CHAPTER 4

LEGAL AND REGULATORY FRAMEWORK FOR URBAN PLANNING AND ADMINISTRATION IN SAS NAGAR

4.1 INTRODUCTION

Laws are the reflection of the society and system of which it is a part. Therefore, a state needs a comprehensive and efficient legal and regulatory framework if it has to take care of its citizens from cradle to grave. In order to accomplish this objective the government has enacted innumerable laws, legislations, policies and programmes. Woodrow Wilson defined public administration as “detailed and systematic application of law”\(^1\). This, therefore, signifies the importance of public laws.

Ihering defines law as “the sum total of the compulsory rules which prevails in a State...the State is a sole source of law. It is “the form of the guarantee of the conditions of life of society, assured by State’s power of constraints”\(^2\). Ihering’s definition is clear and simple as it implies that (i) Law is treated as only one means of social control; (ii) Law is to serve social purpose; and (iii) Law is coercive in character i.e. the obedience to law is secured by the State through external compulsion. In other words, law is a regulator of human conduct. Hence, to govern planned urban development, it became essential for government to legislate requisite town planning legislations, land use regulations such as zoning and development controls, subdivision regulations, standards for planning, buildings and service provisions, administrative and institutional procedures and enforcement mechanism.

A well defined regulatory framework has been an instrument, available to government, to influence urban land and housing markets and the investment decisions of private sector developers. A regulatory framework therefore has significant implications for physical as well as for socio-economic environments of urban areas. Thus, it is evident that all urban planning processes have their genesis in the set of laws. Planning legislations define the system of urban government and establish a system of urban planning and regulations for land development. In addition they lay

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down certain procedures which have to be followed in plan preparation and plan approval before these plans have been made operational.

It has, therefore, been imperative that urban planning regulations should be reasonably formulated and implemented for regulating urban land markets. Poorly designed legislations would have serious repercussion on urban economic development resulting in artificial land shortages, unhealthy increase in demand for land and high urban land prices. Such practices would, therefore, lead to high cost of infrastructure and inefficient urban forms. Further, planning law should be simple to understand and use. Since regulations involving long and cumbersome processes nurture corruption and encourage illegal and unauthorized construction in view of financially unfeasible urban development; thus exerting excessive burden on the civic infrastructure systems.

To overcome or avoid such situations, it is essential to undertake regulatory audit to examine the appropriateness and efficacy of urban planning regulations. As a result, only those regulatory processes that facilitate land availability and ensure planned urban development at affordable cost should continue to exist whereas those that lead to contrary results should be eliminated or modified.3

This chapter deals with the existing legal and regulatory framework for urban planning administration in SAS Nagar. The Punjab Regional and Town Planning and Development 2006 Act was examined with respect to comprehensiveness, flexibility, environmental sensitivity and peoples’ participation. Also, an in-depth analysis of the 2006 Act was undertaken to identify the factors that retard its performance in meeting urban development challenges. The hypothesis that existing legal and regulatory framework is not responsive to the changing requirements of urban areas was analyzed from the standpoint of the following sub-hypothesis:

a. There is absence of requisite urban policy framework.

b. The legal framework for urban planning provides for highly centralized administrative structure.

c. The urban planning legislations do not display environment consciousness.

d. The urban planning legislation provides for limited role of urban local bodies.

e. The urban planning legislation does not provide for participatory approach.

f. The weak enforcement of urban planning legislations has allowed rampant violations.

g. There has been absence of regular audit of urban legislations to study the impact of planning regulations, standards and procedures.

Both primary and secondary data was collected to assess the situation. The primary data was collected by interview method and through informal discussions and observation. Various officials of the concerned administrative agencies were interviewed. Secondary data was collected from government primary data i.e. annual administrative reports of the concerned agencies i.e. TCP, PUDA, GMADA and Municipal Council.

4.1.1 Regulatory Instruments for Administration of Urban Planning

Urban development controls and regulations play a crucial role in conserving and promoting public health, safety, convenience and general welfare of the citizen together with systematic future growth and improvement of urban areas. These mainly comprise of zoning and sub-division regulations as part of the planning process and of building bye-laws (codes) as part of municipal regulatory process. These local regulations are enacted by the local legislative body in conformity with state enabling legislations. The basic aim of urban development regulations has been to regulate the use of land and built space in an urban area. For this purpose, large number of development controls has been developed. These development controls have been classified into two major categories:

I. Local Public Regulatory Instruments: These are constituted of major and supplementary types of instruments
   a. Major Types:
      (i) Zoning Regulations
      (ii) Sub division Regulations
      (iii) Building codes
   b. Supplementary Types:
      (i) Fire codes
      (ii) Industrial Safety codes
      (iii) Site Design Regulations
      (iv) Urban Renewal Plans
      (v) Health & Sanitation codes
      (vi) Food Control Ordinance
      (vii) Air Pollution
      (viii) Water Pollution etc.

II. Local Public Guide Instruments: comprise of
   a. Master Plan
Out of this plethora of controls, there are three major regulations that determine the quality of urban environment i.e. zoning regulations, sub-division regulations and building codes.4

- **Zoning Regulations**

  The zoning regulations are the prime regulator in urban areas for equitable distribution of land for various urban activities. Zoning regulations ideally comprised of: “(i) well publicized and clear broad land use maps; (ii) simplified zoning regulations primarily in terms of floor area ratio, parking and height control and (iii) indicating uses disallowed in each land use zone”5. Thus, “planning, zoning and promotion... represent ways by which [local government] can keep ‘undesirables’ out and encourage ‘desirables’ to come in, if they choose. And the definition of desirables and undesirables varies from place to place.” 6Zoning regulations define how each parcel of land in community may be put to use. They define certain uses of land as “nonconforming” and “conforming”. This implies that the use of land in contradiction to plans adopted by the council has been prohibited.

  Zoning, as a tool of policy, embraces numerous positive aspects of urban planning:

  - It preserves the aesthetic appeal of communities and neighbours.
  - It separates the residential areas and commercial enterprises.
  - It protects the property from forces which are beyond the controls of the owners.
  - It ensures better quality of life in metropolitan areas.”7

  The zoning regulations are responsible for regulating some important elements in zonal plans. These elements mainly are land use, population density, building bulk and zonal maps. The Table 4.1 clearly presents the detailed information regarding each element and subjects regulated by them.

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7 Rebeiro, op.cit, p.11
Table 4.1

Important Elements & Subjects Regulated by Zoning Regulations

<table>
<thead>
<tr>
<th>S.No</th>
<th>Elements</th>
<th>Regulated Subjects</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Use</td>
<td>Residential, Business &amp; Industry: over a period of time, the zoning regulations have been buttressed by various other uses under each of the above broad categories</td>
</tr>
<tr>
<td>2.</td>
<td>Population Density</td>
<td>Housing regulations lay down permitted densities i.e. families per acres</td>
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<tr>
<td>3.</td>
<td>Building Bulk</td>
<td>Building height, lot area to be covered by building, floor area ratio, useable open space etc are laid down in zoning regulations</td>
</tr>
<tr>
<td>4.</td>
<td>Zonal plans</td>
<td>For each district or zone in the city detailed maps are prepared. Within each broad category, sub-details of residential, business and industrial uses are given.</td>
</tr>
</tbody>
</table>

Source: B.K. Prasad

Zoning regulations are generally implemented by special authorities and in their absence by local government. An official while approving or rejecting any urban activity refers to these regulations. However, more often these regulations are subject to change under the influence of affluent sections of society in order to pursue their vested interests. In SAS Nagar, the zoning regulations are formulated and implemented by GMADA.

> Sub-division Regulations

These are supplementary regulations relating to zoning regulations. They ensure that the standard of development should be adhered to while subdividing the larger zones earmarked in zonal plans. These regulations outline procedures and standards that have to be followed by developers. They further ensure that sub-division should be in consonance with master plans. Local services like sewer lines, drainage facilities, water lines should be corresponding to those already in existence or planned to be created. Further, they also define the specific requirements regarding infrastructure

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8 B. K Prasad, op.cit, pp.111-112.
facilities such as width of roads & streets and so on. Standards of land development are laid down and any substandard sub-division is being penalized.

- **Building Codes (Building bylaws)**

  They are concerned with technical issues, specifically with structural aspects of construction. They define the standards and specifications for establishing minimum safeguards in erection and construction of buildings. They aimed at ensuring health and safety of the public. Building codes are of two types: national building codes and local building bylaws. The national building code is a recommendatory document that guides the formulation of local building bylaws at local levels. They are implemented by local government.\(^9\) Besides these, there have been housing codes, sanitation codes, special parking and sign ordinances and regulations relating to historical and aesthetic aspects.

  Thus, building bylaws govern the safety of built structures and exist side by side of zoning regulations. Zoning, on one hand, stabilizes the use of property whereas building codes ensure that structure of buildings should comply with all defined safety measures. Zoning intended to have a relative permanency; however, building codes are much more flexible. It is so because they have to keep pace with advance building technologies and new material.

  Hence, zoning regulations, sub-division regulations and building codes are the most important regulatory tools for administration of urban planning. The simplifications of these regulations would act as deterrent against violations and at the same time would be instrumental for checking such violations.

### 4.1.2 Legal and Regulatory Framework for Urban Planning and Administration: A Global View

The United Nations Centre for Human Settlement (UNCHS) convened an Expert Group Meeting in November 2001 to develop a framework for documenting and disseminating lessons learned from good urban policies and enabling legislations and to further the exchange of expertise and experience in support of implementation of the Habitat Agenda and the Millennium Development Goals.

In order to assess the effectiveness in the scope and design of good urban policies and legislations, certain evaluation criteria have been proposed and are listed below. These criteria address a wide range of issues concerning the intended impact,

\(^9\) Ibid. pp. 112-113.
the decision-making process and governance structures. While it is unlikely that any single policy or legislation would meet all of these criteria, they do provide a checklist for improved understanding of how a policy or law could support the goals and strategic objectives of the Habitat Agenda.

I. **Criteria pertaining to social, spatial, economic and environmental impact**
   i. Promotion of gender equality.
   ii. Enhancement of social inclusion.
   iii. Recognization of cultural sensitivity and diversity and promotes non-discrimination.
   iv. Empowerment of all stakeholders, particularly women, civil society organizations, local authorities and urban poor.
   v. Improvement of urban sustainability particularly through integrated, holistic and comprehensive approaches to social, spatial, economic and environmental issues.
   vi. Introduction of flexibility in accommodating different conditions, groups and needs

II. **Criteria pertaining to institutional roles and responsibilities**
   i. Provision of a clear definition/assignment of roles and responsibilities including appropriate institutional framework and governance structures and appropriate levels of centralization and decentralization.
   ii. Promotion of the use, availability and accessibility of research findings and information.
   iii. Simplicity and clarity of administrative procedures
   iv. Realistic in terms of scope and implementation.
   v. Providing for measurable impact and/or results.
   vi. Support of the participation of all stakeholders including disadvantaged groups in decision making monitoring and evaluation

III. **Institutional Framework and Governance Structures**

A key concern has been institutional framework and governance structure for creating and implementing good urban policies and legislations. Experiences have shown that there has been a need for a clear definition and assignment of roles between various actors, entities and jurisdictions responsible for oversight & regulation, coordination & implementation and evaluation & follow-up. Authority and
responsibility should be decentralized to improve service delivery and responsiveness to local development priorities. Further, decentralization must involve genuine reallocation of power, resources and responsibilities to local levels and not just the reshuffling or reassignment of administrative duties. Experiences have demonstrated that in many situations, decentralization could foster more effective responses for reducing poverty.  

UN-Habitat proposed these criteria for evaluating the effectiveness of urban policies and legislations. These criteria advocated adoption of a holistic, integrated and comprehensive approach towards urban development. It emphasized empowerment of stakeholders for enhanced social inclusion and participation. It called for clear definition and assignment of roles of various urban actors and decentralization of service delivery. Thus, UN-Habitat envisions the formulation of all-embracing urban policies and legislations.

However, the urban planning legislations have been found wanting on many counts in the developing world. The regional overview of the status of urban planning and planning practice in Anglophone (Sub-Saharan) African Countries have highlighted glaring issues in this context; these have been discussed below:-

i. Urban planning legislations in the Sub-Saharan African countries have largely been a colonial legacy. They have evolved from the British Town Planning Legislations/ Legislations and have been revised throughout the 19th century.

ii. The institutional framework for formulating and implementing urban planning legislations has been highly centralized i.e. the centre and the state governments usually undertake the policy and regulatory decisions.

iii. The zoning regulations have been applied rigidly resulting in single or limited use of land parcels for residential, commercial, industrial and recreational activities.

iv. The planning standards have largely been unattainable. In Tanzania, the master plans prepared in 1968 and 1979 had stipulated minimum plot size as 450m/sq, intermediate plot size to 800m/sq and maximum plot size of

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1600m/sq. Thus, urban planning have failed to integrate the urban poor effectively into planned cities.

v. The administration and enforcement of planning regulations involve exorbitant costs. Thereby making it unaffordable for the poor to comply with minimum planning standards and resulting in proliferation of informal settlement and slums.

vi. The administrative procedures are often complex, cumbersome and time consuming involving numerous stages. Further, due to illiteracy, the citizens lack comprehension of administrative procedures. In Lesotho all forms, related to development of plots and registration of land titles, have been in English whereas most of the people do not even know the local language.

vii. The inordinate delay in administrative procedures has led to the emergence of corrupt practices. The household and developers make informal payments to the Government to accelerate the processes.

viii. The municipal government possessed limited implementation and enforcement capacity. This could be attributed to weak financial base, inadequate technical skill and competence and above all lack of political will and commitment. Consequently, little scope for inclusiveness of people in urban planning processes has been left.

The above mentioned maladies, however, have not been limited to African nations only. It has been observed that most of the countries in the developing world have failed to formulate and implement the requisite urban planning legislations thereby retarding the systematic growth of cities. The Indian cities too have been suffering from these weaknesses. The Master plan documents incorporating zoning regulations and development control regulations have been found to be static and rigid. In addition, the enforcement of zoning and building regulations has been weak. Further, the long and cumbersome processes involved in getting clearances in construction activity have become the ‘fountain-heads’ of corruption and has jeopardized the transparency in the governance. Therefore, urban planning and development legislations that directly affected urban growth, development and functioning of urban land and housing markets, need to be critically reviewed.
Also, the urban development legislation in Punjab i.e. the Punjab Regional and Town Planning and Development 2006 Act was found inadequate with regard to the proposed UN criteria. It seems that the State Government did not refer to these international criteria for upgrading the provisions of the Act in 2006. The various criteria pertaining to social, spatial, economic and environment aspects had not been incorporated in the urban development legislation. Further, the provisions pertaining to roles and responsibilities, institutional framework and government structure seems ambiguous. Thus, it is evident that this urban development legislation could not imbibe the width and depth of the processes involved in urban planning and administration.

4.2 LEGAL AND REGULATORY FRAMEWORK FOR URBAN PLANNING AND ADMINISTRATION: INDIAN EXPERIENCE

In India, the subject of town and country planning as such does not find a place in any of the 3 lists provided in the Seventh Schedule of the Constitution of India i.e. the Union list, State list and Concurrent list. But the competence of state legislation has been vested either in entry 18 (Land) of State list or in entry 20 (Economic and Social Planning) of Concurrent list. Accordingly different states have enacted their planning laws in different forms thereby defining the planning practices for planned development.

In post independence India, the system of creating comprehensive development plans (master plans) has been derived from the Town and Country Planning Act enacted in 1947 in United Kingdom. The legislation was adopted for creation of green belts and was later updated in 1990. While City Improvement Trusts existed in India since the 19th century, it was only in 1948 that a conference of Improvement Trusts proposed that all towns with a population above 10,000 should have master plans and all schemes of the Trusts should be within the framework of these master plans. A model town and country planning law was prepared by the Town and Country Planning Organization (TCPO), Ministry of Urban Development, in 1960. The model TCP law had provisions for (a) the preparation of comprehensive state level master plans for urban areas, (b) the constitution of a board to advise and to coordinate plan formulation by the local planning authorities, and (c) the implementation and enforcement of the
master plans. This model law was, however, revised in 1985 as the Model Regional and Town Planning and Development Law in which plan formulation and implementation has been proposed to be entrusted to the same agency, which would function as a planning and development authority. Consequently, various state level legislations were enacted, which provided momentum to urban planning during the early 1960’s.

It was during the Third Five-year Plan (1961-1966) that the Union Government provided full funding to states to set up town and country planning departments which took up the process of preparing master plans. While at state level, urban planning would be governed by respective state town planning legislations and other development statutes. Thus state town and country planning departments were established in almost all the states and union territories of the country. Although the role and functions of town planning departments varied from state to state, by and large, preparation of master plans/development plans, regional plans, town planning schemes, zonal plans, development scheme, area schemes, implementation of central and state sector schemes, development control and planning permissions have been their major functions. The model law was further amended in 1991. As a result, most states have amended their respective town and country planning laws.

### 4.2.1 Urban planning legislations in various states

Table 4.2 summarizes the urban planning legislations enacted by different states of the Indian Union.

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<table>
<thead>
<tr>
<th>S. No.</th>
<th>States/ UT’s (Subject to availability of information)</th>
<th>Urban planning legislations</th>
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<tbody>
<tr>
<td>3.</td>
<td>Assam&lt;sup&gt;15&lt;/sup&gt;</td>
<td>The Assam Town and County Planning Act, 1959; The Assam Development Authorities Act, 1964; the Guwahati Municipal Corporation Act, 1969; Guwahati Metropolitan Development Authority Act, 1985; The Assam Land and Revenue Regulation, 1886; The Assam Urban Water Supply and Sewerage Board Act, 1897</td>
</tr>
<tr>
<td>4.</td>
<td>Bihar&lt;sup&gt;16&lt;/sup&gt;</td>
<td>Bihar Municipal Act, 2007; Bihar Apartment Ownership 2006 Act</td>
</tr>
<tr>
<td>5.</td>
<td>Chattisgarh&lt;sup&gt;17&lt;/sup&gt;</td>
<td>Chhatisgarh Nagar Thata Gram Nivesh Adhiniyam, 1973</td>
</tr>
</tbody>
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<sup>13</sup> www.aponline.gov.in Last accessed on 16.03.2011  
<sup>14</sup> www.westkameng.nic.in Last accessed on 16.03.2011  
<sup>15</sup> www.assam.gov.in Last accessed on 16.03.2011  
<sup>16</sup> www.urban.bih.nic.in Last accessed on 16.03.2011  
<sup>17</sup> www.cg.gov.in. Last accessed on 16.03.2011
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¹⁸ www.goaprintingpress.gov.in. Last accessed on 16.03.2011
¹⁹ www.udd.gujarat.gov.in. Last accessed on 16.03.2011
²⁰ www.huda.gov.in. Last accessed on 16.03.2011
²¹ www.himachal.nic.in. Last accessed on 16.03.2011
²² www.dtpkar.in. Last accessed on 16.03.2011
<table>
<thead>
<tr>
<th>No.</th>
<th>State</th>
<th>Acts and Legislation</th>
</tr>
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<tbody>
<tr>
<td>12.</td>
<td>Kerala</td>
<td>Town Planning Act 1108 ME; Madras Town Planning Act, 1920</td>
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<tr>
<td>14.</td>
<td>Maharashtra</td>
<td>Maharashtra Regional and Town Planning Act, 1966</td>
</tr>
<tr>
<td>15.</td>
<td>Manipur</td>
<td>Town and Country Planning Act, 1975</td>
</tr>
<tr>
<td>16.</td>
<td>Odisha</td>
<td>Odisha Town Planning and Improvement Trust Act, 1956; Odisha Housing Board Act, 1968</td>
</tr>
</tbody>
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23 [www.jnnurm.nic.in](http://www.jnnurm.nic.in). Last accessed on 16.03.2011
25 [www.townplanning.nic.in](http://www.townplanning.nic.in). Last accessed on 16.03.2011
26 [www.mmrdamumbai.org](http://www.mmrdamumbai.org). Last accessed on 16.03.2011
27 [www.townplanningmanipur.nic.in](http://www.townplanningmanipur.nic.in). Last accessed on 16.03.2011
28 [www.urbanodisha.gov.in](http://www.urbanodisha.gov.in). Last accessed on 16.03.2011
29 [www.puda.nic.in](http://www.puda.nic.in). Last accessed on 16.03.2011
30 [www.jaipurjda.org](http://www.jaipurjda.org). Last accessed on 16.03.2011
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<tr>
<th></th>
<th>State / Union Territory</th>
<th>Legislation and Regulations</th>
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<tbody>
<tr>
<td>20.</td>
<td>Tamil Nadu 32</td>
<td>Tamil Nadu Town and Country Planning Amendment Act, 2010</td>
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<tr>
<td>24.</td>
<td>Chandigarh 36</td>
<td>The Capital of Punjab (Development &amp; Regulation) Act, 1952</td>
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<td>25.</td>
<td>Delhi 37</td>
<td>Delhi Development Act, 1957</td>
</tr>
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**Notes:**
- www.sikkimudhd.org. Last accessed on 16.03.2011
- www.tn.gov.in. Last accessed on 16.03.2011
- www.awas.up.nic.in. Last accessed on 16.03.2011
- www.uk.gov.in. Last accessed on 16.03.2011
- www.wburbandev.gov.in. Last accessed on 16.03.201
- www.chandigarh.gov.in. Last accessed on 16.03.2011
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- www.daman.nic.in. Last accessed on 16.03.2011
- www.tcpd.puducherry.gov.in. Last accessed on 16.03.2011
Table 4.2, therefore, clearly shows that states have enacted their respective urban planning legislations. However, the common feature with regard to urban planning legislations in all states of Indian Union has been the absence of integrated urban planning legislations. Since urban planning constitutes of three basic components i.e. land use, housing and infrastructure facilities; most of the states have enacted individual legislations for dealing with each component. Furthermore, the formulation and implementation of multiple legislations have been undertaken by different urban development agencies i.e. either by government department or by parastatal bodies. Hence, it could be concluded that while a plethora of urban planning legislations have existed; in reality, the objective of planned urban development is still unaccomplished.

4.3 LEGAL AND REGULATORY FRAMEWORK FOR URBAN PLANNING AND ADMINISTRATION IN SAS NAGAR

To check haphazard and unregulated development of urban areas, the State of Punjab has established a reasonable legal and regulatory framework for urban planning processes. PUDA, since its inception in 1995, has been responsible for the implementation and regulation of urban planning legislations in state of Punjab. However, some urban areas have separate urban development authorities and the administration of urban planning legislations have been undertaken by these authorities. Thus in **SAS Nagar (Mohali)**, GMADA, since 2006, has been responsible to ensure adequate implementation of urban planning legislations in the Greater Mohali Region which includes the city of SAS Nagar (Mohali). The following have been the major urban planning legislations implemented in Punjab:

i. **The Punjab New Capital (Periphery) Control Act, 1952**

An area of Punjab within 16 kilometres from the outer boundary of Chandigarh Capital Territory which is reserved for the extension of the Capital is covered under the Periphery Act. The areas falling under the Act constitute part of Patiala, Fatehgarh Sahib and Ropar districts. The Act provides for delegation of powers to the Deputy Commissioners of the said districts to implement the provisions of the Act. Additional Chief Administrator, GMADA has also been declared Deputy Commissioner for this purpose. During the year 2009-2010, the enforcement wing had issued show cause notices to 234 violators under the Punjab New Capital (Periphery) Control Act, 1952.
ii. The Punjab Regional and Town Planning and Development 2006 Act

The Punjab Regional and Town Planning and Development 2006 Act has been the major urban development act that guided the administration of urban planning in SAS Nagar. It was enacted in 1995 and was later amended in 2006. The Act has been the parent urban legislation for undertaking urban planning and development in the State.

iii. The Punjab Apartment and Property Regulation Act, 1995

The Punjab Regulation of Colonies Act, 1975 has been repealed and replaced by the Punjab Apartment and Property Regulation Act, 1995. This is a comprehensive law to boost development of housing colonies in the State. This Act came into existence on 15th October, 1995. The Act provided that any person involved in developing land for residential, commercial or industrial purposes or a building with eleven or more apartments or converting a part of it into eleven of more apartments and selling all or some of these, will have to get himself registered and obtain the license required under the Act. After 30th November, 1995 no builder, colonizer, contractor, promoter, estate agent could do business without being registered and licensed as an estate agent.

In SAS Nagar, from 1995-2006, the Additional Chief Administrator, PUDA had been responsible for the issue of license to promoters and for registration of estate agents. After 2006, the Additional Chief Administrator, Mohali has been delegated the power to issue license to promoters and to register estate agents in the Greater Mohali Region, including the city of SAS Nagar.

iv. The Punjab Apartment Ownership Act, 1995

The Act protects the interests of apartment owners. It provides for formation of associations with apartment owners as its members for administration of affairs of the apartments, management, upkeep and maintenance of the buildings. It also provided for a simplified procedure for the settlement of disputes between promoters and apartment owners. Since 1995, the Act has not been implemented by the State Government. It came into effect from 21st June, 2005. Thereafter, powers to implement the provisions of the Act have been delegated to Additional Chief Administrator, Mohali for areas that fall within the jurisdiction of GMADA, Mohali.
The implementation of the aforesaid legislations, at the state level, has been undertaken by the General Manager (Regulatory) under Additional Chief Administrator (HQ) cum Director (UE), PUDA (i.e. in urban areas where separate urban development authorities have not been established) (Diagram) At local level, the respective urban development authority has been responsible for their implementation. In **SAS Nagar (Mohali)**, the Estate Officer (Regulatory), GMADA bore the onus for administration of the urban planning legislations in Greater Mohali Region including the city of Mohali. However, since SAS Nagar forms part of the Tricity area (Chandigarh-Mohali-Panchkula) and has also been developed as phase III of Chandigarh city, the Punjab New Capital (Periphery) Control Act, therefore, does not apply to it. The Punjab Regional and Town Planning and Development (Amendment) 2006 Act has been the most important urban development legislation in the State. In SAS Nagar, all the urban planning and development activities have been regulated by this Act. Thus, a comprehensive discussion of the Act is merited.

**4.3.1 The Punjab Regional and Town Planning and Development (Amendment) 2006 Act: An Overview**

The Act has been the parent legislation for administration of planned urban development in the State of Punjab. It provided for preparation and implementation of regional plans and master plans, for constitution of a state regional and town planning and development board, for guiding and directing the planning processes in the state; for the constitution of a state urban planning and development authority; special urban planning and development authorities, and new town planning and development authorities for effective and planned development of planning areas, and undertaking urban development and housing programmes and schemes for establishing new towns.

The Act contains detailed provisions pertaining to the constitution of planning agencies, their functions and powers. The State’s urban development authority i.e. PUDA has been established under Section 17(1) of the Act. Also, the special urban planning and development authority (local level authority) such as GMADA for Greater Mohali Region have been established under Section 29 (1) of the Act for proper development of any area or group of areas. It must be mentioned here that with regard to SAS Nagar all the powers and functions of the state level authority i.e. PUDA has been delegated to local level authorities i.e. GMADA.
For regulating planned urban development, the Act provided for preparation of regional plans, master plans and town development schemes. These plans define the zoning regulations, building rules, development controls and planning standards ensuring reasonable and efficient utilization of urban land. For monitoring implementation of such regulations and standards, the Act provided for various enforcement instruments such as inspections, imposition of penalties, removal of unauthorized development and so on.

For the purpose of the study, the provisions of the Act have been studied with regard to comprehensiveness of the legislation (mainly w.r.t. provisions for land use, housing and infrastructure facilities), flexibility, environmental sensitivity, and people’s participation.

Comprehensiveness

Urban planning has three basic components i.e. land use planning, housing and infrastructure facilities. This study has focussed mainly on the infrastructure facilities of water supply, sanitation and roads. Hence, the main aim has been to study the inclusion of these components in the Act and provision of requisite institutional framework for carrying out these urban basic services.

- Land Use

For ensuring proper land use provisions have been made for acquisition and disposal of land by PUDA. The State Government, on the request of PUDA, could acquire any land other than land owned by the Central Government, under the provisions of Land Acquisition Act, 1894\(^40\). Thereafter, on payment of the compensation awarded under the Act and other charges incurred while acquiring the land, PUDA would own the land. Further, PUDA may dispose of (i) any land acquired by it without undertaking or carrying out any development or (ii) any land after carrying out development, to any person on such terms and conditions which it considers expedient for efficient urban development\(^41\).

Land acquisition, in recent times, has become a contentious issue. Urban development authorities have been acquiring land for undertaking residential, commercial and industrial development. However, the farmers’ protests in villages

\(^{40}\) Section 42, the Punjab Regional and Town Planning & Development (Amended) 2006 Act, Panjab Law Agency, Chandigarh, p. 25.

\(^{41}\) Section 43 (1) the Punjab Regional and Town Planning & Development (Amended) 2006 Act, Panjab Law Agency, Chandigarh, p. 25.
of Greater Noida, in Singur & Nandigram, West Bengal and in Chandigarh IT park have highlighted the callous attitude of state governments. The parastatal bodies and state government seemed to be grinding their own axe by violating the provisions of Land Acquisition Act, 1894 from time to time. Nevertheless, in SAS Nagar, the issue of land acquisition has not assumed such an evil face. GMADA has been acquiring land of adjoining villages for development of Greater Mohali Region. The adequacy of compensation has mostly been a contentious issue as in case of Mullanpur land acquisition case. To resolve this, the Authority has introduced the Land Pooling Scheme in 2008. Under this scheme, the Authority would give 1,000 square yards of residential plot and 100 square yards of commercial site against the acquisition of one acre of land to the farmers whose land has been acquired for the upcoming housing projects.

For land use planning, the Designated Planning Agency would prepare the existing land use maps and land use registers indicating the present use of every piece of land in the planning area. For SAS Nagar, the District Town Planner (DTP) (Mohali), Department of Town and Country Planning has been declared as the designated planning agency. The Act provided for the preparation of Master Plan that broadly indicated “(i) the manner in which the land in the planning area shall be used; (ii) allocates areas or zones of land for use for different purposes; (iii) indicate, define and provide the existing and proposed highways, roads, major street and other lines of communication and (iv) includes zoning regulations to regulate within each zone the location, height, number of storeys and size of buildings and other structures, open spaces and the use of buildings, structure and land” (Annexure III).

42 Unclear definition of the term 'public purpose' in the Act has become a fountain head of corrupt practices. Even the new Land Acquisition, Rehabilitation & Resettlement Bill does not address this issue - A. Srivathsan, Owner's Nightmare, Realtor's Fantasy, The Hindu, May 25, 2012.
45 Section 59(1), the Punjab Regional and Town Planning & Development (Amended) 2006 Act, Panjab Law Agency, Chandigarh, p. 37
46 Section 70(1), the Punjab Regional and Town Planning & Development (Amended) 2006 Act, Panjab Law Agency, Chandigarh, p. 42
For ensuring compliance to approved master plan, the Act provided that use of land within the planning area shall be in conformity with the approved master plan. The Act provided that change in land use could be undertaken only after obtaining the prior permission in writing and a certificate of payment of development charges or betterment charges from the competent authority.

The Act, therefore, contains general provisions with regard to land use planning. It, however, does not specify how land use registers should be prepared, what would be the major land use zones, what are the basis on which classification of land use should be made and what percentage of land should be allocated to different major land use zones. The Act is also silent on strategic land use issues such as environment conservation, reservation of land for under-privileged sections of society and integration of various land uses. Hence, the Act is prescriptive rather than being descriptive in nature.

Further, the Act does not contain provisions for maintenance of land use inventories. These urban land inventories provide significant information with respect to the existing land use patterns, changing land use patterns over the period, existence of public & private land ownership, maintenance of land records and so on. Thus, absence of land use inventories results in squatting, unauthorised construction and encroachments in urban areas. This also mars the benefits of the government at national, state and local levels.

- Infrastructure Facilities

With regard to infrastructure facilities, the Act contains provisions relating to scheduled roads in the State of Punjab (Annexure). The Punjab Scheduled Roads and Controlled Area (Restriction of Unregulated Development) Act, 1963 was repealed and replaced by this Act. The Act stated that no construction is allowed in the following cases without getting approval from the competent authority:

i. in a distance of 30 meters on either side of a scheduled road,

ii. in a distance of 100 meters on either side of bye-pass,

47 Section 79 the Punjab Regional and Town Planning & Development (Amended) 2006 Act, Panjab Law Agency, Chandigarh, p. 44
48 Section 80 the Punjab Regional and Town Planning & Development (Amended) 2006 Act, Panjab Law Agency, Chandigarh, p. 44
iii. in a distance of 5 meters on either side of the road, reservation of that part of a scheduled road that falls in the area of municipal corporation or class I municipality,

iv. in a distance of 10 meters on either side of the road reservation of that part of a scheduled road, that falls in the area of any other municipality.

The powers in this regard have been vested in the Executive Engineer of PWD (B&R), Punjab. He has been declared the competent authority to demolish the unauthorized construction on either side of the scheduled roads.

There were no explicit provisions in the Act with regard to **internal roads mapping**. However, the Act provided that the master plans shall indicate, define and provide the existing and proposed highways, roads, major streets and other lines of communication\(^9\).

The master plans contain proposals for provision of **water supply and sanitation** in the city. While defining the public and semi-public uses, the plans earmark the sites for setting up water supply and sanitation facilities. The Outline Master Plan for SAS Nagar (1996-2016) provides that “besides existing water treatment plant and water works, one more site of 50 acres has been proposed for water treatment plant in Sector 74-A. Sewage treatment plant and sewage disposal works are proposed on a 150 acres site in the south-east of Transport Nagar in Sector 101. Garbage dumping site of 60 acres area is also proposed in the same sector.” It is important to note that the Act itself does not contain any provision regarding the planning and administration of water supply and sanitation facilities, thus neglecting the integration of the infrastructure components.

- **Housing**

  It is the most important aspect of urban planning. In SAS Nagar, before 2006 PUDA was responsible for implementing various housing schemes as well as provision of social housing. Nevertheless, GMADA has been discharging this function after 2006 in the city. The Outline Master Plan for SAS Nagar (1996-2016) proposed 6165 acres of land for residential use in addition to existing 2030 acres of land. Thus, residential land use covers a total area of 8195 acres, constituting 39.6% of total urban area. Also, the Master plan earmarked 140 acres

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\(^9\) Section 70(1) *the Punjab Regional and Town Planning & Development (Amended) 2006 Act*, Panjib Law Agency, Chandigarh, p. 42
of land in Sector 103 for rehabilitation of slum dwellers and economically weaker
section (EWS). The Master plan, therefore, reserves land for housing the poor
sections.

However, the researcher found that housing was not given due attention in
the 2006 Act; there was absence of separate provisions pertaining to housing sector.
The Master plan did provide for reservation of residential zones. However, the Act
did not address several issues related to housing such as absence of provisions
pertaining to social integration i.e. reservation of residential zones for EWS/ urban
poor, absence of quantitative targets such as 50% affordable housing, absence of
provisions integrating transport plans with housing i.e. taking cognizance of
proximity to work place, provisions with respect to population density so as to
ensure equitable distribution of population in urban areas and so on. These
provisions, therefore, have been crucial for enhanced supply of land for housing in
urban areas. The Act had, however, failed to integrate housing with planned urban
development.

Flexibility

The Punjab Regional and Town Planning and Development Act enacted in 1995
failed to achieve the desired objectives. This could be attributed to time consuming and
cumbersome procedural provisions in the Act. This is evident from the fact that till
2006 no substantial urban development took place. Even after 11 years of its
enactment, Outline Master Plans for only 3 out of 157 towns, namely SAS Nagar,
Anandpur and Zirakpur, have been finalized. Also, no special urban development
authority has been established except for the cities of Patiala, Anandpur and SAS
Nagar. Thus, the Government of Punjab amended the parts of the Act dealing with the
preparation of Master Plans and Regional Plans in 2006. This was with the view to
accomplish the task of preparing master plans and regional plans for all towns and
regions, to curb haphazard urban development, to prevent mushrooming of slums, to
meet challenges of exponential urban growth and to shorten the lengthy and time
consuming procedures. Therefore, the Act has been appropriately titled The Punjab
Regional and Town Planning and Development (Amendment) 2006 Act. The following
sections have been amended in the Act:

I. Section 17(3) and (4): The Chief Minister would be the designated as Chairman
of the development authority instead of the Minister-in-Charge. Minister-in-
Charge was designated as Co-Chairman and Secretary Housing and Urban Development as Vice-chairman of the development authority.

II. Section 56 (1): In place of the Punjab Regional and Town Planning and Development Board, the State Government was authorized to declare and publish any planning area.

III. Section 56 (iii): In every notification published under Section 56(i) limits of the planning area and its name would be indicated instead of defining its limits.

IV. Section 56(4) and (5): Provision for inviting suggestions / objections from public while declaring the boundaries of the proposed local planning area was omitted.

V. Section 57: The Board was replaced by the State Government for designating the planning agency for local planning area.

VI. Section 58: Designated planning agency would work under State Government instead of the Board.

VII. Section 59 (1): Provision for preparation of land use registers was omitted.

VIII. Section 60 (1): State Government shall determine the expenses of planning agency instead of the Board.

IX. Sections 61 and 62: The State Government in place of the Board would authorize the designated planning agency for preparation of regional plans and its content

X. Section 63: Time limit of three months for inviting objections / suggestions was reduced to 30 days

XI. Section 64: In place operational 30 days time after publication of the notice would now be from the specified date mentioned by planning agency.

XII. Section 70(a) and (b): The power to extend time limit / or preparation of master plan and its submission for approval would be vested in the State Government in place of the Board and word outline master plan was substituted by master plan.

XIII. Section 70 (c): State Government in place of Board would (i) direct the planning agency to publish the existing land-use plan and master plan and place its copies for public objections and suggestions within 30 days time after publication; (ii) consider the objections/suggestions so received in consultation with the Board; (iii) direct the planning agency to modify the master plan or
may approve it as such; (iv) finalize the master plan and direct the designated planning agency to publish the final master plan in the official gazette under intimation to Government within 30 days from the date of its approval.

XIV. Sections 71, 72, 73 and 74: Pertaining to preparation of comprehensive master plan, consent of the Board to publication or preparation of the draft comprehensive master plan, public notice of preparation of draft comprehensive master plan and approval of the State Government was omitted.

XV. Section 75: Operational date of master plan would be the date of publication.

XVI. Section 76: the State Government would direct the designated planning agency to make alterations or additions in the master plan after every ten years in place of the Board.

XVII. Section 80: sub section (2) of Section 73 providing reasonable opportunity of being heard was omitted.

XVIII. Section 81: In clause (b) of the section the words “through the State Government the proposal for such development or change of land use together with the objections raised by the competent authority to the Board for decision”, was substituted by “to the State Government the proposal for such development or change of use together with the objections raised by the competent authority for decision”.

XIX. Section 181: clauses (d) and (e) which relate to power of the Board to make regulations were omitted.

An official of TCP told that the aforesaid amendments were made to shorten and expedite the processes involved in preparation of master plans. Since 2006 the master plans for 5 towns have been notified namely SAS Nagar, Mullanpur, Ludhiana, Dera Bassi and Zirakpur. Among these, SAS Nagar has become the first city for which Master Plan has been notified in 2008. Hence it is evident that the State Government had been cautious regarding the progress of the Act in the right direction and ensured that the Act should contain such provisions that facilitated the administration of urban planning processes. However, during the study it was found that these amendments were not being implemented in spirit; the Board still retained its powers delineated in the original Act of 1995. It continued to be the apex body responsible for administration of urban planning in the city. In an informal interview, an official of TCP stated that besides approval of master plans, the Board discussed major issues
pertaining to urban planning such as some modification in original master plan, change in the notified planning area and so on.

Further, certain amendments were introduced in the Act to alter the administrative structure of urban development authorities. The amended Act provided that the Chief Minister would Chair urban development authorities both at state and local level in place of Minister of Housing and Urban Development. These amendments, therefore, introduced centralization in the administration of urban development. A senior official, while explaining the motive behind greater centralization, stated that urban development has been the most crucial department which regulates and manages urban land in the State. He said that the ministerial control over urban development was linked with an exponential rise in land manipulations and associated corrupt practices. Thus, to create an inbuilt checks and balances, it was considered appropriate to place the Department of Housing and Urban Development (HUD) and urban development authorities under the direct control of the Chief Minister.

However, since the Chief Minister has numerous other engagements, it was admitted that this has resulted in administrative delays. Nevertheless, such administrative delays could be overcome if the Principal Secretary to the Chief Minister puts the issues relating to urban planning on top priority. In other words, administrative delays are man-made and could be resolved with greater administrative assiduousness.

**Environmental Sensitivity**

The Act does not contain any provision for addressing environmental issues. The senior officials of DTP, PUDA and GMADA did not perceive the need for such provisions as to ensure environment friendly development. The Authority seeks prior clearance from the Department of Forests before the selection of local planning area and urban plan formulation. Further, they argued that since the Department of Forests is responsible for ensuring environment preservation; there is no need to include separate provisions for addressing environment issues in the Act.

However, the researcher observed that absence of such legal provision has increased the vulnerability of environment to ruthless urban development. The officials of urban development authorities have greater leverage to overlook environment issues and undertake activities with future adverse outcomes. This is evident from several
instances of environment violations in the city where the Authority has found to be compromising with the environment (Discussion on p. 211)

**People’s Participation**

The regulatory framework for urban planning has been highly centralized. This is evident from the fact that PUDA, GMADA, the Board and the State Government have been the dominant players in the field. The Act has vested all decision making powers in them. Further, the suggestions and objections of people are being sought only after the preparation of the master plan. The Act provided for seeking suggestions and objections, to make up for the non-adoption of participatory approach. This is so because firstly, the suggestions are sought only after the approval of master plan by the State Government; secondly, the Board and the State Government are not bound to accept these suggestions and objections. The officials informally accepted that the decisions of the Board are final. Hence, it is clear that people’s participation has not been considered as the crucial element for urban development. Also, most of the times, people are unaware of the publication of notification of display of draft plan inviting suggestions and objections. This could be attributed to the minimum required publicity of the notifications, lack of awareness among people, growing apathy of general public and to cap it all absence of any organized people’s forum such as civil society organizations focussing on urban development matters.

Paradoxically, the Punjab Regional and Town Planning and Development 2006 Act does not provide for the participation of ULBs in urban planning process. It does not define the nature of relationship between the two while formulating and implementing an urban plan in a municipal area. Also, large number of functions assigned to the Authority has been found overlapping with functions of ULB’s in the Act. Further, the Act vividly described the flow of authority and the procedures and processes involved in urban planning and administration. Whereas the Punjab Municipal Act, 1995 does not explain how ULB’s would perform the urban planning function assigned by the Act. Hence it could be concluded that the Act does not encourage participation of people in planned urban development. The absence of requisite legal support for promoting people’s participation has, therefore, created a highly centralized and non-transparent administrative structure. The non-inclusion of public opinion has discouraged the creation of people’s friendly cities.
Thus, the Punjab Regional and Town Planning and Development 2006 Act could not be considered as all-embracing urban development legislation. An overview of the 2006 Act has highlighted inherent inadequacies which demand due attention. Most importantly, the 2006 Act could not integrate various components of the urban development process. This elucidates the fragmented approach of the government towards urban planning and administration.

4.4 AN ANALYSIS OF LEGAL AND REGULATORY FRAMEWORK FOR ADMINISTRATION OF URBAN PLANNING IN SAS NAGAR

Urban planning legislations have been the tools for guiding and promoting development of an urban area. Urban planning often gives more emphasis to spatial development; however, it is also closely linked to social and economic development. Therefore, urban legislations have mainly been enforced as part of the planning strategy to conserve and promote public health, safety, convenience and general welfare of the people and to streamline the future growth of an area. This study, therefore, studied the prevailing legal and regulatory framework in SAS Nagar with a view analyzing the policy framework, centralized administrative structure, environment consciousness, role of urban local bodies, enforcement mechanism and legislative audit mechanism.

I. Absence of Requisite Policy Framework

In the present times, it has become imperative to develop an urban policy. A well articulated urban policy highlights the factors shaping the 21st century cities such as environmental challenges, demographic challenges of rapid urbanization, economic challenges of market led approaches, increasing socio-spatial challenges and challenges of increasing democratization of decision-making. In other words, a strategic policy framework is fundamental for steering the future course of action. Ideally, a policy is a set of goals or objectives whereas a legislation is an instrument for realization of policy goals or intentions. Ironically, in practice, it was found that urban planning legislations had been developed without any policy base.

The State of Punjab has not formulated an urban policy, till date. The officials lamented that lack of political will had been responsible for non-formulation of an urban policy. They stated that policy formulation was solely a political matter and all policy decisions were taken by the State Government; the role of officials was simply to carry out the directions of the State Government.
Further, an official put forth that urban planning has a vast scope; therefore, integration of each element of an urban area required high degree of technical skill and management. However, in present times, this technical expertise has not been developed adequately. Moreover, the agencies did not adopt a preventive approach on the contrary, they simply handled issues as and when they came up. Consequently, the urban planning proposals lack long-term perspective aiming at providing immediate rather than long lasting solutions.

Thus, an explicit urban policy indicating the emerging patterns of urbanization and measures to channelize the future urban growth in an equitable and sustainable manner is imperative. A strategic urban policy would synthesize both the tangible (physical infrastructure) and intangible components (social values and preferences) of urban planning. In absence of an urban policy, unified urban goals could not be defined for whole state of Punjab. The consequent haphazard urban development exerts colossal pressure on limited urban space as well as on urban services; resulting in escalation of urban inequalities.

II. Existence of Centralized Administrative Structure

The Punjab Regional and Town Planning and Development (Amendment) 2006 Act established a highly centralized administrative structure. Till 2006, the Board had been the supreme body that regulated urban development activities in the State. Later, the State Government amended the Act and undertook the function of urban planning and development. Thus, urban development authorities exercised their powers and performed such functions as directed by the State Government. In other words, the parastatal bodies are simply the extended arms of the government and do not enjoy administrative autonomy; decision making powers are vested in the State Government.

Furthermore, the Act does not provide for administrative decentralization i.e. it has been completely silent regarding the participation of urban local bodies and civil society in administration of urban planning. The Act has empowered the State Government and urban development authorities to determine the extent of their participation. It clearly vested all powers relating to plan formulation and implementation in them. Thus, it did not adopt a participatory approach for seeking public opinion or predilections.

The officials admitted the existence of centralized administrative structure. They justified their stance, saying that urban development has been one of the most crucial
and complex function of the Government; neither the ULB's nor the civil society organizations have the technical efficiency to carry out such function. Also, they did not find it important to consult citizens or take their feedback regarding the areas they were residing in to help fine tuning their future development plans. Their contention was that each area had its own features and issues so there was no point in consultation or feedback. This opinion was in convergence with the non-participatory character of the legislation.

Also, the officials believed that it is convenient for a single agency to administer urban planning processes rather than involving multiple actors and agencies. Nevertheless, they said that various concerned agencies are being involved and consulted for the administration of urban planning as and when required. The Act therefore, provided limited scope for decentralization of authority at the lower levels. Centralization of authority has established a non-transparent administrative structure for administration of urban planning.

III. Absence of Environment Consciousness

The changing environmental conditions have been one of the significant challenges for administration of urban planning in the 21st century. It is, therefore, imperative that urban legislations should have adequate provisions for addressing environmental issues. In SAS Nagar, the Punjab Regional and Town Planning and Development 2006 Act was silent on environment issues. The Act did not contain provisions for integration of green policies into statutory urban planning and development control system. As a result, the Authority, till date, had not developed any comprehensive set of green policies and strategies for urban planning such as increasing urban development density i.e. broad basis for mixed land use, renewable energy and carbon neutral strategies to reduce greenhouse gas emissions, transport strategies to reduce fossil fuel use, urban sprawl and dependence on car based transit and so on.

An official of GMADA, while commenting on the current state of affairs said that environment has purely been the concern of the Department of Forests. The Authority proceeds with formulation of an urban plan only after seeking a No Objection Certificate (NOC) from the Department. He explained that seeking NOC means that the onus of looking into environment concerns pertaining to proposed planning area was on the Department of Forests. He added that since various environment legislations have
been enacted in the State and the Department has been responsible for their implementation in spirit; hence there does not seem any need to have separate environment provisions in the 2006 Act. Thus, he believed that the Forest Department is responsible for ensuring appropriate application of environment provisions in urban planning strategies.

Thus the 2006 Act has, per se, been found to be insensitive towards environmental concerns. Hence, it requires to become conscious towards the significance of integration of environmental conservation in urban planning for creating eco-friendly cities. This is the need of the present times where the major challenge for urban planning is to integrate the “green and brown agendas”

IV. Limited role of Urban Local Bodies (ULB’s)

The 74th Amendment provided that the District Planning Committees would be responsible for preparation of regional plans i.e. master plan and zonal plans while the layout plans would be prepared by the local bodies i.e. panchayats and municipalities/corporations. However, till date the function of urban planning was not been assigned to ULB’s in Punjab. On the other hand, the Act of 2006 had further curtailed the role of ULB’s in the administration of urban planning. According to the Act, ULB’s would perform only those planning functions assigned by urban development authorities. In SAS Nagar, the MC was responsible for maintenance of the urban areas developed by GMADA. Hence, the Act had taken away the administration of urban planning from the jurisdiction of ULB’s. This clearly reflects the intentions of State government of retaining and exercising complete control over ULB’s and urban development activities in the State.

The officials were found to be completely satisfied with the provisions of the Act. They stated that the Act provided for the establishment of professional institutions for urban planning. The Municipal Council, SAS Nagar had neither the technical expertise nor had it been financially feasible for the Council to administer urban planning.

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50 UN-HABITAT, *Global Report on Human Settlement 2009: Planning Sustainable Cities*. United Nations Centre for Human Settlement, London. defines “**Green agenda** is about the natural systems of the local, bioregional and global ecosystem, which are used by cities and other settlements as services for open space, biodiversity, water provision, waste dispersion, healthy air, and reliable climate, food and fiber; **Brown agenda** is about the optimization of land use, engineering of waste systems, the minimizing of energy consumption and transport, the reduction in use of materials, and the creation of an efficient built environment”.

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Further, the politicization of the Council had aggravated the situation. Since members of the Council were from different political parties, arriving at unanimous decisions relating to urban matters would be a daunting task. This would result in inordinate delays in taking up the urban planning function. On the other hand, urban development authorities being non-political bodies are free from such complications. Interviews revealed their disdain for the political handicaps being faced by the MC.

Thus, the officials had an ‘efficiency related’ justification in the role of ULB in urban planning remaining limited. It is in the same view that the Act of 2006 has encroached upon the constitutional jurisdiction of ULBs. Furthermore, technical incompetence, political pressure and inadequate resources have thwarted the performance of urban planning function by ULB’s.

V. Absence of Participatory Approach

The participation of both population and local administration in the urban planning processes is one of the major factors contributing to its efficacy. This is so because increasing the participation of intervening actors would prevent the occurrence of potential conflicts and guarantee faster acceptance of the new ideas for urban structure. The adequate legislative support advocating participatory approach would enhance the legitimacy of people’s participation in urban planning. In SAS Nagar, the Punjab Regional and Town Planning and Development 2006 Act, however, has been found lacking on this count.

The Act did not include provisions for incorporating participation of people in the administration of urban planning, neither at the formulation stage nor at the implementation stage. The Act had neither defined the means for attaining participation nor had it defined the potential stakeholders in the urban planning process. Thus, it was not obligatory for GMADA to secure public participation for validation of urban planning processes. Nevertheless, the Act provided for seeking objections/suggestions of general public with regard to draft master plans prior to final approval by the Government. However, such suggestions were not binding on it.

Thus, the concept of participatory planning has been found missing from the Act. The absence of such provisions, therefore, left little room for inclusion of democratic processes in urban planning administration.
VI. Weak Enforcement Mechanism

The regulation of land and property development through statutory plans and development permits has been a vital task of the urban planning system. Paradoxically, outdated planning regulations and development standards are one of the main reasons underlying the failure of enforcement of urban legislations. Generally, they have been based on the experience of the developed countries and are not affordable for the majority of urban inhabitants. Hence, there has been a need for developing more realistic land and property development standards so as to improve enforcement as well as the legitimacy of urban planning as a whole.

In SAS Nagar, three major regulations i.e. zoning regulations, sub-division regulation and building rules monitor the administration of urban planning. The Punjab Urban Planning and Development Authority (Building) Rules, 1996 have been notified after the formation of PUDA in 1995 and accordingly adopted for implementation, based on zoning plans prepared under these rules. Later the rules were amended in 1998 and came to be known as PUDA Building (Amendment) Rules, 1998.

However, the rising numbers of encroachments, illegal occupations and misuses of land use have highlighted the failure of the Authority to implement urban planning regulations and curb rampant violations. An official commented on this, saying that proper implementation of regulations has been the core of administration of urban planning. However, weak enforcement of urban regulations has been the most serious lacuna. He said that there has been no dearth of urban provisions and regulations in the 2006 Act for curbing violations. Paradoxically, there has been serious lack of administrative will for enforcing them. The administrators have been hand in glove with the violators, who work for reinforcing one another's vested interests. The former highlighted the loopholes in the regulatory mechanism which is utilized by the latter for individual gains. Thus, the corrupt network of officials and land and building mafias, from top to bottom, provide impetus to rampant violations in the city.

Further, the official opined that existing socio-administrative structure has been responsible for improper implementation of urban planning regulations. Both the officers and citizens have their vested interest because of which provisions are always compromised. Absence of stringent implementation of urban planning legislations has, therefore, resulted in existing chaos in urban areas. The official opined that more than
planning, it has been the implementation of urban planning regulations which needed to be strengthened and made more stringent.

**VII. Absence of Regular Audit of urban legislations**

Urban planning regulations are necessary for streamlining the urban development processes. However, urban planning and land use regulations could result in favorable and unfavorable social benefits and costs depending on their nature and the specific contexts in which they are applied. When regulatory costs outweigh benefits, regulations should be amended or repealed. Thus, for achieving the objective of planned urban development, regulations need to be audited and amended from time to time. This implies that regulations and processes that facilitate land availability and uses for planned development at affordable costs should be continued while those that lead to contrary results should be eliminated or modified. Thus, there is a need for undertaking regulatory audit from time to time to examine the appropriateness and efficacy of urban planning regulations. Regulatory and process reforms based on audit of the regulatory framework would lead to improved urban planning and development.

The researcher, however, found that no system of scheduled regulatory audit had been adopted till date for urban planning legislations. The officials of GMADA said that the Authority is clearly an implementing agency; therefore, the question of amending or eliminating any urban legislation falls within the purview of State Government - the policy making agency. Further, the Government reviewed the existing urban planning legislations and regulations as and when required. This, therefore, implies that regulatory audit was not considered as an integral part of urban planning administration.

Thus, it could be ascertained that the urban legislations need to be audited for incorporating the geographic, demographic and economic specificities of local areas or regions.

**4.5 CONCLUSION**

Urban planning legislations are the means of government intervention for undertaking development of urban areas. They have to address various dimensions of urban land encompassing aspects such as classification of land use, sub-division of land, development of land and buildings, floor space index, acquisition of land, registration of title and so on. In India, a plethora of urban planning legislations have been enacted; however, desired outcomes are still awaited. The in-depth examination of
the Punjab Regional and Town Planning and Development 2006 Act found the Government of Punjab insensitive towards the international criteria developed by UN-Habitat for formulation of urban policies and legislations; since provisions of the Act have not been found to be in consonance with the UN criteria. Further, the Act has been found to be suffering from various inadequacies – absence of explicit urban policy has resulted in ambiguous urban goals; high degree of centralization in urban decision-making has expropriated the constitutional jurisdiction of the urban local body and has curbed participative planning; exponential rate of urban violations have exposed the inherent weaknesses of enforcement control mechanism. Therefore, there is a call for undertaking regular audit of urban planning legislations; however, a system of audit and review of legislation has been found missing. These inherent inadequacies in the legal and regulatory framework for administration of urban planning question the robustness of the 2006 Act.