Chapter 3

Urban Land Policy: An overview

Urban land policy is an offshoot of land reform process and implementation of policies is one of the governmental interventions. Generally, urban land policy is comprehensive in term of its coverage starting from land ownership and use of urban land to urbanization, urban housing, land values and rent, and urban environment. In specific, the policies are framed with an aim to achieve an adequate land supply and planned urban land use.

Urban land policy affects all facets of urban activity, and hence it is a very complex subject with fewer clear and unambiguous guidelines. Although the general objectives remain almost the same, different countries have adopted various alternative measures depending up on their particular circumstances and
with varying degree of success. It may be worthwhile to trace the urban land reform processes in some of the developing countries to learn their experiences.

In Bangladesh, exodus of rural population to urban areas, increasing foreign remittances by Bangladesh labour working abroad, protection against inflationary trends of the 1970s and the 1980s, commercialization of urban land through cooperative and housing societies, prevalence of land speculators and real estate business firm, availability of urban transport were the crucial forces influenced the demand for urban land.

There is no comprehensive urban land policy in Bangladesh, but seriously working towards bringing out a policy with emphasis on land tenure, land acquisition, registration and transfer (Nagru Islam, in J.H. Ansari. ed., 1988).

In Indonesia, urban land management comprised the combined effort of the state and private force in providing right amount of land at the right price and right location. The Indonesian urban land management system is two fold viz. instrumentation aspect and the technical aspect. As the former is categorized as the software which included urban land policy, urban spatial plan, procedures of issuing needed permissions, procedures of land provision, procedures of land rights determination and land institution. And the latter being categorized as hardware which covered urban land administration, land acquisition, land taxation,
land compensation, land development, land information system, urban land zoning and land use and land development supervision and control.

Indonesia is yet to make headway in urban land management due to lack coordination among related institutions and incompatibility between software and hardware aspects. However, the private sector participation in urban land development is high. But yet there is no symptom of a comprehensive urban policy in Indonesia (Andi Oetomo and Kusbiantoro. B. S., in J.H. Ansari. ed., 1988).

It is interesting to note in Thailand that all the major real estate are being listed on the stock exchange. It ranks third in terms of investment share of property stocks preceded by financial institutions and banks. However, the urban poor who constitute the majority were ill affected to go for ever cheap housing in the open market (Mekvichai, in J.H. Ansari. ed., 1988).

Korea’s land market is described in relation to land use, land value and land ownership patterns. Important factors were identified which influenced land value in Korea. The country’s money market including government directed money supply, foreign investment and income from exports and expatriate activities. Regional level variation in land value were attributed to concentration of
economic activities and disparity in household income of middle and low income groups.

In Korea, the phenomenon of farm land conversion for other activities existed. In principle, policy measures discouraged such practices. But in due course of time, as the urbanization pace increased, the policy makers were contemplating the need for change in the policy on conversion of agricultural land for other activities.

The hallmark of urban land reforms in Korea is the land adjustment schemes. This scheme envisaged sharing developmental benefits, landowners were expected to part with a position of land in return for urban services. These contributed parcels from the landowners are then divided in to two, one for the provision of public utilities such as roads and school and the remaining portion for sale in the market to finance the construction of public utilities. This tool is widely been reported to be in use in Japan, Taiwan and Korea (Tae- Lee, in J.H Ansari. ed., 1998).

Urban land management in Malaysia are characterized by increased private participation of land development. The role of public sector plays a role of regulator. An interesting features in Malaysia is that the private developers, as a part of their housing projects, build low cost housing for the sake of economically
backward section of population. Private developers spared about 30 per cent of the total units of houses in a schemes for this purpose. The Housing Department shall take the responsibility of selling these units to the needy. Even local government depended largely on privatization. However, local authorities showed a lot initiative in preparing development plans guiding land developments besides enforcing control uses.

Urban land polices as such encompassed land tenure, rent control, land administration, land use, specifying the role of government and private sector. Evidences suggest that Malaysia is the only country to have realized the role of urban planners, economists, historians, architects, engineers and political scientists to work together towards framing urban land polices. (Goh Ban Leein J.H.Ansari.ed.,1998).

Urban land reform in Philippines was initiated in 1987 through constitutionally adopting the state policy for carrying out programs of urban land reform and housing. This state policy aimed at making land available at reasonable cost, decent housing with basic services to underprivileged and homeless citizen in the urban centers. In regard to urban tenure, there existed two types. First one is ownership and the second being man-property relationships which do not result in the absolute transfer of title of the property.
Research studies conducted on prices of urban land revealed how both internal and external factors influenced land values. The former included location, land use, development cost of lands, accessibility to infrastructure facilities, to economic activities and social services. External factors were interest rates exchange rates and inflation.

An interesting feature of land reforms in Philippines is the efforts taken towards preparing systematic and accurate appraisal of housing needs of women. Another noteworthy facet of law reforms is that it called for a computerized land market information system which records information needed for decision making in land transactions.

Competition for lands becomes more intense in Philippines due to urbanization and industrialization. Land reforms process in Philippines realizes the fact that solution to urban land use conflicts lie not only in the hands of planners and technical experts but also depend more on political and administrative commitment (Santiago, Asteya. M, in J.H. Ansari. ed., 1988).

Sri Lanka’s urban land management is marked by the absence of explicit urban land policy in the country. The fragmented framework relating to land tenure and land acquisition and institutions governing them yielded unfavorable results. Even the regulatory mechanism could not make any headway due to the
fact that the local government institutions were ill-prepared to deal with planning, implementation and enforcement measures.

Private ownership of urban land is reported to be dominant in the city Colombo. Another interesting feature in Sri Lanka is the lower level of rural-urban migration. Sri Lankan government is now seriously contemplating to incorporate the following measures to strengthen urban land policy and management. They include: (a) create a corporate culture for urban development by ensuring that land management is an integral part of urban management based on development plan. (b) create a land information system in order to facilitate the generation and exchange of information between providers (Willie Mendis, in J.H. Ansari. ed., 1988).

There are many lessons which India can learn from Asian countries. One notable feature which is worth emulating is the land pooling/re-adjustment technique followed in Japan, Korea and Taiwan. The land pooling technique envisages development of fringe areas by public agency in collaboration with land owners in the chosen area. Under this scheme, vast area in the sub-urban regions are pooled, then by treating the select area as one unit, prepare a land servicing and subdivision plan including financial plan in such a way that the scheme costs and benefits shall be shared among the land owners in the area. The land pooling
agency recovers its expenditure by selling some of the serviced plots and returns the remaining plots to the land owners commensurate to their original holdings.

3.1 Urban Land Management in India:

Urban land management practices in India has focused mainly on speeding up the supply of developed lands and make it accessible in appropriate size, locations and at reasonable prices. This is to ensure its optimum utilization in terms of efficiency and equity.

Unlike many Asian countries, India has had explicit and comprehensive urban land polices way back in 1894. Land Acquisition Act was passed with a view to stock land for urban development. This act was instrumental in acquiring land for housing, education health and other public policies. This Act underwent two amendments, one in 1967 and again in 1984 to make it more efficiently applicable. Urban Land (Ceiling and Regulation) Act of 1976 was the hallmark of Urban land management in India. (Jamal H. Ansari, in J.H. Ansari ed., 1988).

The Government of India, pursued Urban Land Policy after independence for the development of equitable distribution in the urban areas. The government framed policy for master plans, zoning, subdivision regulation, building codes and other public polices to shape urban development. These regulation are normally adopted in an effort to check speculation and maintain and enhance
property values. Other objectives are to achieve: providing the poor access to land, controlling land speculation in a few hands and controlling the open land market operations. Nevertheless, there were some announcements on policy and legislative enactment pertaining to town planning in the ‘fifties’ and ‘sixties’. Some public interventions in different forms were also made in the land market. Hence, the first major step aimed at fundamental reforms in the Urban Land systems came only in 1976 when a comprehensive land ceiling legislation took shape in India. After the announcement on policy, all the state government had formulated and enacted this policy for achieving the equitable land distribution.

First attempts towards evolving on Urban Land Policy was made when the Government of India (Ministry of Health) constituted a Committee to examine the problems relating to Urban Land Policy in 1963. These are following objectives

1. To achieve an optimum social use of urban land.

2. To make land available in adequate quantity at right time and for reasonable prices to both public authorities and individuals.

3. To encourage cooperative community effort and bonafide individual builders in the field of land development, housing and construction.

4. To widen the base of land ownership specially to safeguard the interest of the poor and under privileged sections of urban society.
(5) To encourage the socially and economically efficient allocation of urban land such that land development is done in a resource conserving manner and that the magnitude of land used is optimal

3.1.1 Legislation:

Legislation is a source as well as an instrument of public policy. The state seeks to achieve many of its policy objectives through enactment of law governing the land market passed by the central and state government may be classified as follows.

1) Town planning legislation including Urban Development Authority Acts (1961): This legislation formulated for controlling the use of land with the view to regulate its planned growth and development. After this Act, the town planners were classified urban land uses as follows, commercial area, mixed residential, primary residential and industrial areas. It helped the guideline officers to fix land values in the city.

2) Land Acquisition Act (1894): This Act is mainly used for acquiring land for public purposes in urban areas.
3) Municipal enactments including building by lands (1976): this is mainly used for controlling building activities in the cities. This Act is mainly used for rising floors in the city to preserve historical place in the city.

4) Slum Improvement and Clearance Act (1973): This Act helps to improve the living condition of slums dwellers in Indian major cities.

5) Urban Land (Ceiling and Regulation) Act (1976): This Act helps to improve ceiling limits on land holdings and achieve equitable distribution of urban land in Indian Major cities. This policy articulated by the central and sate governments to regulate urban land uses and land values in the cities.

Besides, there are some other committees to formulate urban land policy. The Task Force on Housing and Urban Development (1983) the National Commission on Urbanization (1988) and the National Housing Policy (1988).

3.1.2 Urban Land (Ceiling and Regulation) Act:

The policy of Government to bring about equitable distribution of land in urban areas was given shape in the form of legislation in 1976 when the Urban Land Ceiling and Regulation Act was passed. In order to achieve this objectives.

"An Act to provide for the impositions of a Ceiling on vacant land in urban in excess of the Ceiling limit, to regulate the contribution of buildings on such land and for the matters connected there with, with a view to preventing the
concentration of urban land in the hands of a few persons and speculation and profiteering therein and in the a view to bringing about an equitable distribution of land in urban agglomeration to subserve the common good”. Urban Land (Ceiling and Regulation) Act, 1976. 249). The Urban Land Ceiling Act was passed in 1976 in an attempt to stop land speculation and land inflation. (See Appendix-VI)

The operation of urban ceiling land has been very much at variance in the stated objectives. The Act has failed to prevent concentration of ownership of urban land achieve equitable distribution.

3.1.3 A Critical evaluation:

1. The Act suffers from certain anomalies like definition giving scope for ambiguous, and provisions difficult to enforce.

2. The discretionary powers vested in the state government to grant exception to any person or ground of hardship (See section 20) has resulted in large number of application of exemptions.

3. The Act has failed which speaks on “any public or religious trust and section 19 (VII) any Society registered under Societies Registration Act 1860, under any other corresponding Law for the time being in force and used for any non-commercial purposes”. This is the main reason for the failure of the to achieve equitable distribution in the urban areas. For example, may urban land
value of the urban lands in each zone. The High Court quashed the Act as the valuation of all lands alive in each zone was discriminatory. Therefore, the Tamil Nadu Urban Land Tax Act, 1966 was enacted.

According to Tamil Nadu Urban Land Tax Act, 1966 the Urban Land defined as "any land which is used or is capable of being used as a building site and includes garden or grounds, but does not include any land which is registered as wet in the Revenue accounts and used for cultivation of wet crops".

The Urban Land Tax Act, 1966 was amended in 1971 so as to extend the Act to Coimbatore, Madurai, Tiruchirappalli and Salem towns. The market value as on 1.7.1971 was the basis for calculation of Urban Land Tax in these towns. This Act was further amended in 1975 to extend the Act to Madras city belt area being within 16 km from outer limits of Madras city. This Act made the distinction of residential and non-residential use of urban land and fixed different rates for each category.

Following upon a large number of representations from individuals and institution against the incidence of the Tamil Nadu Urban Land Tax Act, 1966 in 1975 the Government constituted a committee of officers to consider all representations. Government after detailed consideration of the report of the
committee, have taken the following decision by way of grant of relief in Urban Land Tax:

(I) The distinction introduced by the 1975 amendment between lands used for non-residential purposes was given up. In other words, the separate rate structure introduced for lands used for non-residential purposes will be abolished and all urban lands in any given area will be subject to the same rate structure.

(II) Government have directed that total exemption from payment of Urban Land Tax be given to all educational, religious, charitable and philanthropic institutions in respect of vacant land and land in which buildings have been constructed from which the institutions desire income. They had also directed that Urban Land Tax be reduced to 50 per cent in respect of both vacant land and land constructed which belong to community recreation center, clubs and cinema studios.

The Tamil Nadu State Government had proposed to introduce the market value as on 1.7.1981 and revise the assessment on urban land holdings and thereby Government will get an additional income. The concept of “market value” though introduced in 1967, was nothing new, as far as in 1950, the High Court of Madras has ruled that the term “value set forth in the instrument meant market value” in Board of Revenue. During the year 1981, all over Tamil Nadu, the values were
very high, hence the Government of Tamil Nadu, would like to rise the revenue for the government so that, the government introduced the guideline value during the year of 1981.

The single piece of legislation which is likely to have the most influence on future land development policies is undoubtedly the Urban Land Ceiling Act. The stated aims of this legislation were the curbing of highly speculative land dealing and the conscious attempt to be made in meeting the land requirements of the economically weaker sections in the most appropriate locations.

Briefly, the Urban Land Ceiling Act as applied to Madras specified an initial ceiling of 500 m of land for each nuclear family’s retention land surplus to these requirements would, subject to certain exceptions, become available for public acquisition. Due to public pressure and the reported impact on the development achieved in the private sector, the terms of the Act had been reviewed and the ceiling for Madras was increased from 500m to 2000m, with commensurate increase elsewhere in India. It was alleged that the initial ceiling instituted by the Act virtually eliminated the private developer. The subsequent raising of the ceiling had to some extent relieved the situation but it is clear that even the revised ceiling figure will allow little scope for the private sector
entrepreneur to make other than a small scale contribution to the development programme, particularly in terms of shelter production.

The Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 has come into force as detailed below and it extends to the whole of the state Tamil Nadu. All section except sec. 14 15(3), 27 and 48 from 3.8.1976. Sec. 15, 14(20(3), 27 and 48 From 17.5.1978.

In order to achieve this objectives. "An Act to provide for the impositions of a Ceiling on vacant land in urban in excess of the Ceiling limit, to regulate the contribution of buildings on such land and for the matters connected there with, with a view to preventing the concentration of urban land in the hands of a few persons and speculation and profiteering therein and with a view to bringing about an equitable distribution of land in urban agglomeration to subserve the common good."

The Act applies to the TUA under the category II, Under section 4 of the Act, no person is entitled to hold any vacant land in excess of the ceiling limit a per section 5 of the Act as detailed below

i) In the case of every person

an Industrial undertaking --- 1500 sq. mts.
ii) In the case of every family consists of two or more --- 3000 sq.mts.

iii) In the case of an Industrial undertaking (Productive units as notified in schedule III) --- 3000 sq.mts

As per the ceiling act, the following areas in TUA have been brought under this land ceiling ACT.

1. Tiruchirappalli Municipality
2. Srirangam Municipality
3. Ponmalai Municipality
4. Golden Rock Railway colony Southern Railway Administration
5. Ariyamangalam Panchayat
6. Alathur Panchayat
7. Pirattiyur Panchayat, and
8. Ukadai Ariyamangalam Panchayat

The National Commission on Urbanization (NCU) has suggested that the Urban Land Ceiling Act must be rationalised and may ease of implementation. However, in the case of TUA, nothing positively has come out at this stage more than 21 years after the Act came into force -even if the law is rationalised. It acquired one hundred acres. These lands used for the construction of the government offices in the city. No lands used for the development of housing for
the poor in the city. On the other hand, much of the prime land in the city has been exempted from the provisions of the Act and the process of granting exemption, irrespective of the merits of the case, continues unabated. Certain legal anomalies and ambiguities persist. The land owners find ingenious ways to overcome the clutches of law, sometimes in the connivance of the powers that be and sometimes with the help of the courts. With long debate on the Act, the Act was repealed on the 16th June 1999 in the Tamil Nadu Legislative Assembly. (See Appendix-VII). The Central Government was in favour of retention or repeal Act. The government had stated that be rationalized and made easy of implementation. The main cause for retention of the Act that it was impossible for land-holder in the even a medium-sized plot to build or to sell it unless, of course, is could secure exemption from the state government. This “exemption” because a money spinner for politicians. This is only reason for retention of the Act.

3.4 Repeal of Urban Land Ceiling Act in India

The Urban Land Ceiling Act has become redundant now in India. This has been done away with a view to increase supply of land in urban areas and boost housing activity. It may in turn have cascading effect on cement and steel
industries and generate employment opportunities. The other possible version is that this will lead to an “inevitable downward correction of prices”

However, the implication are profound, when the act came into effect in 1976, it was intended top to curtail speculative activity by real estate proprietors and to achieve equitable distribution of land among the users. Now, the question is whether the act had achieved the proposed target of reducing the concentration of urban lands in fewer hands in the last two decades. Will the poor and downtrodden stand to gain from this? Although these questions do not come under the purview of the present study, excepting the loosing the control over the areas in the suburban.