

# PROBLEMS OF URBANISATION

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## I. WHAT IS URBANISATION

From the census of 1961 the following facts emerge. While the general rate of increase during 1951 to 1967 has been 21.5 per cent with regard to rural population it has been less than this figure and regarding urban population it has been more than this figure. Following implementation of the Five Year Plans and the incorporation of new States in the last decades, it was considered desirable on the eve of the 1951 census to apply a uniform test throughout the country for defining places which can be considered as towns. The application of 4.4 millions and reckoned as such in 1951 from being regarded as towns in 1961. The main reason is that they do not possess pre-dominantly non-agricultural urban characteristics. On the other hand 497 places with a total population of 4.8 millions which were not towns in 1951 were treated as towns in 1961 since they exhibited the qualifying characteristics. Although the urban population in the census of 1951 was estimated at 62.44 millions, the true figure according to the 1961 definition would be  $62.44 \text{ minus } 4.386 = 58.08$  millions. The urban population for 1961 is 78.937 inclusive of 4.8 millions added for the new towns in 1961. Thus the comparable decennial increase in urban population is really  $78.937 \text{ less } 59.058 = 20.879$  millions. The reason being that the towns newly added in 1961 did not obviously have urban or non-agricultural characteristics in 1951 and may be considered as mainly the product of urbanising forces set in motion in the last ten years, while those which have been eliminated in 1961 have justified their exclusion by having failed to develop non-agricultural and urban characteristics. So the real increase in the last ten years is 35.96 per cent or about twice that of the rural population.

Following is a comparative statement regarding Towns with population in each, according to 1951 and 1961 census.

Class	1961 census		1951 census		Incr (+) Decre (—) in number of towns	Incr (+) Decre (—) in popu- lation of class
	Num- ber	Total po- pulation	Num- ber	Total po- pulation		
Class I (over 100,000)	107	35,123,940	76	23,729,758	+ 31	+ 11,394,182
Class II (50,000-99,999)	139	9,529,812	111	7,624,667	+ 28	+ 1,905,145

Class III (20,000-49,999)	518	15,749,144	374	11,114,671	+144	+ 4,634,473
Class IV (10,000-19,999)	820	11,300,075	675	9,379,101	+145	+ 1,920,974
Class V (5,000-9,999)	848	6,343,670	1195	8,510,277	-347	- 2,166,607
Class VI	268	889,962	629	2,085,460	-361	-1 195,498
Total	2700	78,936,603	3060	62,443,934	-360	+ 16,492,669

*What is a Town?* in relation to urbanisation.

A population of 1,00,000 or more entitles a place to be classified as a city. Census superintendents have the power to classify places with less than 1,000,000 people as Cities when they have special reasons to do so. It may be noted that whereas in the previous census all places with a population of 5,000 and more were classified as towns, in 1961 certain uniform criteria have been laid down for determining whether a place is a village or a town. A place is considered as a town when it satisfies the following conditions:

- i) Population as more than 5000;
- ii) Density as not less than about 400 per sq. kms.
- iii) Not less than 75 per cent of the male population engaged in non-agricultural activities.

The changing proportions of rural and urban population to total population for the 1901-1961 period are given below:

#### Rural and Urban Population (1901-61)

Year	Percentage of rural population to total population	Variation	Percentage of urban population to total population	Variation
1901	89.16	...	10.84	...
1911	89.71	+0.55	10.29	- 0.55
1921	88.82	-0.89	11.18	+ 0.89
1931	88.01	-0.81	11.99	+ 0.81
1941	86.14	-1.87	13.86	+ 1.87
1951	82.71	-3.43	17.29	+ 3.43
1961	82.07	0.68	17.97	+ 0.68
1960-61	...	-7.13	...	+ 7.13

Percentage of urban population to total population for 14 states from 1921 to 1961  
(Adjusted to 1961 boundaries) and their rank

State	1921	Rank	1931	Rank	1941	Rank	1951	Rank	1961	Rank
Andhra Pradesh	0.21	10	11.13	10	13.43	8	17.42	8	17.44	7
Assam	2.80	14	3.06	14	3.33	14	4.65	14	7.69	14
Bihar	4.14	13	4.54	13	5.40	13	6.77	13	8.43	13
Gujarat	20.15	1	20.50	1	20.79	1	27.23	2	25.77	3
Jammu & Kashmir	11.04	8	11.90	8	13.12	9	14.05	9	16.66	8
Kerala	8.73	11	9.64	11	10.84	11	13.48	11	15.11	10
Madhya Pradesh	7.51	12	8.30	12	9.81	12	12.02	12	14.29	11
Madras	15.85	3	10.02	3	19.70	4	24.35	3	26.69	2
Maharashtra	18.50	2	18.60	2	21.11	2	28.75	1	28.22	1
Mysore	13.76	6	15.30	5	16.94	5	22.95	1	22.33	5
Orissa	2.52	15	2.54	15	3.00	15	4.06	15	6.32	15
Punjab	11.20	7	12.98	7	15.00	7	19.01	6	20.13	6
Rajasthan	14.33	5	14.72	6	15.27	6	18.50	1	16.28	9
Uttar Pradesh	10.58	9	11.19	9	12.41	10	13.64	10	12.85	12
West Bengal	14.41	4	15.32	4	20.41	3	23.88	4	24.45	4

Index of growth of population in towns

Year	Total urban population	100,000 I	50,000- 100,000 II	20,000- 50,000 III	10,000- 20,000 IV	5,000- 10,000 V	Less than 5000 VI
1901	100.00	100.00	100.00	100.00	100.00	100.00	100.00
1911	100.35	107.68	83.86	111.56	92.07	98.17	111.09
1921	108.64	120.61	107.02	116.62	92.29	102.14	128.04
1931	129.41	143.48	140.93	150.82	121.29	112.97	117.30
1941	170.79	246.96	194.24	183.90	131.88	131.68	95.63
1951	241.55	416.87	258.64	253.62	160.40	159.61	126.40
1961	305.34	617.04	323.26	359.36	193.26	118.97	53.94

(Gazeteer of India)

Over the last 100 years migrations from villages to towns has been steadily increasing. The factors contributing to this is the increased pressure of population on land which has driven the most vulnerable section of the rural population to cities and plantations. The upper castes and educated persons migrated into towns in search of new opportunities. The city provides employment and also it changes the way of life of rural people living in its hinterland. The nearby villages take to dairying poultry keeping and market gardening to supply the urban population with milk, gevetables etc. The villagers make use of the medical and recreational facilities available in the city. More money circulates in the nearby villages and villagers get increasingly urbanised and westernised.

In understanding the urban social values, it is relevant to consider the way Indian cities have grown. Usually several villages exist on the fringe of an Indian city. As the latter expands, these villages are sucked in and the villagers lose their land. They take to new occupation as selling milk, factory work, domestic work and carriage driving. Socially these villagers especially older people are rural in their habits and outlook. Their attitude to work, leisure and recreation, ritual, etc., are different from that of the people in the other areas. This difference often results in tension. For instance the educated and upper class citizens in upper class area may value silence and privacy, while the rustic may not mind noise and do not mind want of privacy.

On account of such changes the entire investment concept changes. Before Independence even educated Indians in Towns used to invest their savings in arable lands. Urban gentry being absentee landlords of agricultural land was a phenomenon. The Land Reform measures resulted in discouraging urban people from investing in agricultural lands. Even the bigger land owners have now to realise that it is risky to own too much of land. Savings are being diverted into other channels and the Ceiling Act has resulted in the formal partitioning of family lands to circumvent the legislation. Land is now passing into the hands of owner cultivators. The savings therefore get invested in urban property or areas adjoining urban areas in the hope that it would be sucked in soon and increase in value.

Urbanisation is the result of:

- i) villagers rushing into the towns in the hope of employment;
- ii) investments of savings in urban property;
- iii) industrialisation.

The necessary or inevitable results of the above would be:

- i) springing up of slums—people who cannot afford rented houses start living in temporary huts or turn into payment dwellers;
- ii) Demand for houses for rent with the consequent increase in the rental of the houses for even permanent dwellers;
- iii) People who could afford to own houses start buying small plots wherever open spaces are available and start constructing houses;
- iv) speculators buying up open plots for layouts in future and for the purpose of either starting industries themselves or selling them to industries. But on account of avarice, the speculator, if he can

afford to lock up his capital, buys all the lands and would never part with it to any industry until he is able to dictate his terms.

Industrialization is one of the causes for large scale urbanisation. The growth or the rate of industrialisation is not uniformly spread in the urban areas in the State, but somehow got concentrated in some towns creating special problems, on account of their very large concentration. Thus the main consequence of wide spread urbanisation is creation of land problem in urban area. The increasing pressure of population on limited space in town has brought in its wake the phenomenon of haphazard and chaotic growth, urban sprawl, sub-standard housing, squatting, slums, congestion, traffic bottlenecks and communicable diseases, fire hazards and social vice. Land speculators have been at work taking advantage of people who cannot help themselves. The result is that land prices are rising very sharply and also house rent and cost of commutation. Some figures for rise in land price level reveal that the price rise of land in suburban area within a period of 5 years has been 50 per cent a matter of great social concern calling for state intervention. The high land price makes house ownership an impossibility for a man of modest means.

Large community facilities in most towns are extremely rudimentary. Legislation seems to be the only remedy.

## II. PROBLEMS CREATED BY URBANISATION

The problems created by urbanisation and industrial zones are:

i) It is found in practice that industrialisation get concentrated in certain cities only, resulting in influx of population in those cities alone. But each city has got certain saturation point beyond which it cannot cater to the needs of increasing population, like existing roads, drainage system etc., which have been planned on a far lesser scale and those fundamental amenities cannot be recognized overnight on account of the huge cost.

ii) Secondly regarding Town Planning special problems are created on account of the fact that town planning has got to be enforced in an already built up town with an existing pattern. If a city is built up for the first time like Chandigarh, it is easy to put into practice all the paper theories when it starts on a clean slate. But in a city like Madras one cannot destroy the city and built it afresh and this has got its necessary limitations and special problems.

I proposed to divide the various problems created on account of urbanisation into the following three aspects and give the various suggestions and criticism.

- i) Practical State action on those aspects to remedy these problems;
- ii) Existing legal provisions and their ineffectiveness in tackling the problem;
- iii) Judicial decisions, their impact on this problem and their uncertainty.

There exist today a number of State Acts in India regarding town planning. Town Planning Acts among other things aim at controlling and directing land use. As a limb of these Acts, recent Acts like the Delhi Development Act, Bombay and Madras City Improvements Trusts Act, have been passed. But none of these enactments is comprehensive enough to attain their objective. For example in most of the enactments no provision or measures to check and control the sharp rise in price of urban land and no provision for assessing land value for purposes of compensation is made. In this connection the provision relating to land acquisition which is a necessary weapon in the armoury of town planning has got to be examined. It is common ground that the old Land Acquisition Act of 1894 does not cater fully to the present-day problem and suitable provisions in the various State enactments have got to be made for successful town planning. But mere amendments in the Act for the purpose of pegging prices would not solve the problem and ensure to the citizen the true value of the properties. One has to look into the problem of delay. The existing sphere of land acquisition act is compensation for acquiring land with reference to the market value on the date of the publication of the preliminary notification under Section 4(i) plus 15 per cent solatium. Some inroads have been made as to this date and some Acts like the Delhi Development Act peg the prices on 15-10-1956 with some additions. But one has got to keep in mind problems of delay arising in land acquisition. In a number of cases that have recently come before the courts, it was noticed that there has been enormous gap of time between the notification and the date of the award. The emergency provisions under Section 17 are misused. Any attempt on freezing the prices on urban property without corresponding safeguards relating to avoidance of delay in matters of land acquisition can be oppressive which may amount to unreasonable restriction on the right to own property.

Of course the obvious remedy for ideal town planning is a master plan for each city which might affect some hard cases which might get caught in the bull dozer. It is significant to note, for example, that in Madras there has been a master plan as early as 1923, and it is still a plan on paper. Subsequently the city improvement trust and later the Madras Housing Board, and the State Housing Board came under the relevant Acts; but it merely turned out to be a house building organization, making pro-

fits without any focus on broad-based town planning. The activities of even such organisations are not well spread, but concentrated in a few towns. Secondly the problems of urbanisation themselves could be reduced only in a few big cities. Industrialisation could be spread over to various towns and legislative measures regarding the control of a number of industries in a trade area could be helpful. Licensing authorities being enjoined by legislatures to take into account the adequacy of existing industries in a particular area before granting a licence for that industry, would be one such method.

The word slum and slum clearance have been largely misunderstood. The word slum according to Oxford dictionary would mean a street situated in a crowded district or towns inhabited by people of a low class or by the very poor. A number of these streets form a thickly populated neighbourhood of a squalid and wretched character. In England dilapidated buildings were called slums. The problem of slums is created by the influx of displaced village labour who come to towns searching for employment in urban areas. These persons can never be cured of their habits of living in slums, unless the very existence of the slum is wiped out by legislation. Slum improvement used in legislation is a misnomer. If the slum dweller is helped by a body like the City Improvement Trust and if he is given a house by the City Improvement Trust, he would merely sublet it to the lower income group and go back to his hut. Slum clearance is impossible unless by legislation hutting within the city is completely prohibited. Apart from it even the existing provisions in the City Municipal Act, relating to prior permission for building huts, etc., are not enforced. There is a special chapter dealing with putting up of huts in the Madras City Municipal Act. These are not enforced and huts are built so irresponsibly that the owner of the house in the city is not safe. Overnight he may find some 25 huts springing up in his vacant site, which he has reserved for building a beautiful house in a posh area, perhaps approved in a town planning or city improvement scheme. The slum dwellers being the vote givers not even the policeman would go anywhere near him, especially when the trespass is crowned by naming the colony after a popular politician. It is significant to note that till recently the Corporation was not even imposing a Tax on these huts.

Legislative provisions regarding industrial zones and their segregation are not effective, and the existing Municipal Acts cover very little field on this topic. One of the methods to avoid slums is to regulate the residential quarters for Domestic servants. One method is to make the servants' quarters compulsory in every building in the newly developed areas and secondly the servant colonies in town planning schemes should be introduced.

In this connection one has to consider the question seriously, having in mind the provisions of the Constitution relating to fundamental rights, whether it would be possible for some legislation or action by the Corporation to provide for prevention of influx of population into the cities. One method might be to ensure that persons who are not domiciled in the city, when they migrate into the city, cannot do so unless they have got some permanent or temporary arrangement for staying with the existing residents or approved houses conforming to minimum standards. This method to a certain extent might minimise fresh springing up of huts and reduce pavement dwelling.

One of the headaches in the Land Acquisition Act which is facing the citizen affected by urbanisation is the word "public purpose." There is a certain amount of uncertainty regarding this word in spite of various judicial decisions. Some of the things to be noted are the conflict between part 2 relating to acquisition for a public purpose and part 7 relating to the acquisition for a company and the theory of Government contribution. In every disputed case, the matter can be taken to the Supreme Court and it can be known for certain whether it is a public purpose or not only after the Supreme Court pronounces upon it. Each new decision leads to more uncertainty. It is interesting to note that the trend of decisions in the High Courts is that when you seek to quash a Sec. 6 notification following the Sec. 4 notification after Sec. 5A stage, and if the High Court allows the Writ Petition, it quashes only the Sec. 6 notification and leaves intact the Sec. 4 notification. A survey should be made in how many cases after such quashing of the notification by the High Court, the Government has after observing the formality, not re-issued the notification under Sec. 6. The net result is, the prices having already being pegged by Sec. 4(i) notification, the victory is a paper victory and in fact it is worse for the citizen in that he gets some money after a long time and by that time the value of the property must have doubled. The real problem in these acquisitions for big industries is the trouble with the owner of the interspread land. Suppose there is an extent of 800 acres of land available for being taken by a company for starting an industry, parts thereof belonging to numerous owners and in the middle of that there is an extent of 40 acres, which the owners won't sell, to ask the Company to negotiate with the private owner for getting that property would be meaningless in fact.

As already stated any new industry requires a complete block of land, may be 50 acres or 1000 acres. The amendments to part VII of the land acquisition act have been influenced by some political criticism about acquisition scandals. The two important provisions of the Rules are:

- a) that the company must negotiate for private purchase and

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acquisition should be permitted only when the owner has refused reasonable offer.

- b) That good agricultural land defined as having more than 8 annas crop, should not be acquired.

A recurring problem is that the area selected may be in the ownership of 20 or more different persons, owing parts. If bits have been bought by private negotiation, is there any sense in putting obstacles in the way of acquiring the inter-spersed plots? If the acquisition is challenged, is the company to abandon the land already bought and move to another place to repeat the same story? Practical considerations including economy of national resources have been completely overlooked in legislation.

The decisions of the courts have also created a situation in which legal proceedings challenging the acquisition, allow the company neither to move forward nor backward. Let me give a brief resume of the areas of uncertainty. Neither the land owner nor the Government knows his position till the particular case has been pronounced upon by the Supreme Court.

Take for example the acquisition under part II of the Act. There must be some contribution from public revenue — proviso to Sec. 6. Practical considerations would suggest to us the question why Government should at all make a contribution to a company acquisition?

In *Somavanti's* case<sup>1</sup>—the Chief Justice of India has held dissentiently that it must be substantial. The majority has held that a contribution of Rs. 100/- against 4½ lakhs is enough and shows bonafides. But the inadequacy of the Government contribution may show malafides. Where do we stand? As to public purpose it has been decided that manufacture of Refrigerators is a public purpose in *Somavanti's* case. But manufacture of textile machinery parts is not.<sup>2</sup>

By and large the courts have not taken into account the problems arising out of the place of location of industry being regulated by licensing under the Development of Industries Act and even apart from the Act the need for any modern industry to acquire a fairly large compact area from different owners.

The growth of population in cities which outpaces house building has led to the need for Rent Control acts. By and large we have already mentioned that urban dwellers tend to covert their investments into land

1. *Somavanti v. State of Punjab*, A.I.R. 1963 S.C. 151.

2. *R. L. Arora v. State of Uttar Pradesh*, A.I.R. 1962 S.C. 764.

or house in cities and to some extent also in stocks and shares. In Madras State the pattern is owing one's house even subject to mortgage. Rent Control Acts lead to possibly more litigations than would be the pattern with eviction suits under the general law. It is the fixation of Fair Rent which requires reconsideration. Under the Madras Act the landlord is allowed a 6 per cent yield on the present value of the building and the land built upon with a small allowance for amenities. If there is a bungalow in one acre plot measuring 4,000 sq. ft. the return will be nominal if you exclude the value of the land.

One must frankly admit that the problem of litigation does not admit of legal solution. Probably only some drastic control of influx into the cities may be of some use. But this may be impossible legally or practically. If the owner wants to occupy a building, the Tribunal will have to decide whether his claim is bonafide. We have had cases where the Tribunals have held that the owner is better off where he is staying, even when he is staying in a hotel. On the question whether a tenant becomes a statutory tenant only after the contractual tenancy has become determined after notice to quit, a battle royal is going on. The Supreme Court has considered the inclusion of words such as "notwithstanding anything contained in any law or contract" to be determinative.<sup>3</sup> Many decisions proceed on the emotive reaction of the judges to the craving of a man to live in his own house or to the sympathy evoked by a tenant sought to be evicted. Anyhow the point is that certainty is lacking in an area where it is necessary.

The solution for the problems concomitant to urbanization must come from the State. This involves assumption of responsibility by the State, the evolution of definite standards and policies and their enforcement through legislation and prompt executive action. The role of the courts could well prove crucial in the success of such measures.

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3. Compare *Brij Raj Krishna v. Shaw & Bros.*, A.I.R. 1951 S.C. 155 with *Punjalal v. Bhagwati Prasad* A.I.R. 1963 S.C. 120.