Chapter-V
The world is facing a global housing crisis. In cities around the world, nearly one billion people live in urban slums i.e., substandard housing without clean water or adequate sanitation. Another 14 million who are refugees and internally displaced people live in tents or other temporary shelters. And the problem is getting worse: Every week more than a million people are born in or move to cities in the developing world, driving up the need for new and better housing. Cities are bursting at their seams in developing countries particularly in China and India. China and India are in the forefront of an urban expansion and by 2025, nearly 2.5 billion Asians will live in cities, accounting for almost 54 per cent of the world’s urban population. India and China alone will account for more than 62 per cent of Asian urban population growth and 40 per cent of global urban population growth from 2005 to 2025. With urbanization level of about 45 per cent in mid-2000 and an urbanization rate of 4.3 per cent per annum (p.a.) during 1990-2000 (calculated from China, National Bureau of Statistics 2006), there are about 600 million living in the urban areas and another 300 million expected to move to the cities in the next two decades or so in China. In contrast, the urbanisation rate in India has been very low, just 2.75 per cent per annum during 1991-2001 period, at low level of urbanization of 27.75 per cent in 2001. The urban population in India is about 300 million and in 2030, according to the UN projections, India would achieve 40 per cent urbanization.

As a result the planners are faced with the challenge of making the land and housing work efficiently and equitably for all households while striving to make available funds for these efforts with largely locally generated funds. Housing investment typically accounts for 2 per cent to 8 per cent of gross national product (GNP), and the flow of housing services for an additional 5 per cent to 10 per cent of GNP. Annual spending on housing, therefore, accounts for between 7 per cent and 18 per cent of GNP. Such magnitudes, however, fail to convey fully the many ways in which the performance of the housing sector is intertwined with that of the broader economy through real, financial, and fiscal circuits. For example, China spends 6 per cent (ADB, 2004) of its GDP on housing and India 4 per cent (Planning Commission Report, 2002). But still both, China and India face a shortfall in its provision of
affordable housing. There is a growing realization that the magnitude of the problem requires the involvement of various agencies including Government at different levels, public organizations, the Cooperative Sector, the community and the private sector (both formal and informal) and needs a major shift in Government’s role to act more as an ‘enabler’ or ‘facilitator’ than as a provider. The adoption of an “enabling” approach helps in mobilizing the full potential and resources of all the actors in the housing production and improvement process.

In almost all housing policy debates, the economists argue for less government intervention in the housing sector and instead advocate for government intervention to oil the wheels of the market mechanism. They hold the view that the principal roles of government with respect to housing should be to enable housing markets to work and to ensure the adequate provision of infrastructure—a public goods problem. Much of housing policy in developed countries is redistributive in nature, having the ideal of providing “decent and affordable” housing for all.

In its efforts to devise appropriate policies for expanding low-income housing provision, the World Bank in 1993, “Housing: enabling markets to work” advocated the adoption of ‘enabling strategies’ for the development of the housing sector as a whole primarily on the basis of expanding the formal private market mechanism. Similarly, UNHABITAT through its Resolution 21/7: Sustainable public-private partnership incentives for attracting large-scale private sector investment in low-income housing called upon member states to encourage and catalyze private-sector participation in the provision of infrastructure and affordable housing, particularly through incentives, enabling policies and legislation. The governments in both, China and India have used Public Private Partnerships (PPP) to address the housing supply problems.

However, PPP is a subject where misconceptions can and do prevail. Nine of the most common misconceptions are detailed in a guidebook for local government issued by the government of British Columbia, Canada (Ministry of Municipal Affairs, 1999). These misconceptions are as follows:

(1) Public private partnerships are the same as privatization;
(2) By entering into a public private partnership, local government loses control over the provision of services;
(3) Public private partnerships apply only to infrastructure projects;
(4) The principal reason for local governments entering into public private partnerships is to avoid debt;
(5) The quality of service will decline under public private partnerships;
(6) Local government staff will lose under public private partnerships;
(7) The cost of service will increase to pay for the private partner’s profit;
(8) Local government can finance the cost of services at a lower cost than the private sector;
(9) There are only two partners in a public private partnership.

These misconceptions indicate confusions about the participants and their roles, the type of activities, incentives for partnerships, efficiency and effectiveness, employment security, the quality of services, etc., there is need to seek a definition of the Public-Private Partnership (PPP).

**What is a Public-private partnership (PPP)?**

Though public-private partnerships (PPPs) have reached the status of icons in the new age of public administration, both across the political divide and across jurisdictions around the world but there is no single definition of public-private partnership (PPP). There are a variety of PPP approaches throughout the different economies in the world, each having its own separate nuances and subtleties.

British Government which has over 150 projects, leveraging in capital investment of over £12 billion such as hospitals, schools, prisons, etc., has described the PPP as Partnerships bringing public and private sectors together in long term partnership for mutual benefit.\(^7\)

The definition embraced by The Canadian Council for Public-Private Partnerships is as follows: “A cooperative venture between the public and private sectors, built on the expertise of each partner that best meets clearly defined public needs through the appropriate allocation of resources, risks and rewards.”\(^8\)

In the guidebook for local economic development issued by the government of British Columbia, Canada, public-private partnerships are defined as “arrangements between government and private sector entities for the purpose of providing public infrastructure, community facilities and related services. Such partnerships are
characterized by the sharing of investment, risk, responsibility and reward between the partners."  

Public-Private Partnership Handbook published by Asian Development Bank defines PPP as a range of possible relationships among public and private entities in the context of infrastructure and other services. The PPP label covers a wide range of different types of partnership, including:

- The introduction of private sector ownership into state-owned businesses, using the full range of possible structures (whether by flotation or the introduction of a strategic partner), with sales of either a majority or a minority stake;
- The Private Finance Initiative (PFI) and other arrangements where the public sector contracts to purchase quality services on a long-term basis so as to take advantage of private sector management skills incentivised by having private finance at risk. This includes concessions and franchises, where a private sector partner takes on the responsibility for providing a public service, including maintaining, enhancing or constructing the necessary infrastructure; and
- Selling Government services into wider markets and other partnership arrangements where private sector expertise and finance are used to exploit the commercial potential of Government assets.  

Umbrella definition of PPPs in India:

PPP means an arrangement between a government or statutory entity or government owned entity on one side and a private sector entity on the other, for the provision of public assets and/or related services for public benefit, through investments being made by and/or management undertaken by the private sector entity for a specified time period, where there is a substantial risk sharing with the private sector and the private sector receives performance linked payments that conform (or are benchmarked) to specified, pre-determined and measurable performance standards.  

In short, Public Private Partnerships (PPP) in facilities development involves private companies in the design, financing, construction, ownership and/or operation
of a public service utility or service. Such partnerships between the public and private sector are now an accepted alternative to the traditional state provision of public facilities and services.\textsuperscript{12} PPP broadly refer to long-term, contractual partnerships between the public and private sector agencies, specifically targeted towards financing, designing, implementing, and operating infrastructure facilities and services that were traditionally provided by the public sector. PPP are also described as a government service or private business venture which is funded and operated through a partnership of government and one or more private sector companies. These schemes are sometimes referred to as PPP, P3 or P\textsuperscript{3}.

Sectors in which PPPs have been completed worldwide include: power generation and distribution, water and sanitation, refuse disposal, pipelines, hospitals, school buildings and teaching facilities, stadiums, air traffic control, prisons, railways, roads, billing and other information technology systems, and housing.

The Need for engaging in Public-Private Partnerships

The three main needs that motivate governments to enter into PPPs for infrastructure are:

1. To attract private capital investment (often to either supplement public resources or release them for other public needs):-

For instance, as per the World Bank Database in 2000 only 94 per cent and 95 per cent of urban residents of China and India had access to water supply while sanitation facilities were available to 68 per cent and 61 per cent urban residents respectively:-

\begin{table}[h]
\centering
\begin{tabular}{|l|c|c|}
\hline
\textbf{Year 2000} & \textbf{China} & \textbf{India} \\
\hline
Percentage of population with access to \textbf{Improved water} & 94 & 95 \\
\hline
Percentage of urban population with access to \textbf{improved sanitation facilities} & 68 & 61 \\
\hline
\end{tabular}
\caption{Percentage of population with access to improved water & sanitation facilities}
\end{table}

\textbf{Source}:- World Bank database, 2003
In per capita terms, India’s annual capital spending on urban infrastructure of $17 is only 14 per cent of China’s $116 and less than 6 per cent of New York’s $292.\textsuperscript{13} New research by the McKinsey Global Institute (MGI) concludes that urban India needs to spend the equivalent of $134 per capita per year in the period to 2030—almost eight times what it invests now. Overall, India needs to inject an additional $1200 billion of capital spending into its cities between now and 2030.\textsuperscript{14} In China expenditure on public facilities and services only accounts for a small portion of the total gross domestic product (GDP). It was 0.8 per cent and 1.7 per cent for 1985 and 1995 respectively. In 2003, it increased to 3.82 per cent with a total expenditure of CNY 446.2 billion Yuan.\textsuperscript{15} Although the proportion has increased, there is still a gap with the standard recommended by United Nations, i.e.: "The investment in municipal public utilities of developing countries should reach 9-15 per cent of all the investment in fixed assets investment; and 3-5 per cent of the gross domestic product (GDP)."\textsuperscript{16} Therefore, the both governments are in need of greater capital investment in public facilities and services in order to meet society’s needs.

2. To increase efficiency and use available resources more effectively:-

Because of the slow rate of reform of state-owned enterprises and their poor provision of public facilities and services, a high proportion of state-owned enterprises, coupled with their obsolete management systems and lack of market competition and social responsibility, have resulted in inefficient use of capital. In China in 2003, 80 per cent of public transportation companies in 66 cities and 60 per cent of water supply companies in 89 cities were operated at losses.\textsuperscript{17} In India, according to the Annual Report for 2009-2010 issued by the Department of Public Enterprises, Government of India, fifty-four of India's 213 operating and functioning public sector undertakings incurred cumulative losses of Rs. 14,424 crore in 2008-09. In 2003 the number of loss-making enterprises was 105. Thus, there is a huge potential for improvement of efficiency in the provision of public facilities and services by the private sector.

3. To reform sectors through a reallocation of roles, incentives, and accountability:-\textsuperscript{18}

There is limited funding sources and inadequate private investment in public facilities and services. So far, the main source of investment in public facilities and
services relies heavily on government funding. For example, in China, in 2002, the total investment in public facilities was CNY 315 billion Yuan, 80 per cent of which was from the government and the remaining 20 per cent from the private sector. In India, the ratio of public to private investment in infrastructure during the 11th plan has been projected at 70:30, as against 80:20 during the 10th plan period. In absolute terms, private investment would have to increase from Rs. 1,72,188 crore ($43.05 billion) during the 10th plan to Rs. 6,19,591 crore ($154.9 billion) during the 11th Five Year Plan. The government remains the main source of investment. Preserving its roles in enterprises only gave rise to monopoly on provisions of public facilities and services. With the speedy growth in urbanization, reliance on government expenditure is insufficient to make things happen. The government should widen the funding sources, particularly from the private sector.

A number of models have emerged ranging from contracting for limited period to complete privatization. This includes: build-operate-transfer (BOT), build-own-operate-transfer (BOOT), build-own-operate (BOO), build-transfer-operate (BTO), lease-develop-operate (LDO), rehabilitate-operate-transfer (ROT), design-build-finance-operate, management contract, service contract, asset sale, etc. These models are utilized in various countries depending upon the local conditions.

**PPP in Urban Housing:**

The role of government or public sector as a provider of housing included direct housing finance, land development, and construction of housing for rent or sale. However, there were a number of problems with these housing projects:

- The targets for the number of households that could be provided with subsidized housing were unrealistic;
- The standards set for the construction of individual units were difficult to meet;
- The intended users were not consulted or studied about their needs;
- The housing projects were located far from places of work, healthcare and education centres and were uncomfortable to users and small in size;
- The regulations on the use of the dwellings were restrictive and limited beneficiaries’ income generating potential;
Payment and rent levels were unaffordable for many occupants, who were thus forced to sell or give up their tenancy and

Lack of regular maintenance of the buildings leading to rapid deterioration; they became high-cost slums in just a few years.

In the 1980s and 1990s, many governments in Asia shifted from direct supply-side housing assistance, channeling resources instead into mobilizing support for low-income housing from the private sector, NGOs, and beneficiary communities. This enabling paradigm grew not only from a belief in the efficiency of the private and community sectors, but also from financial necessity: governments simply could not afford to meet the need for adequate housing. In fact, governments have coupled the adoption of enabling strategies with “momentous downsizing” of housing entitlements to the poor across the region.21 This strategy has led to rising NGO and community involvement in housing strategies. “Enabling” is a dominant paradigm for public housing strategies in most Asia-Pacific countries. Multilateral development banks, the UN and other organizations have played an important role in promoting and spreading this strategy. This strategy allows combining the efficiency of the markets with the backing of the state.

Public/private partnerships are now widely being promoted in urban housing for several reasons:

- It is now generally recognised throughout the world that direct government supply of urban land and housing has proved ineffective in meeting varied needs at the scale required.
- Increasing globalisation of the world economy reduces public sector options and makes some form of partnership the only viable option for influencing urban land markets.
- Their incorporation as a central element of the Habitat Agenda.
- The private sector is considered to be more efficient in meeting diverse housing needs than the public sector, partly on the assumption that competition will filter out inefficient or unresponsive suppliers. It is also more efficient in achieving high levels of cost recovery than public sector agencies. Many people see government as having a responsibility to help the less affluent, to the point where many do not consider they have an obligation to repay costs, especially when they see others fail to do so with impunity.22
With a view to create the institutional capacity and an open market environment for expanding formal private activity, the World Bank in its report “Housing: enabling markets to work”, has formulated certain policy recommendations which aim at the reorientation of government activity away from direct housing provision and regulation of the private housing markets to one of enabling housing markets to function more efficiently. These are:

- developing property rights,
- developing mortgage finance including lending and borrowing at positive interest rates,
- rationalising subsidies,
- opening up urban land for residential development through provision of infrastructure,
- reforming building and planning regulations concerning land and housing development for expanding market activity,
- organising the building industry by eliminating regulatory barriers and
- developing an institutional framework for managing the housing sector.

Accordingly governments in several countries including China and India have undertaken several initiatives to enable a greater PPP framework and to encourage various foreign as well as private investments. Framing of standardized contractual documents for laying down the terminologies related to risks, liabilities and performance standards have been devised. Some of the details are mentioned in the subsequent paragraphs.

**PPP Experience in China**

With the economic reforms in China, private sector has become a vital component in Chinese economy. The contribution of the private sector to national GDP has steadily grown from 50 per cent in 2005 to over two-thirds now.\(^{23}\) Almost two third of output now is produced by non-state sectors. The increasing presence of private and other non-state sectors provides a prerequisite for public-private partnerships in China. At the same time, local governments increasingly face financial constraints in urban economic development because of fiscal decentralization. This gives local governments the incentive to seek cooperation with private sector and other non-state sectors for resources. Public-private partnerships can be developed to
deal with various issues in Chinese cities. The public-private partnerships have been developed in urban land development in China. For example, local governments allocate urban land to developers at favorite price for construction of affordable housing for low-income families. Also, local governments often ask property developers to provide urban infrastructure as a condition for land allocation.

In China, PPP have been used in mostly in the form of Build, Operate and Transfer (BOT) contracts in public infrastructure projects such as highways, power stations and water and sewerage plants for the past twenty five years or so. The Shenzhen Shajiao B power project was the first successful BOT project under cooperation with a Hong Kong company. In the mid-1990s, the first BOT boom took place in many provinces of China – Laibin B power project in Guangxi province, the Chengdu water project and the Chansha power project. This led to the establishment of the initial PPP/BOT legal framework in China. The local governments took more initiatives to promote PPP. However, at the end of 1990s, public funds were invested in infrastructure and the central government started to demolish illegal BOT projects in local places and the first wave of BOT investments was over by the end of 1990s.

China made another attempt on BOT projects in the early 2000s with the re-emergence of a bottle-neck effect of infrastructure on economic development. Two new policies directing PPP development were adopted; The Method of Managing Urban Public utility Concessions (2004), which lays down specific legal directions for urban development and The Decision on Reforming Investment Scheme(2004) which relaxed the approval procedure for private investment and opened more sectors to investment. The 2005 Opinion of the State Council further opened to the entry of private sector into the areas of power, communications, railway, airline and petroleum. Furthermore, The 2005 Opinion of the State Council which was the first central government policy, asked for improvements in the legal framework to support the private sector’s participation in the area of public infrastructure. This has led to another boom for PPP since 2000s. Compared with the first stage, PPP development in the second stage is more international and complex. For example, in Beijing, almost half of the Olympic sports areas were constructed using the PPP/Concession format. The improvement of legal and regulatory framework is also stressed in this policy (see Table 5.2).
<table>
<thead>
<tr>
<th>Date</th>
<th>Title</th>
<th>Content relevant to PPP/BOT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>Circular of the Ministry of Foreign Trade and Economic Cooperation Concerning Absorption of Foreign Investment by Means of BOT (Ministry of Foreign Trade and Economic Cooperation, 1995)</td>
<td>These are two particular policies to regulate BOT. These two policies are the legislative platform for the first BOT project in China: Laibin B Power project.</td>
</tr>
<tr>
<td>1995</td>
<td>Circular concerning approval of foreign investment concession project (promulgated by Committee of Planning, Ministry of Power, Ministry of Transportation, 1995)</td>
<td></td>
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<tr>
<td>1995</td>
<td>Circular of State Administration of Foreign Exchange concerning domestic projects seeking finance abroad (promulgated by State Administration of Foreign Exchange, 1995)</td>
<td>These two circulars dealt with the issue of foreign exchange in BOT projects.</td>
</tr>
<tr>
<td>1997</td>
<td>Temporary measures to manage project finance abroad (State Administration of Foreign Exchange, Committee of Planning, 1997)</td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>Tendering and Bidding Law</td>
<td>This law is applied to all of the tendering and bidding activities in P.R. China, excluding Hong Kong and Macau.</td>
</tr>
<tr>
<td>2001</td>
<td>Circular of Committee of Planning concerning promotion and instruction of private investment (Committee of Planning, 2001)</td>
<td>This policy showed that the domestic private sector is permitted to invest in sectors where foreign investors have rights to invest in.</td>
</tr>
<tr>
<td>2004</td>
<td>Directory of foreign investment in China industry (National Development and Reform Commission, 2004)</td>
<td>Outlines the list of industries which foreign investors are encouraged, limited or forbidden to invest in. Most of the infrastructure industries are in the list of encouragement.</td>
</tr>
<tr>
<td>Year</td>
<td>Policy Description</td>
<td>Details</td>
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<tr>
<td>2004</td>
<td>The method of managing urban public utility concession (Department of Construction, 2004)</td>
<td>Specified policy for urban public utility. Set up the range of concession, the conditions for bidders, the framework of concession content and the period.</td>
</tr>
<tr>
<td>2004</td>
<td>Decision on reforming the investment scheme (2004)</td>
<td>Encourage private investment for infrastructure, public facilities and other sectors which are not forbidden by law. Encourage private participation in profitable public infrastructure projects by way of own investment, joint venture and project finance.</td>
</tr>
<tr>
<td>2005</td>
<td>The opinion of the State Council regarding the encouraging and support for the development of non-state-owned economy (privately-owned economy).</td>
<td>First central government policy allowing the entry of the private sector into the area of power, communication, railway, airline and petroleum. Furthermore, the opinion asked for the improvement of legal aspect to support the private sector’s investment, construction and the operation in the public infrastructure.</td>
</tr>
<tr>
<td>N.A</td>
<td>Temporary measures of foreign investment in concession (BOT) project (Committee of Planning, uncompleted)</td>
<td>Particular regulation for BOT, but it is still in the approval process.</td>
</tr>
</tbody>
</table>

**Source:** Compiled based on sources from Bellier and Zhou (2003); Sun Chao and Shen Wei (1997); Cai Yi (2000)

Besides, the use of foreign funds, China allows domestic private capital in PPP. In August, 2003, China CITIC Group (formerly China International Trust and Investment Corporation) Consortium began to build the national stadium-"Bird Nest" project together with Beijing Municipal People's Government, Beijing Olympic
Organizing Committee, etc. Among the total investment of CNY 3.5 billion Yuan, the government investment takes up 58 per cent, without bearing the loss subsidies during the operating period; and CITIC Group Consortium invested 42 per cent, obtaining the franchise right for 30 years. The government and private capital both realized their objectives and realized win-win. From 1990-2008, there were 884 PPP projects in China, which ranked China number one in project numbers for developing countries, far exceeding the 355 projects in Brazil which was number two in the ranking. As for the amount of project investment, China has invested US$ 106,149 million.

However, few PPP/BOT schemes have been implemented in housing projects in China even though PPP approaches have been identified in housing projects in China. The Chinese government has been continuously revising guidelines that would enhance private sector participation, boost housing production and consumption.

In 1998 China made one of the crucial decisions towards commercialization of housing by stopping welfare distribution of housing throughout the year and all existing housing stock was placed on the market. As a result, the proportion of the private, owner-occupied sector in the urban housing stock sharply increased to 81.62 per cent by 2005. Privatization resulted in an immediate cash infusion in the State Owned Enterprises (SOEs) and it freed SOEs from the costly burden of building houses for their employees. Employees also got an implicit subsidy when they bought houses well-below market rates. However, this caused new problems as the reformed system failed to supply affordable housing for low and low-middle income households as quantity of existing stock fell short of demand. Another step taken in this direction which targeted resources to the most needy - bridging the gap – was that government venture into buying the accumulated unsold housing stock from developers by using an open bid system and thereafter selling these housing units at subsidized rates to the slum dwellers. Out of China’s 1.3 billion population, there are 14 million urban population are below poverty line (the poverty line is different depending on the local living standard, the highest is $40 per month per person, the lowest is $10 per month per person), but only 6.04 million got financial support from the government, and only thousands families in this 6.04 million populations became beneficiary of the low-rent housing system. Consequently the provision of low-rent housing was re-implemented in 2001.
Two major programmes such as Jingji shiyong feng (Affordable housing Programme) and weili feng (Low-profit Housing Programme) have led drive by the Chinese government for public-private partnership. The affordable housing programme provided houses through private developers for lower and middle income groups at 50 to 75 per cent of the market price. Zhang (2002) confirms that in aiju programme, the state provides seed money up to 40 per cent of the total cost of the project in the form of loans other than land and tax relief. Apart from that a massive injection of foreign direct investment (FDI) in the real estate sector has prevented local enterprises from relying too much on state funds. On the other hand government is constantly looking into the option of extending fiscal concessions to developers, in order to attract commercial housing builders towards building more homes for middle and low income families.

One of the earliest examples is the development of the Overseas Chinese Town (OCT) in Shenzhen in early 1980s when preferential policies were given to various ministries or provincial enterprises to develop the project. Together with the land, the government also designated the development rights and planning approval authority to OCT. Strictly speaking OCT group had the government background and not a PPP project. However, in the case of the Fenghua Property Project (FPP) near Beijing, the Fenghua County signed an agreement with a private property developer, Niuke Realty and set up a joint venture Xinan Allied Realty (XAR) to implement the project. Through the partnership, the government transferred some functions to the private developer and the developer saw opportunities for rent-seeking and profit-making. The country contributed land and its development rights, while the private party provided capital and management skills. After receiving the green light from the government, the new firm signed a series of contracts with government departments i.e., signed the ‘Agreement on Land Tender, Auction or Quotation’ with the Land Bureau to confirm land supply and profit division schemes, ‘Preliminary Land Development Consignation Agreement’ to confirm the scheduled land development and with the Investment Promotion Bureau the ‘Investment Promotion Agreement’. During the land development phase, the government only performed a general guiding function, while specific tasks were undertaken by Niuke. These included such tasks as applying for a Project Plan Assignment from the local Development and Reform Commission, applying for planning permits from the Planning Department, and
negotiating with farmers regarding land acquisition, displacement and relocation compensation and resettlement plans. It was agreed that the costs of converting the undeveloped land to serviced land were to be first paid by the developer, and then the government would repay all the costs incurred by the developer in installments, from the taxes that would later be collected from commercial developments within the same serviced land.  

Though PPP has been identified as a potential and practicable solution to tackling the difficulties and problems in the progress of housing development in China, but the application of PPP frameworks to the provision and supply of housing is not without problem. There are a number of significant obstacles and challenges. One of main issue is that of private ownership which is crucial for success of PPP arrangements. The private ownership is not a fundamental right in China and is still in a process of development. There are basically three types of land ownership in China: (a) land for family village-houses (b) Collectives’ land; and (c) state owned land. Except for a small portion of land on which family village-houses were built, lands in China were basically non-privately owned. To encourage the formation and development of a real-estate market, in December 1987, land use rights were first auctioned in Shenzhen and the State-ownership rights on land were then separated from use rights; thus allowing private ownership of land use rights, for a given number of years (residential land is 70 years), to be bought and sold. This system is like a leasehold system. The state retains the ownership, but the right to use is transferred either by private negotiation, tender or auction. The right to use the land can be transferred on the second hand market, rented or mortgaged within the bounds of the related laws. When the land and property are transferred, they are valued by qualified institutions and sold on the open ‘competitive’ market. Similarly in the case of housing, the rights of the individual or of the private sector to own housing are established but the practicalities of the system are still developing. The issue of long-term ownership – who owns the property at the end of any PPP arrangement, is important as uncertainty and risk are key obstacles to the PPP arrangements.

Further, despite China making progress in legal and regulatory reforms, the legal framework for PPP is still inadequate. For example, in China the investors are most concerned about legal risks, approval risks, and regulatory risks due to China not
having a special law aiming to deal with PPP/BOT\textsuperscript{33}. Besides, the dominance of the State power in China is also a stumbling block. As the State control the courts, the courts in China cannot provide support for a contract mechanism to be effective, which in fact is the ethos of PPP and the private sector cannot be protected by the contract mechanism. The state takes the place of the contract mechanism to allocate responsibility and risks and therefore controls the relationship with the private sector. Public accountability can be impaired when the public has no voice in public services, especially when the public sector and private sector form a reciprocal partnership.\textsuperscript{34}

Another constraint is the financing of PPP, particularly in lower tier cities where the local governments are suffering from high debt. Therefore, state spending will need the private investment to meet the demands of China’s swelling urban population. According to Business Monitor International, a more flexible approach allowing greater private investment will be needed. Indeed, despite offering narrower margins than mainstream housing projects, huge untapped housing demand across much of the developing world is creating a market with immense investment potential.\textsuperscript{35}

The land acquisition for projects developed through public-private partnerships is a sensitive issue in both China and India. There are a number of reports about cases of corruption related to reducing the costs of using the land in a development project. For example, a private company can be interested in redeveloping a certain lot, but it cannot afford to buy the land at the selling price or to invest money in developing the infrastructure. In that eventuality, it can decide to bribe the authorities at various levels to write down the selling price of the land or to decide to concentrate infrastructure improvements in the area targeted for redevelopment. Also, the decisions that are related to particular use of private land (zoning laws) can lead to corrupt practices as the local authorities have power to decide whether the land can be used only for agriculture, or as residential or commercial area.

The other major constraint pertains to inadequate understanding of the concept of PPP and incipient regulatory system in China. Some of such constraints are as given below:
PPPs have been treated as the privatization of public facilities/services like selling of government housing to existing tenants.

Due to inadequate knowledge on PPPs, both the government and private investors have made decisions which were not based on thorough and objective technical and financial analyses. There was also no proper risk assessment. When problems arise, parties will look for opportunities to escape from responsibility.

The price control system is yet not transparent. The public also finds no effective channel to voice its opinion on the PPP projects. If there is a dispute, whether the matter can be resolved under the administrative law and contract law is not clear.

**PPP Experience in India**

Since 1991 when Indian economy was opened up, there have been a number of attempts at PPPs in India. The Government of India has taken a number of steps to promote public-private partnerships (PPPs) for infrastructure development, in creating regulatory environment for PPPs, setting-up of the India Infrastructure Finance Company Limited to provide long-term finance to infrastructure projects, creation of a viability gap fund as a special facility to support the financial viability of economically justifiable infrastructure projects which are not deemed commercially viable in the immediate future, etc.

As of July 31, 2011, there have been at least 758 PPP projects in main sectors of focus where a contract has been awarded and projects are underway in the sense that they are either operational, have reached construction stage, or at least construction/implementation is imminent. The total project cost is estimated to be about Rs. 383,332.06 crore (US$ 85 Billion). The road projects account for 53.4 per cent of the total number of projects and 46 per cent by total value because of the small average size of projects. Ports though account for 8 per cent of the total number of projects have a larger average size of project and contribute 21 per cent in terms of total value. Across states and central agencies, the leading users of PPPs by number of projects have been Karnataka, Andhra Pradesh, and Madhya Pradesh, with 104, 96 and 86 awarded projects respectively and the National Highways Authority of India (NHAI), with about 155 projects. In terms of main types of PPP contracts, almost all
contracts have been of the BOT/BOOT type (either toll or annuity payment models) or close variants.\textsuperscript{37}

According to the estimate of the Report of the Technical Group (11th Five Year Plan) on Estimation of Housing Shortage, the urban housing shortages in India was expected to increase to 26.53 million by 2012 from 24.71 million in 2007, an increase of 7.24 per cent. It is to be noted that 99 per cent of this shortage is in the economically weaker section (EWS) and low income group (LIG) categories. Further, The Working Group on Urban Housing pertaining to the 11th Plan has estimated the total estimated investment for meeting the housing requirement upto 2012 to be of the order of Rs. 3, 61,318.10 crore consisting of Rs. 1, 47,195 crore for mitigating housing shortage at the beginning of 11th Plan and Rs. 2, 14,123.10 crore for new additions to be made during the 11th Plan period (this includes construction of pucca houses & upgradation of semi-pucca and kutcha housing units).\textsuperscript{38}

In a report by the Mckinsey Global Institute titled “\textit{India’s Urban Awakening: Building inclusive cities, sustaining Economic growth}” written by Shirish Sankhe, Ireena Vittal & others, in April 2010, it is mentioned that “the trend towards privatization in housing and easy availability of housing finance has led the prices of housing in urban centres to rise in both China and India. Of about 25 million households in India – 35 per cent of all urban households- cannot afford housing at market prices and around 17 million of these households live in slums. With a further 250 million migrant workers who are expected to join the ranks of India’s urbanites over the next 20 years, this number could increase to 38 million households. Provision of affordable housing at such a large scale is unprecedented – no other country, other than China, which had a policy of state provision of housing until the late 1990s, has had a scale and spread comparable to what is necessary in India today.”

Emphasis on enabling policies for housing development in India has led to PPP being widely advocated for housing and infrastructure development in India as part of recent housing reforms. The National Housing Policy (NHP) in 1994 marked a significant transition in the government’s position. The NHP 1994 focused on increased participation by the private sector while limiting the government’s role to creating conditions to boost housing supply by eliminating legal and regulatory constraints and supporting appropriate infrastructure investments. This led to a
notable shift in the role of the public sector from providing housing to engaging the private sector in constructing, financing, operating and maintaining housing units.

Following the publication of reports e.g., “Global Strategy for Shelter to the Year 2000” by United Nations Centre for Human Settlements (UNCHS) and later “Enabling Markets to Work” by World Bank in 1993, the Government of India’s National Housing and Habitat Policy (1998) emphasized the policies of simultaneously enhancing and changing the roles of the public and private sectors. The National Urban Housing and Habitat Policy-2007 (NUHHP) has taken the thrust further and focuses on the necessity of the Public-Private Partnership (PPP) in urban housing – its Preamble says that given the magnitude of the housing shortage and budgetary constraints of both the Central and State Governments, it is amply clear that Public Sector efforts will not suffice in fulfilling the housing demand. Accordingly, NUHHP-2007 has focused on multiple stake-holders namely, the Private Sector, the Cooperative Sector, the Industrial Sector for labour housing and the Services/Institutional Sector for employee housing. In this manner, NUHHP has sought to promote various types of public-private partnerships for realizing the goal of Affordable Housing for All.

Rajiv Awas Yojna (RAY) a new scheme rolled out on June 2, 2011 by the Ministry of Housing and Urban Poverty Alleviation has been conceived as a comprehensive scheme to address the issues relating to slums and affordable housing for the urban poor. Under the scheme, low-cost houses will be constructed to benefit 32 million slum-dwellers in 250 cities and towns during the 12th Five Year Plan. Public-private partnership model will be followed to develop these dwellings. The Centre will foot 50 per cent of the bill for slum redevelopment. While, states that will assign property rights to slum-dwellers can avail the funds. The sum can be used by state and city authorities for viability gap funding, and also encourage private sector participation. The finance ministry has allocated Rs. 800 crore for RAY for the financial year 2011-2012. It was also decided to set up a Rs. 1,000 crore mortgage risk guarantee fund to facilitate lending to the urban poor for housing purposes. The funds will ensure credit flow to urban poor, and flow of institutional finance for affordable housing.
India has tried to establish financial institutions combining private-sector managerial efficiency with government policy goals. The main successful example is Housing Development Finance Corporation (HDFC) in India. HDFC, established at the end of 1977, was promoted by Industrial Credit and Investment Corporation of India (ICICI). ICICI, however, only invested a small amount—5 per cent of the total of seed capital in the new institution.\(^{40}\) The government also brought initial support by guaranteeing the company’s long-term debt, and directed public-sector institutions, in particular, insurance companies, to finance HDFC. Moreover, a regulation was passed that made loans to specialized housing finance companies eligible for the priority lending obligations imposed on commercial banks. HDFC has grown to become the main driver of the market development, acting as the promoter of other specialized institutions as well as the supporter of other housing-related services, while at the same time being a successful business.

However, in the case of India, investment deficit is huge. While in China annual capital investment is forecast to average US$5 trillion between 2011 and 2020, India’s state sector investment is just US$1.6 trillion.\(^{41}\) Due to years of under investment in affordable homes and rapid urbanisation, there is greater need in India for the private sector to fill in the vast funding deficit. Over the next decade however it is believed India's affordable housing market holds vast potential rewards for private and foreign investors. At Business Monitor International's (BMI) current projections, the growth outlook for India's residential and non-residential building industry between 2011 and 2020 is only modest, forecast to expand by 4.2 per cent year-on-year (y-o-y), but with strong risks to the upside.\(^{42}\)

In the federal structure of the Indian polity, the matters pertaining to the housing and urban development have been assigned by the Constitution of India to the State Governments. The enabling agenda of the Government of India’s housing policy has continued in the State Five-Year Plans and is navigating reforms in the fiscal, legislative and financial sectors to pave the way for the private sector to participate in the housing delivery system. Most of the State governments have announced their own housing reforms and so far the outcomes of reforms in different States have varied greatly as per their legislation/regulations on land, housing and partnerships.
West Bengal became the first State to start a PPP in the housing sector in India with Bengal Ambuja Housing Development Limited - a joint venture company between the West Bengal Housing Board (WBHB) and Gujarat Ambuja Cements formed in 1993 - implementing housing projects on the outskirts of Kolkata City. The PPP, popularly known as Neotia Model, followed cross-subsidy approach - which provided an incentive for private sector companies to invest in housing. At the same time it ensured social concern due to the potential impact of the PPP on the Low Income Groups (LIGs) due to price deregulation by prescribing the prices of the housing units, their size, location, construction quality, the kinds of amenities like in-house shopping arcades, open space, etc. The PPP scheme stipulated that at least 10–15 per cent of the total construction in each project should be LIG or middle-income group (MIG) housing and the low- and middle-income housing be made available at lower prices and disposed of with ‘no profit’ or on the basis of ‘little profit’, whereas the prices of high-income (HIG) apartments can be set at the discretion of the private partners to capture the economic rents of the housing and services they are providing. Urmi Sengupta in her paper titled, “Government intervention and public–private partnerships in housing delivery in Kolkata” has noted that ‘as tapping the new demand for luxury units, fuelled by new wealth and the attitudes of a modest number of Kolkattans is vital to sustain any form of cross-subsidy, the government has been careful not to impose any compulsory subsidy on the private partners which could destabilize the financial viability of the partnership in the long term.’

A number of more PPP projects are currently operational including Bengal Ambuja, Bengal Peerless, Bengal Shrachi, Bengal Development Consulted Limited (Bengal DCL) and Bengal IFB (with Indian Fine Blanks Industries) to name a few. To qualify in these PPP schemes, the partners should have a minimum net worth of Rs. 50 million (US$1.1 million) and should have completed constructing 500,000 square feet of building space in the last five years. The financial arrangement between these JV companies under PPP schemes has been fairly standard. Generally, the equity share between public-private bodies ranges from a minimum government share of 11 per cent up to 49.5 per cent depending upon the nature of the project. In the case of Bengal Peerless Joint Venture in particular, West Bengal Housing Board (WBHB) and Bengal Peerless share 49.5 per cent each and remaining 1 per cent comes from the public.
Similar PPP projects have been designed by other State governments including Andhra Pradesh, Karnataka, Tamil Nadu, Jharkhand, Gujarat etc. to overcome resource deficit, improve cost recovery, and increase supply of houses on a demand-driven basis while keeping a provision to provide for housing for the low-income and economically weaker consumers in the PPP.

The enabling policy draws from innovations in the area of housing and infrastructure in India and elsewhere. The Policy also gives a menu of actionable points which inter-alia includes Public-Private-Partnerships, conservation of natural resources, formulation of regulations & bye-laws that are environment friendly, investment-friendly and revenue-generating. The outcome is contingent on a number of key issues, including: the government’s ability to reform its confused urban planning system; the creation of a sustainable social housing model; and a broad-based approach to housing finance.

There are some constraints in the implementation of PPPs in India. The foremost being reluctance on the part of the private sector to assume commercial risks in majority of the urban subsectors due to perceived political or other reasons.

Another constraint is related to the acquisition of land in various States. For example in West Bengal there are land laws - the West Bengal Land Reforms Act and the Urban Land (Ceiling and Regulation) Act (ULCRA). The land acquisition and legitimate transactions in land are extremely cumbersome. There is necessity to unify the interests of all the stakeholders in the process, as it requires full agreement from the sharecroppers on sale, compensation payable and registration process. If a sharecropper does not agree to sell a plot, it remains registered in his/her name leading to fragmentation of the land and involving double transaction costs (stamp duty, registration costs, and other hidden costs). Further, the current stamp duty of 8–10 per cent for transfer of land titles considerably raises the acquisition costs. The purpose of Urban Land Ceiling and Regulation Act (ULCRA) which was formed in 1976 was to increase urban land supply by putting a ceiling on urban land holdings, reducing land speculation and acquiring surplus land for affordable housing. But this act failed as an effective instrument as large chunks of land came under litigation and were frozen due to the imposition of the law. This resulted in sharp increase in land prices because of under supply of land. Urmia Sengupta has mentioned in the article
“Government Intervention and public-private partnership in housing delivery in Kolkata” that though the annulment of the ULCRA, 1976 could certainly ease the shortage of large chunks of land, it will require political will. This is in sharp contrast to the Central government which has already formulated the Urban Land (Ceiling and Regulation) Repeal Act, 1999 and a few other States and is at odds with the operation of partnerships.

Since the inception of PPP schemes, the access to and acquisition of developable land has become a key problem. Initially, joint venture companies’ attempts to venture into land acquisition on their own was challenged in the courts of law on ideological grounds, leading to a legal embargo while it was decided whether these companies, which are incorporated under the Companies Act could be considered to have a ‘public purpose’ as stipulated in the Land Acquisition Act given the inherent profit motive of private companies.\(^47\) In a recent judgment, the Supreme Court of India in the case relating to land in Shahberi village which covers a part of the Noida Extension, the proposed township area in Greater Noida, imposed a cost of Rs. 10 lakh fine on Greater Noida Industrial Development Authority (GNIDA) for allotting land to builders in violation of the purpose for which land was acquired, saying this was done before the state government approved the proposal for change in land use. The bench took strong exception to the fact that land was acquired for industrial purposes but was subsequently handed over to builders for housing projects by changing the land use.\(^48\) A few facts about the verdict are given in the Table 5.3. The access to a continuous supply of land will remain vital to sustain the private partner’s interest in housing delivery in the future.
Another important constraint is the affordability and accessibility. It is observed that purchasing a house under a PPP has generally become more affordable owing to government stipulations regarding minimum size and sale price for LIG units. In the case of Kolkata PPPs, the LIG units produced by the three major joint venture companies had costs ranging from Rs. 365 to Rs. 600 (US$8–13)/square feet depending on the size, floor (for example, ground floor and top floor units are relatively cheaper than units on other floors), surface treatment and location of the estate. This is a significant drop when compared to the prices of similar units produced by the private sector elsewhere. As per a recent news-item published in The Economic Times of 13th August, 2011 titled “Realty Bites: House in Mumbai slums for Rs. 40 lakh” it has been reported that some tenements in Mumbai slums sell for as much as Rs. 15,000 per square feet while rents for the humble hovels can soar as high as Rs. 10,000 a month. By using the cross-subsidy strategy, the governments can make housing affordable. It may be noted that these results do not represent the full picture. The main argument for providing housing through a partnership rather than through sole private sector initiative is that housing is thereby made affordable and financially accessible to the poorest sections of society. However, in supply terms, the affordable housing produced by partnerships in the last decade has been a fraction of the demand and the low-income group homes are generally more prone to real price appreciation. The news-item quoted above also mentions that the “free houses provided to eligible slum dwellers are another goldmine. Although it is illegal for them to sell these houses for 10 years, as many as 40 per cent of all slum residents who are eligible to receive a 269 square feet flat encash them and move out.”

Conclusion:-

In China and India PPPs are a necessity and not just an option as PPPs has a potential and are a practicable solution in solving the housing shortages. Both China and India have set ambitious targets for expanding access to housing and improving their quality. Achieving these targets would be difficult without the right policy, regulatory, and institutional reforms. PPPs are bound to reduce the financial burden on governments and increase the pace of providing affordable housing. It can also lead to improvements in the quality of the housing. Therefore, keeping in view the
scale of demand and supply side problems in providing housing, the potential for PPP projects in both China and India is significant.

As governments move forward with PPP programs, the factor most critical to success will be their commitment to minimizing the constraints to private participation. Further, establishment of PPP requires not only high-level administrative capabilities but also negotiation capabilities including selection and evaluation of private companies as well as risk management. In fact even the public sector of developed countries lacks such capabilities to an extent. The public sector of China and India would need to develop the know-how and experiences and will have to collect many examples of successful PPP housing projects from various countries, and understand factors in their success. It will also be important to follow the PPP techniques developed by third parties such as institutes and international organizations, accumulate their know-how, and transfer them, and it is indispensable to improve government capabilities of these countries in such a manner.

With the introduction of guidelines, rules and regulations, one can expect to overcome many of the aforesaid problems and there may be a way forward for improving the PPP system in China and India. For success of PPP in housing in China and India, there is a need for process and reforms that emphasize and create an enabling environment in which key roles and responsibilities are clearly defined and allocated among all actors in a stable and predictable regulatory regime. Among others:

- The government may set the policy and define the framework for appropriate options for partnership, in accordance with its socio-economic objectives and the interests of all citizens;
- Building consensus for PPPs is important and the government should thoroughly consider interests of all parties before making a decision on a PPP project;
- Local governments, NGOs and communities should remain responsible for ensuring that services are efficiently delivered and act as the employer of private sector providers;
- Private sector operators should have the core group of professional actors responsible for carrying out service provision;
There should be independent and trusted regulators to monitor the performance of all parties, oversee the award and execution of partnership contracts, and balance the interests of employers, service providers and consumers;

Finally, a proper judiciary system for dispute resolution is important to protect the private sector’s investments in capital intensive PPP projects.

However, usage of PPPs is not straight forward. There are complex issues including significant obstacles and challenges such as corruption, regulation, policy, etc. As the increasing collaboration between the public and private sectors for mutual benefit is an important trend in governance and economics to promote the accomplishment of public policy while compensating investors and entrepreneurs for taking financial risks. This process has, in fact, brought greater innovation to government and a greater sense of enlightened self-interest to private sector. But at the same time, the trend has significant implications for democratic oversight of the public policy process.

A successful PPP requires compatibility between the short-term vision of the private sector - namely creating profit, to be balanced against the long-term perspective of the public sector to realize sustainability targets. Therefore, it is important that the governments in China and India find the correct balance between profitable investments and protection of public interests.
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