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India can't avoid land reforms anymore

The coronavirus crisis has given the country an opportunity to unleash the power of land

Extraordinary times call for extraordinary measures. In a matter of weeks, a pathogen that is one-fifth the size of a grain of sand has brought large economies to their knees. Our economy was slowing already and the pandemic has only hastened the haemorrhaging. While we must address the clear and present danger, we also have a unique opportunity to push in radical reforms now. Reforms that everyone agrees to, but have never got implemented in scale — on the issue of land, for example.

Land is the most preferred asset for individuals and lenders in the country. The 2017 data from the National Sample Survey Office suggests that an average Indian household keeps more than 65 per cent of its assets in land. Self-employed households, many of whom may be running small businesses, hold more (75 per cent) with many using it to borrow for their businesses. Similarly, data from the Reserve Bank of India indicates that nearly 60 per cent of all retail loans are indexed to real estate as collateral in one form or another. More than 40 per cent of all term loans are collateralised against land and buildings. Among agricultural loans, more than 80 per cent of all loans have land as collateral.

Despite its appeal to both savers and borrowers, land in India has never been the engine of growth that many economists had imagined. And now, more than ever, it will be land, that millions of returning migrants and struggling micro, small and medium enterprises will depend on to survive one of the most challenging periods in post-Independence India.

Multiple issues distort land markets from functioning effectively today. Like agriculture, land is a state subject under our Constitution. Land use, master planning, development control regulations, zoning are all different across the country and their enforcement is also uneven. It is estimated that more than 60 per cent of all urban construction suffers from improper land use, deviations from plan to construction, or some type of violation of zoning and development control regulations. The smorgasbord of policies, procedures and implementations across states also has hampered lending and investment in land, especially for out-of-state participants. Our record-keeping is patchy and multiple governmental agencies within a state maintain them independently, a legacy of British India. The siloed, non-standardised record-keeping makes it difficult to obtain a single source of truth on all financial, locational and legal issues related to a single parcel of land.

Illustration by Binay Sinha

India is also one of the few countries that follow “presumptive” and not “conclusive” titling, that is, a person paying the tax is presumed to be the owner unless proven otherwise. The state does not guarantee title, though many an attempt has been made to move towards that. In the absence of such a guarantee, buyers protect themselves through clauses in sale contracts that indemnifies them against title defects. In addition, not all land-related, contract-based transactions are registered. Getting a single trail of documentary evidence on encumbrances and legal rights of all parties involved is a costly exercise.

The level of opacity in land market transactions is also well known. Most transactions are registered at their "guideline" values (also called circle or ready reckoner rates), which are government's estimate of market value. These values do not get updated often, leaving them as poor proxies for lenders and investors to follow. As a result, the states lose revenues from stamp duty and registration charges because of improper benchmarking.

While these distortions have not stopped borrowers from monetising land, the outcome is less than optimal. Lenders, in response, adopt conservative policies and respond to this price opacity by decreasing loan-to-value ratios, reducing the quantum of credit that owners can raise. Credit risk exposure for lenders is not always marked-to-market with interim valuations, leaving them exposed to decline in real estate values. Lenders further protect themselves by keeping borrowers personally liable, something that is not seen globally. Recovery of collateralised land assets is also a tedious process. Lenders need help from state institutions to enforce recovery and borrowers, in some cases, have learnt to game the system to delay yielding possession.

This is not to say that there has been no success in promoting land markets. Several good initiatives have worked well for a brief while or in selected regions. The Urban Property Ownership Records initiative of the Government of Karnataka was intended as a mechanism to provide "title cards" that guarantee ownership records to property owners in cities by triangulating data from physical survey, document verification and possessory rights. The Digital India Land Records Modernisation Programme, which was launched with the aim of digitising and modernising land records and the creation of a centralised land record management system, was a partial success. The SWAMITVA (Survey of Villages and Mapping with Improvised Technology in Village Areas) yojana has been launched by the Centre in April to "map rural inhabited lands using drones and latest survey methods" with a move towards "streamlined planning, revenue collection and provide clarity over property rights in rural areas."

While the need to unleash the power of land was never in doubt, the coronavirus crisis has given us an opportunity to make it happen now. As in agriculture, we believe that the appetite among the states for such reforms would be high and it is time for the Centre to move first.

(The second part of this column will appear on Thursday)

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