



FRAMING A LAND POOLING POLICY: KEY PREREQUISITES

Introduction

Land is a scarce but vital resource required for all large public infrastructural projects of national importance, which are critical for the economic development of the country. Till 2013, land for development purposes was acquired by states under the Land Acquisition Act, 1894. This was replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013, which introduced the concepts of consent, Resettlement & Rehabilitation (R&R), Social Impact Assessment (SIA) and assured adequate compensation. However, the procedural mandates laid under the new Act have been perceived by stakeholders as being cumbersome and time-consuming. Land pooling has emerged widely as a popular alternative to land acquisition for development purposes.

It has seen wide acceptance due to numerous advantages: benefit sharing between stakeholders, and offering a more flexible and financially viable alternative to land acquisition.

Land pooling is a process whereby parcels of land with different owners are aggregated typically by a government agency, redeveloped and returned to the landowners based on certain criteria. There are several ways in which land can be assembled and developed, depending on contextual requirements. The pooled land can be developed by the development authority, parastatal agency, or private developers with the development authority acting as facilitator. Land pooling was introduced in India through the Bombay Town Planning Act of 1915. Since then, land being a state subject, several states have formulated and implemented their own policies on land pooling, with varied experiences.

Land pooling, land readjustment and town planning schemes (TP Schemes)¹ have been implemented successfully in various states including Gujarat, Maharashtra, Punjab and Kerala.

Based on several studies and consultations by researchers from the Indian Institute for Human Settlements (IIHS), this policy brief explains when land pooling can be used as a tool for land assembly and development, and offers some essential prerequisites to frame a workable policy for land pooling.

Benefits of land pooling

Reduces discontentment among land owners through benefit sharing

Land pooling requires the consent of the owners of land, which is sought by explicitly conveying the benefits to them at the very outset. The fact that they stand to gain from the increased value of the developed land also reduces the potential for conflict and litigation issues.

Financially sustainable

Land pooling eliminates acquisition costs, thereby reducing the need for capital or initial funding. The cost of construction can be shared by the stakeholders, which could be either the landowner or a private entity. These costs can be recovered by selling a portion of the developed land.

Versatile

Land pooling allows for flexibility in assigning various aspects of land management—assembly, development and disposal—to different stakeholders, depending on their capacities and context for the best possible results. In Gujarat and Maharashtra, land pooling (through Town Planning Schemes) is carried out by government agencies while the development on returned land parcels is by

land owners themselves. In the case of Delhi, Delhi Development Authority (DDA) facilitates a developer entity (which could be a landowner, consortium or developer) to aggregate as well as develop the land, while DDA itself is predominantly a regulator. In most other cases, it is the development authority that is responsible for the provision of infrastructure facilities.

Key features

- **Vision and scale dependent:** Land pooling can be used for large-scale urban development, development of small leftover pockets of land, or the provision of infrastructure and redevelopment of certain areas. The purpose for which land is aggregated as well as the scale at which this is done, both are critical to direct the modalities of this tool.
- **Market driven:** While the portion of land returned to the original owners after development is smaller in size, the increase in land value is expected to serve as compensation. Hence, the feasibility of land pooling is highly dependent on the demand for the developed land. It works well in places where either real estate is thriving or has a potential for it. This is also why the tool works better in peri-urban rather than rural contexts since there is greater demand for developed land.
- **Requires legal support:** The implementation of land pooling needs to be guided by a policy or an act in order to define the roles and responsibilities of various stakeholders. Apart from a legal framework, planning tools such as development/master plans are also useful.

¹ Land pooling, land readjustment, land reconstitution and Town Planning Schemes are ways to access and develop

land, with the core feature of benefit sharing amongst the stakeholders.

Key prerequisites of a workable land pooling policy

- A. **Conceptualise land pooling as a tool for development and not merely land assembly:** Land pooling has evolved not just as an alternative to the acquisition process but as a land management tool, which refers to a more comprehensive process. Land aggregation, land development and the transfer of developed land to the owners in lieu of compensation are all integral to this model.
 - a. Developed land parcel, which can be either developed further or can be ready to build;
 - b. Incentives such as monetary compensation or tradable FAR, in cases where land cannot be returned;
 - c. Subsistence allowance for a certain period; and
 - d. Interim incentives to ensure some rights of the landowners over the land during the period of development.
- B. **Establish consistent communication with stakeholders and develop trust amongst them:** In order to eliminate possible discontentment among stakeholders during or after implementation, all parties involved should be aware about the process at the very outset. This includes disclosing the expected returns and the time frame for the delivery of services to all stakeholders, especially the original land owners. The existing structures and livelihood opportunities linked to the land should be valued rationally and realistically. The benefits promised to the land owners should be shared in a timely manner to keep their trust intact.
- C. **Assess and disclose benefits to stakeholders at the outset:** While assessing the feasibility of land pooling, it is important to effectively communicate the expected returns to all stakeholder. These are determined by land use distribution and byelaws, and can comprise of any—or a combination—of the following:
 - D. **Reduce tax incidence:** There are various methods to operationalise the development of land, such as the direct transfer of land from owner to developer, and its partial return. Depending on the method employed, multiple incidents of taxation may arise. Any land pooling policy will need to consider ways to mediate these tax incidences. In the case of Gujarat, as per provisions of the law, the practice is to 'reconstitute' the land parcels and not 'pool' them for the development. In reconstitution, the land parcels are notionally consolidated whereas in land pooling they are legally consolidated where the change of ownership takes place.¹ Since the ownership of land does not change in land reconstitution, stamp duty is not levied.
 - E. **Ascertain the human resource and financial capacity required for successful implementation:** The state should build its capacity by ensuring experts and professionals for all stages, including policymaking, planning, phasing, arbitration, and holding stakeholder consultations.

Sufficient capital funds should be ensured, which includes identifying the source of seed money and, if required, working out the modalities of distributing investment across stakeholders.

- F. **Widen the scope of the tool by integrating various alternative tools to make the most efficient use of land:** There should be a clear understanding on how to use land in the most judicious manner possible. Vertical development reduces pressure on the limited land available for development. Options such as densification of areas by allowing higher Floor Area Ratio (FAR) and giving Transferable Development Rights (TDR) to people, among others, can be explored to optimise the utilisation of land.
- G. **Constantly revise and adapt the land pooling model to make it pragmatic:** Several instances may arise where implementation may demand deviation from the procedure as prescribed in the law or policy.

This requires a certain level of flexibility in the structure of the model, along with suitable and prompt responses from the administration.

- H. **Ensure comprehensive land records to make the process more transparent and efficient:** Ownership disputes can affect and complicate all transactions in the process of land pooling. The policy to be framed, shall guide the way to deal with such disputes. In Gujarat, for example, the disputes on the original land parcel are carried forward to the returnable land parcel. Greater use of technology can aid better results, though it would require considerable effort, such as preparing a mirror of the land records in digital form.
- I. **Ensure proper redressal mechanisms:** A functional and accessible grievance redressal mechanism is important to build trust among stakeholders.

ⁱ World Bank. (2007). The evolving role of World Bank urban shelter projects: Addressing land market and economy-wide constraints. Washington, DC: World Bank.