

**INDIAN INSTITUTE OF TECHNOLOGY ROORKEE**

**NPTEL**

**NPTEL ONLINE CERTIFICATION COURSE**

**Housing Policy & Planning**

**Lec – 08**

**Legal & institutional Framework for Housing**

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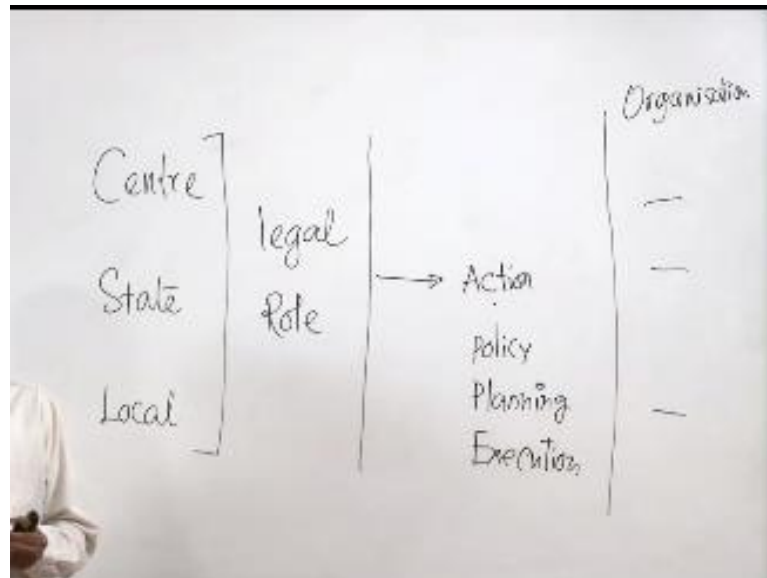
Hello, Today we discuss about the under housing policy and planning. The legal and intuitional frame work under, which every government at the central state and local government works. Before we come to the contents of today's discussion let me have quick review of the earlier discussion last day we discussed about the housing policy at the central level and also at the state level.

We have seen that at the central level, several housing policies were made like national housing and habited policy, national rental housing policy and right now all the state governments their making the model, their making the affordable housing policy for the states few states like Orissa, and Haryana and few state they have already made and we discussed about the state of Orissa case where we have found that very innovative method like creating shelter, involving private sector participation, everything was there for the housing policy and planning.

Now today we will see that how all this policy and planning this work based on the some legal framework because this is very, very important because unless as a planner as professional we do not know that what are the relevant acts and legislative professions are there under which every policy and planning and the organization they work. It will be very difficult to action or take action in the ground levels that is why we are spending today's

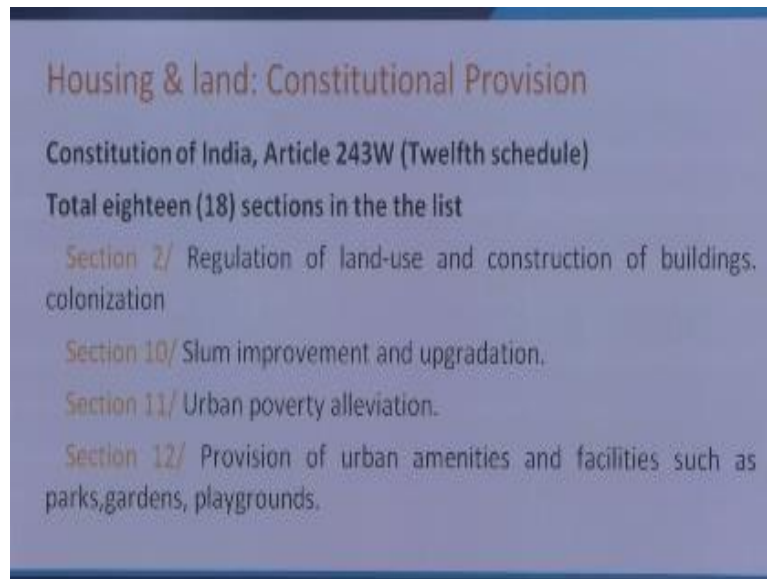
discussion devoting fully on the legal part and the institutional organization at every level. So as you know that we have three tiers of government at the central.

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And local and every level of government has their own legal role followed their action in terms of policy sometimes in terms of planning and execution and they have various level of organization at the central level, state level and local level, so this frame work we need to understand in a great details so that we will discuss. Now at the central level let us see first that what the provision at the constitution of India.

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If you see the constitution of India article 243W which is basically toward schedule where the constitutional provision is given for the role of the local government where total 18 sessions in the least where their 18 jobs listed. In session 2 it is written that regulation of plan and construction of buildings by the urban local bodies. Session 10 slum improvement and up gradation. Session 11 urban property elevations, and session 12 provision of urban amenities and facilities such as parks, gardens, play ground etc.

So these are there must be some spilling mistakes, so these are the actions or dominie of work in related to housing construction and housing delivery at the local level that is the urban local word is local level. Similarly if we go towards the state level and central level we will see that the constitution of India there is two lists.

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**Central Acts**

Constitution of India

- The real Estate (Regulation and Development) Act 2016
- Land Acquisition Act

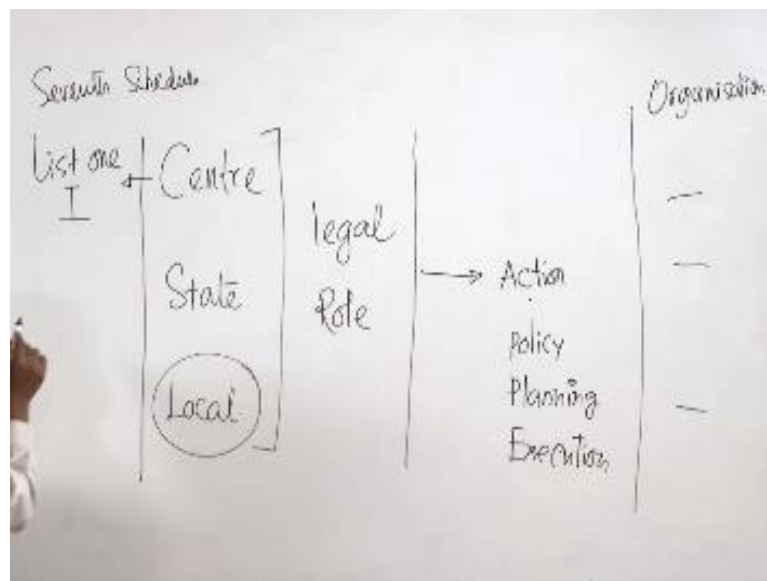
**Roles**

- Policy direction
- Streamlining of funding
- Facilitating land supply and market
- Monitoring of Central Scheme (PMAY etc)
- handholding and capacity Building (*Model Municipal By Laws/Model state Affordable Housing Policy*)

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The first list is called the jobs of the central government it is written as in the list one, under the seventh schedule.

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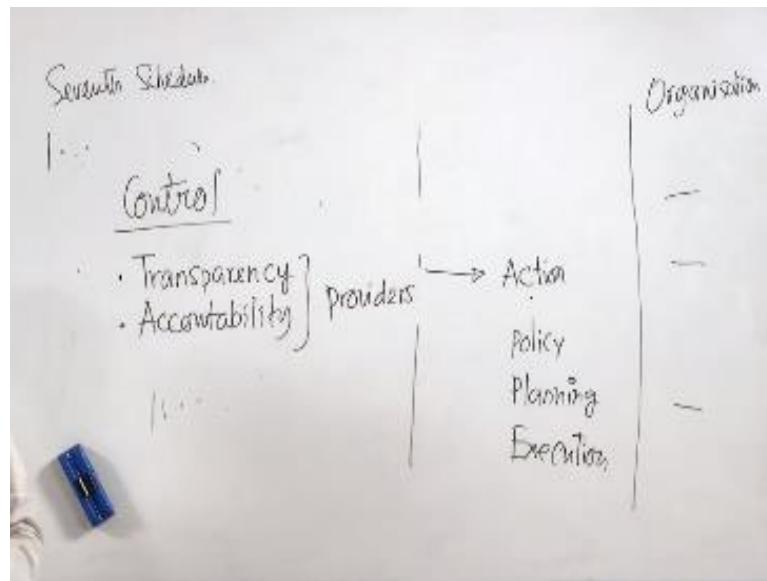


The state governments work, which is listed at least two and the local government we have listed. So in list 1 and 2 if we find, if you read that list it is clearly written that land and related matters will be done by state government by enlarge so it can be understood that the housing is matter of the state government where the central government also can participate, but state government and local government toward the government will be taking action at the ground level.

So now let us see that what the central actions are and what their rules at the central level. Recently the constitutional of India if their the apex level under the constitution of India there are several acts, which are working, which is active in the country, which is basically increasing the housing development, one of such activities real estate regulation and development act in 2016, land acquisition act, which is very basically is very older act in 1894, but recently in 2013 and 2014 there is amendment of land acquisition act, which is very much related to housing development and before we come to role let us talk little bit of the real estate regulation and development act.

Under this real estate act the basic purpose of this real estate act is to control the real estate development.

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In terms of creating transparency and accountability of the housing providers basically. Now it is many common people they do not get their legitimate housing within the given committed time period and after this act it is told that if beyond the committed time period the project take much more time so the housing provider, which is basically in the most of the case if the private developer, they have to provide the compensation as they rent. Not only that whatever the facilities at the housing level or the build area, which is committed during the booking or during the initiation registration that should be maintained at the end in transparent way and all the build areas and all the floor areas return in terms of corporate area.

Not only that every private developer before developing any projects they have to deposit some amount of money as security deposit for the project, which will act as security for the whole project for the prospective buyers of the units. So you can understand that this act basically gives the platform, gives basis for bringing transparency in accountability in the housing construction and housing delivery.

Whereas in the land acquisition act, which is very, very important in 1894 initially in the land acquisition act it was very much controversial in terms of we have seen using the land acquisition act, acquiring land becomes very difficult and because of the difficulty the project become deled, but recently in 2013 and 2014 government of India, they have brought out

many amendments including the taking consent of the land owners in terms of social impact assessment and based on the consent of the actual land owners then only the land can be acquired by the authority.

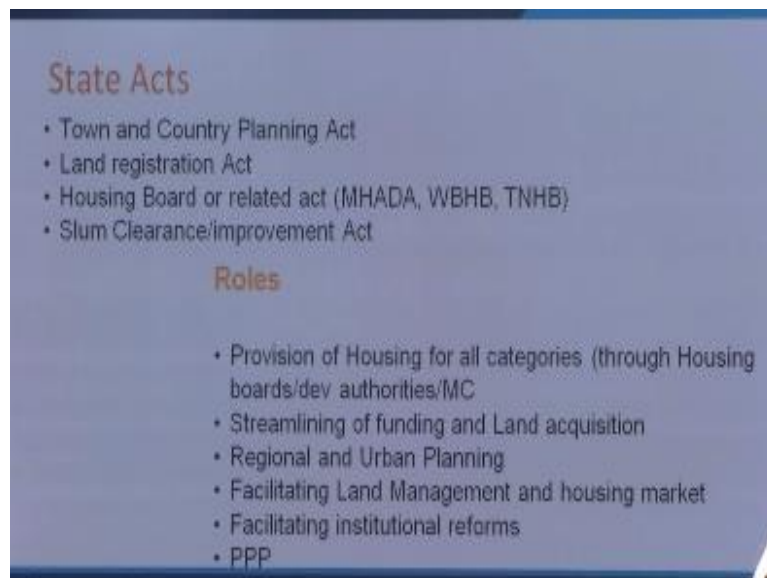
And also there are few specific areas where land be acquired, they are few specific areas where land cannot be acquired and these are the few amendments, which the government of India has what later on if time permits we will discuss land acquisition act in respect to the project of the case study, but right now we can tell that these two are very important acts right now one controlling the land for the housing, second which is controlling about the delivery of the housing in terms of the transparency and accountability of the housing provider.

So now let us see what is role of the player who was acting under the central acts. So basically under the central act government of India, central government they make the policy decision, policy deduction then stimulant of the finding through the state government at the local level also facilitating land supply and also creating a fib rate market, creating a very responsive market where every category of people can get the house and also monitoring of the central scheme like pradhan mantri awas yojana like Jawaharlal Nehru National Urban Renewal Mission, Rajiv Awas yojana mission all the programs, which we discussed earlier, central government as apex organization through their ministries, they monitored all the progress.

Similarly right now pradhan mantri awas yojana is one of the flagship programs under the government of the India by which government is trying to achieve housing for all. Not only that the government of India they extend the hand holding and capacity building like creating model municipal by loss or model state affordable housing policy for the state government and the local government so that they are capable enough to develop their own methodology develop their own strategy for the housing delivery at the local level at the local contents.

So these are the rules, which is executed action, executed by the organization like the central ministry and the organizations working under the ministry like, ministry of housing and urban property elevation, the organization like BMPTC building materials, technology promotion counsel HUDCO, similarly some other organization they are working under this ministry who main job is to take this rules under the overall umbrella of the acts and the constitution of India.

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Next let us see what are the state actions, what the organizations are and what their rule. The town country planning act is the mother act frame by each state government, which basically controls the land and it is planning for the future. So under this act every state government they create the develop authority sometime they delegated the power to the local government to plan for the future to make the future township and to extend the exciting township and to extend the township for the future housing delivery.

They also have the land registration act, by which they register all the transaction of the land, conversion of the land and transfer of the hand of the land from one hand to another hand. Under this mother acts, they also frame the act for creating housing boards whose job will be just to create more number of housing for each category of the economy group. Apart from



that every government sometimes they had some clearance at or some improvement that which is basically in to sustainability to re habilitated or to improve the slum population or the quarter population, but depending on the government this names and the scope of the acts can vary.

For example this is Maharashtra housing an area develop an authority it is the apex organization under the government of Maharashtra. This is otherwise been called housing board. This is Tamil Nadu housing board these are apex organization under the respect the government who is working under the state act. Now let us see what is primary job of this organizations so their first job is to directly provide the housing for each category of housing like HIG, MIG, LIG, and economically weaker session and through the boards, through the develop and authority or through the municipal corporation this housing can be delivered or will be provided.

Secondly the stimulant of the fund and land acquisition, the fund received from the central government or from the international agency can be stimulants at the local level to construct the housing and also if required the land acquisition will be done by the housing board or the state government organization like say develop an authority or municipal corporation at local level.

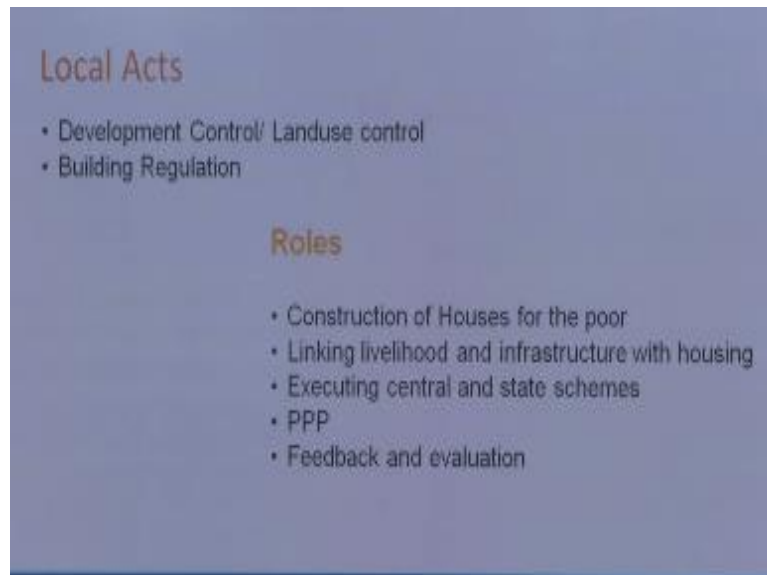
Regional and urban planning to be done by the develop and authority, we have very dedicated unit under the scores for the regional and urban planning and how housing as subject can be play under the overall planning framework. So write now we are not going into that much of details later on we will come the planning part of the housing under the overall planning frame work so this is very important.

Facilitating land management and housing market. We have told you the land is very important input for creating large amount of housing and land acquisition act and other relevant acts are there. So one of the major role of the state government organization are to create to supply more amount of land to manage the land in scientific where so that the land can be distributed for the great verity of the people everybody gets the legitimate write of the land in terms of the land or in terms of the property.

So that is one of the major objectives of the state level organizations. After that they also facilitate the institutional reform. It is not sufficient to act under the policy through finding or through the land or creating the land. It is also important to create affective institutions, effective organization who can deliver housing, who can deliver services in quicker time with much more efficiency much more competence so that is only possible if every institution have legitimate growth and they through the set of reforms that is another work, which is to be done at the state level by each and every organization.

After that every state government and state government organization like housing board or the area develop and authority. They have typical policy for the public private partnership so that under overall umbrella of the government, private party can come and they can work for delivery of the housing within overall umbrella of the government. So these are state actions and the rules. So after discussing the central acts, state acts and now let us the local level acts organizations and the roles.

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So local level organization means basically municipal corporation, develop an authority, nagar palica or municipality or even nagar panchayat so they are basic role will be to control the development through the building by loss building regulation and land duce control so that the overall housing or the city get a desired ship so that is the local sometime this building develop and control is frame under town and country planning act, but also the local

level organizations like say municipality or municipal corporation they can frame their own regulation.

So their role will be to construct the house for the poor and the lower income group and also middle income group, also linking livelihood and infrastructure with the overall housing. I have told in the beginning that housing is not house absolutely, it has the linking of the livelihood and infrastructure so it is one of the very important role of the local level organization to have a converges of all central sponsor schemes and the programs like central government and state government towards the common objectives.

So that there is minimum conflict with the programs and housing projects are executed in convergence with the livelihood program and the infrastructure development, executing central and state schemes under the various scheme like right now pradhan mantri awas yojna technology submission earlier it was Jawaharlal Nehru national urban renewal mission, Rajiv Awas Yojana so under all this flagship skill this local government they get fund from the central government through the state government so executing those projects and schemes directly is another very important job of the local level organization.

And also based on the overall PP frame work done by the state government their job is to executed the PPP frame work with more transparency and accountability at the local level and also during the project done continuous feedback and continues evaluation is part of the housing delivery because without the feedback and without the evaluation the whole process of housing delivery may not be successful so that is one of the role of the local level organizations, but one practical problem of the local level organizations are that in spite of so much accountability is delegated to the local level organization their capacity is not enough to deliver all these actions, which is listed here an apart from these actions also the multi perilous actions we there they can deliver.

Because of the lack of sometimes man power because of sometime lack of the office infrastructure or equipment so due to this reason the one of the limitations what the short comings at the local level is that in spite of the acts and the regulation and regal set of the ground level execution work is delayed, slow and sometimes they do not get the desired outcome, desired impact at the ground so that is one of the problem.

Now let us see the overall frame work in a complete overall this think so that we can understand the overall higher key so central governments, state government and local government.

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	Acts/Legal Issues	Policy/Planning	Organization	Role
Central Govt.	<ul style="list-style-type: none"> <li>• Constitution of India</li> <li>• Land Acquisition act</li> <li>• Developers act</li> <li>• Other related acts in environment, infrastructure etc</li> </ul>	<ul style="list-style-type: none"> <li>• NHHP</li> <li>• NHHP</li> </ul>	<ul style="list-style-type: none"> <li>• (MOHUPA)</li> <li>• NHB</li> <li>• NMDC</li> <li>• HUDCO</li> <li>• HPL</li> </ul>	<ul style="list-style-type: none"> <li>• Facilitator</li> <li>• Streamlining funding</li> <li>• Monitoring</li> </ul>
State Govt.	<ul style="list-style-type: none"> <li>• Urban &amp; Country Planning act</li> <li>• Municipal Act</li> <li>• Slum Clearance/Improvement Act</li> </ul>	<ul style="list-style-type: none"> <li>• SHP</li> <li>• PPP Policy</li> <li>• Land Policy</li> </ul>	<ul style="list-style-type: none"> <li>• Dept./Directorate of Housing/ UD Housing Boards</li> <li>• Dept./Directorate of T&amp;CP -State planning Board</li> <li>• Developers Organization</li> </ul>	<ul style="list-style-type: none"> <li>• enable</li> <li>• implementer</li> <li>• Monitoring</li> </ul>
Local Govt.	<ul style="list-style-type: none"> <li>• Local building by laws/ regulations</li> </ul>	<ul style="list-style-type: none"> <li>• Strong strategy/ Master plans</li> <li>• STCP</li> <li>• Land Banking</li> </ul>	<ul style="list-style-type: none"> <li>• Dev. Authority</li> <li>• Municipal Corporation</li> <li>• SCV</li> <li>• NGO</li> <li>• Private Developers</li> </ul>	<ul style="list-style-type: none"> <li>• implementer</li> <li>• Feedback and Evaluation</li> </ul>

These are the action and legal frame work, we have talked about this constitution of India land acquisition act, developers act, and also other than the land acquisition acts and developers act there are other related acts like environmental related acts, infrastructure and related acts, which are also applicable for the housing development. It is not only the housing or the real estate act.

It is also other acts which are also influencing all this parameters. Based on these legal frame the central government they frame national urban housing and habited policy recently they have done urban rental housing policy. The organization is working as I told before is national housing bank, building material technology promotion counsel HUDCO or Hindustan private limited this organizations are working under the ministry.

Apart from the ministry there are various organizations, which are kind of PUC or Amigo, there also working at the apex level sometimes in association with the ministry if it is required time to time and their role as I told if basic role is to facilitate the state level and local level and the market players to generate more housing that is the major role apart from the facilitating role their role is to stimulate the finding the central fund and also sometimes the international finding and also time to time to monitor the central fund schemes.

So that the basic role of the central level organization after that if you come to the state level where the basic access tone and country planning at municipal act. I have already told about the some clearance act. Their basic role is to frame the state affordable housing policy PPP policy and also land policy for the state government and this kind of organization like department direct housing urban development, housing boards, rate of town and country planning, state planning board and also there are developers organization who are very important stay holder of the housing delivery.

So they work in association with the state government organization sometimes and their role is to enable the market to enable the local governments so that they can execute more number of projects and also the implement the housing projects for the various income through housing board or the director of housing that also very important job of the organization at the state level.

Then we come to the local level organization, local level organization they frame, I told u already the local building billers at the local level we know that every city suppose to frame the city develop and plan, but after the city develop and plan they are suppose to make the housing strategy, master plan, slum city plan, land banking strategy at the local level so that each and every municipality or the city they are clear and they can understand that how much land is available with the city with the municipality so that they can generate more amount of housing.

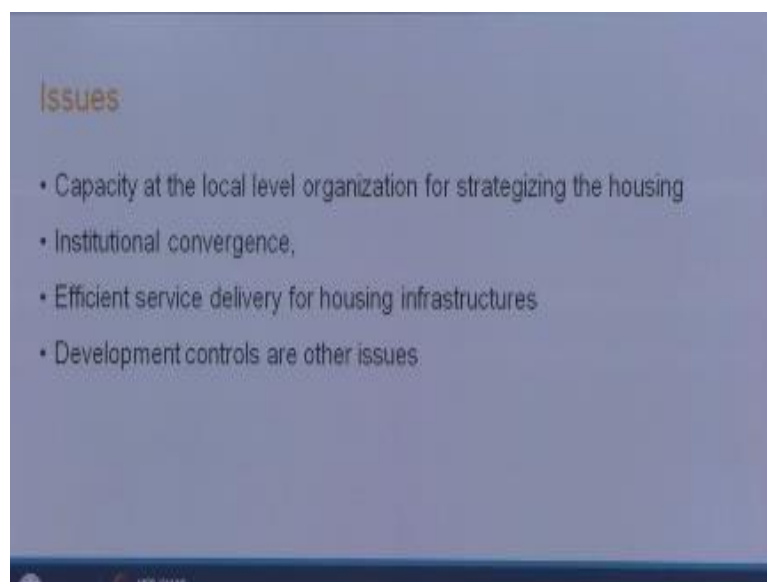
So organizations is working at the local level is develop authority, municipal corporation sometimes special purpose vehicle like last day we talk about some project develop agency or some other special purpose vehicle can be created by the state government or the central government particular for the purpose of the housing and infrastructure development and also

at the local level various NGOs are working for the housing for the poor or the basic amenities for the poor and need less to mention that private developer their also working at the ground level directly providing the housing for the poor people.

So apart from the central and state government the local level governments work is to basic work largely is to implement the project where as we have seen for the central government it is facilitating role, enabling role and here there role is to implementation and also time to time get the feedback and evaluation. So this is the overall frame work of the legal hearer key the policy and planning hearer key what they what kind of policy and planning they do at the different level. These are the organization how they work and these are the role or roller action of the each organization at different level.

So based on that now let us discuss what are the issues we should look into and what are the issues we should keep in our mind before we come to the next level of discussion of the planning for the housing.

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The first issue is the capacity at the local level organization for strategising the housing the municipal corporation or the municipality their working at the local level, but sometime their capacities not enough to contextualize in comprehensive way the whole housing requirement for the another five to ten years. Sometime they go for this meal approach instead of going

into the comprehensive approach so that is another problem. Sometimes the lack man power, sometimes they lack technical man power so that is very important point, recently government of India through their capacity building for urban local word their trying to improve the capacity through training and capacity building.

So that they can deliver more amount of work, more amount of housing and infrastructure development at the ground. The second is the institutional convergence we have seen that at various hearers in central, state and the local level, many organization are working. They are organization working for providing housing, there are organization working for providing basic amenities like water supply, road like PW, CPWD, and the infrastructure development company, electricity company their working it is problem sometime that we do not get the convergence of each government department at the central level all local level.

So it takes sometime little delay more time for executing projects. So how the convergence can be there at the each level are government that is one of the very interesting subject to study, one of the solution which was discussed before last 10 to 15 year that government or the concept of government can be used to bring the convergence in the work of the governmental organization and hopefully within coming years we will get the benefit of the governments in terms of the convergence of all the schemes and the departmental functioning.

And effective efficient service delivery of housing infrastructure it is told that housing is not only the house or the building all the structure it essentially needs infrastructure and the services and infrastructural services is delivered by different organization so effective delivery in sustainable basis quality and supply of water, quality supply of electricity and the drainage solid was management or disposal this kind of facility sanitation is essential for efficient surface delivery, which is required for the housing and also we have seen that in housing construction they develop in control.

The local develop in controls or building bilose which are sometimes ignored. Ignoring the local controls people sometimes special the private developer they do lot of mal practises and they just violate the rule and they go for un- authorized construction, so for this reason government organization at the local level municipality develop authority housing boards they need to be more stronger in taking action against all this on authorized construction

because the un- authorized construction of violating the development in controls bring the slum like situation in any cities.

So that is not desirable, it is not intended so these are the broad issues apart from that there are local contextual issues related to legal aspects like related to land, related to finance so we are not going into that details, but we should keep at least some broad issues before we come to the next level of discussion so before I tell you about the next day's discussion just let me some of quickly.

Today we discussed the legal and the institutional frame work at different level central, state and the local level we have seen that the central and state level actions are the roles are listed in the constitution of India where basically it is seen the land and housing is primarily a job of the state government and construction and the execution of the housing projects is also termed as the job of a local government as per the constitution of India.

After that we have seen what are the different kind of acts, major acts which are working at these central level, state level and the local level under those acts what are the policy and planning arrangements are policy or planning elements are tools, which are working and what are the organizations working under that and what are the major role. So summarize the central government organizations they work largely for facilitate the overall housing market and delivery.

State government organizations largely they work to enable the market in creating more land in creating more finance in creating the private participation in the housing delivery and local level organization including the housing boards and the develop an authority they work basically for the implementation for provision of the housing at the local level for every category of the housing and major issues are the capacity building, institutional convergence, service delivery and the develop in control or evaluation of the develop in controls at the local level so next day we will discuss about the another very important aspects of the overall housing delivery that is land. We will discuss about the lands supply and its management in the next class. Thank you.

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