Slum Area Improvement and Clearance Act, 1956, slums have been defined as mainly those residential areas where dwellings are in any respect unfit for human habitation by reasons of dilapidation, overcrowding, faulty arrangements and designs of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities or any combination of these factors which are detrimental to safety, health and morals. Thus, conceptually slums are compact overcrowded residential areas (and not isolated or scattered dwellings) unfit for habitation due to lack of one or more of the basic infrastructure like drinking water, sanitation, electricity, sewerage, streets etc.

Census 2001

In the 2001 Census, an innovative attempt was made to collect detailed demographic data about slum areas across the country, particularly, in cities and towns that had a population of 50,000 or above in 1991. Census 2001 adopted the following definition for enumeration:

- All specified areas in a town or city notified as 'Slum' by State, UT Administration or Local Government under any Act including a 'Slum Act';
- All areas recognized as 'Slum' by State, UT Administration or Local Government, Housing and Slum Boards, which may not have been formally notified as slum under any Act;
- A compact area of at least 300 people or about 60-70 households of poorly built congested tenements, in unhygienic environment usually with inadequate infrastructure and lacking proper sanitation and drinking water facilities;
- A residential area with more than 50% of permanent structures being pucca will not be considered a slum;

In general, all under-serviced settlements, be they unauthorized occupation of land, congested inner-city built up areas, fringe area un-authorized developments, villages within urban areas and in the periphery, irrespective of tenure or ownership or land use shall be covered under the definition of a slum/informal settlement;

The criteria for defining a slum/informal settlement shall take into consideration economic and social parameters (including health indicators) as well as physical conditions. Each State/Union Territory shall lay down the norms/criteria for categorizing an area as underserviced and the local body of each town shall list all such areas as slums.

NSSO - 1993, 2002

As per NSSO a slum is a compact settlement with a collection of poorly built tenements, mostly of temporary nature, crowded together usually with inadequate sanitation and drinking water facilities in unhygienic conditions. Such an area, for the purpose of this survey, was considered as “non- notified slum” if at least 20 households lived in that area. Areas notified as slums by the respective municipalities, corporations, local bodies or development authorities are treated as “notified slums”. For the survey, slums in urban areas only were considered³³. The definition of “slum” as per the Census, NSSO Survey and Slum Area Improvement and Clearance Act, 1956 are synonymous.

‘Squatter Settlements’ were defined separately. This is because these areas develop organically through construction of unauthorized structures in any available space occupied by “squatters”. The definition therefore is “a slum like settlement with less than 20 households” – the number was stipulated to classify that area as a “non- notified slum”.³⁴ This definition implies that the settlement is characterized by poor environment, poor housing and a clearly defined area.

ANNEXURE 3 DEFINITIONS FOR TYPE OF HOUSES AS PER CENSUS

Pucca House: A pucca house is one, which has walls and roof made of the following material.

Wall material: Burnt bricks, stones (packed with lime or cement), cement concrete, timber, ekra etc

Roof Material: Tiles, GCI (Galvanised Corrugated Iron) sheets, asbestos cement sheet, RBC (Reinforced Brick Concrete), RCC (Reinforced Cement Concrete) and timber etc.

Kutcha House: The walls and/or roof of which are made of material other than those mentioned above, such as un-burnt bricks, bamboos, mud, grass, reeds, thatch, loosely packed stones, etc. are treated as kutcha house.

Semi -Pucca house: A house that has fixed walls made up of pucca material but roof is made up of the material other than those used for pucca house.

Others: The houses, which are not covered by the types mentioned above, are to be treated as of ‘others’ type.

³³ Report no. 417, 429 (49th Round - 1993) & 486 (58th Round – 2002)

³⁴ NSSO 2002