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EVALUATING THE IMPACT OF THE 2005 CLU POLICY ON CHANDIGARH'S URBAN FABRIC: A CRITICAL LEGAL ANALYSIS ON LE CORBUSIER'S VISION, CRONYISM, AND HERITAGE PRESERVATION

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ABSTRACT:

This legal research paper critically evaluates the impact of the 2005 Conversion of Land Use (CLU) Policy on Chandigarh's urban fabric. It critiques the policy for enabling cronyism through discretionary powers & procedural complexities of Sections 3, 6 (i)(ii) & 7, which have been exploited for selfish gains. The paper interprets the principles of Le Corbusier, the Athens Charter 1933, the Chandigarh Master Plan 2031, & Nehru's vision for the city. It showcases several problems like incompatibility & mixed land use, destruction of the city's urban design coherence, & traffic & transportation issues. The paper evaluates the negative impact of the policy on Chandigarh's inclusion as a UNESCO World Heritage Site. The need for this analysis is underscored by a significant development on August 18, 2023, when the UT Administration announced a draft policy for converting industrial plots to commercial ones and the MHA rejected the proposal regarding the conversion of industrial/commercial plots from leasehold to freehold on July 15, 2024. This recent announcement highlights the ongoing relevance of evaluating the 2005 CLU policy's implications & the necessity for a critical examination of its impact on Chandigarh's urban planning & heritage preservation. The analysis uses descriptive & case study methods, supported by statistical metrics, to examine the increase in property values & the role of flexible fee structures in promoting cronyism. The study finds that the CLU Policy 2005 significantly facilitated crony capitalism by allowing biased & preferential treatment due to a lack of transparent criteria & accountability mechanisms.

Keywords: Le Corbusier, Crony Capitalism, Athens Charter 1933, Chandigarh Master Plan 2031

INTRODUCTION

“Let this be a new town, symbolic of the freedom of India unfettered by the traditions of the past...an expression of the nation’s faith in the future”¹

These were the words of Pandit Jawaharlal Nehru. Le Corbusier designed Chandigarh with principles of light, space, & greenery, aiming for a functional & aesthetically pleasing urban environment.² In the city’s Industrial Area, a total of 1966 plots have been planned.³ As per the Director of Industries, there were 2488 micro, small & medium industries in Chandigarh employing 23340 workers in 2009-2010.⁴

In July 2005, the Administration introduced the ‘Conversion of Land Use In the Industrial Area Phase-I & II from Industrial to Commercial’ to revitalise the area. Plots with a size of 2 Kanals were eligible to permit activities in the tertiary sector: malls, shops, offices, banks, hotels, restaurants, training institutions etc. The policy was discontinued on 18-09-2008.⁵ It required payment of a conversion fee to convert land use.⁶ Out of 348 eligible plots, 82 were allowed conversions, with nearly 30% lying vacant.⁷ An increase in the FAR⁸ from 1.0 to 2.0, & building height up to 30m was also allowed.⁹

On August 18, 2023, the UT Administration announced the forthcoming draft policy for converting industrial plots to commercial ones. After 14 years, the administration is reconsidering a new CLU Policy for the regions.¹⁰ Adviser of the UT Administrator’s Advisory Council said that the draft was almost ready.¹¹ The policy if implemented, would allow the conversion of land use from industrial to commercial.¹² The Industrial Area is well-sited, but no serious thought has

¹ Nehru after his first visit to Chandigarh –Projected Report – undated.

² Residents Welfare Association v. Union Territory of Chandigarh, Diary No. 5533/2022, C.A. No. 000274-000274 (2023).

³ Chandigarh Administration, Chandigarh Master Plan 2031, Chandigarh.gov.in (2013), accessed July 14, 2024.

⁴ Ibid.

⁵ Ibid.

⁶ Chandigarh draft conversion policy for Industrial Area in a week, available at: <https://www.tribuneindia.com/news/chandigarh/chandigarh-draft-conversion-policy-for-industrial-area-in-a-week-536199#> (last visited on July 14, 2024)

⁷ Check indl area conversion policy need, says UT dept, available at: <https://timesofindia.indiatimes.com/city/chandigarh/check-indl-area-conversion-policy-need-says-ut-dept/articleshow/104031601.cms> (last visited on July 6, 2024)

⁸ The ratio between the overall area of the plot and the overall area of the building is called the floor area ratio (FAR). The FAR in Chandigarh prior to 2005 was 1.0

⁹ The building height in Chandigarh has been increased from 18.29 metre to 30 metres in 2005; *also see* “Chandigarh Master Plan 2031.”

¹⁰ ‘Chandigarh draft conversion policy for Industrial Area in a week’ supra note 7.

¹¹ Ibid.

¹² Chandigarh: Will Industrial Area go commercial? UT mulls land use conversion, available at: <https://timesofindia.indiatimes.com/city/chandigarh/will-indl-area-go-commercial-ut-mulls-land-use->

been given to its planning. There is hardly any open space or recreational facility there, roads are narrow & inadequate parking for heavy vehicles resulting in frequent traffic jams.¹³

In a more recent development on July 16, 2024, “the MHA¹⁴ has rejected Chandigarh’s proposal to convert industrial & commercial plots to freehold ownership from freehold occupancy. For over two decades, the traders have been demanding freehold ownership as they struggle with the sale, purchase & mortgage of these plots.”¹⁵

Furthermore, while the Supreme Court was hearing a matter involving the case *Estate Officer vs. Charanjit Kaur (2022)*¹⁶; the additional secretary of the MHA filed an affidavit on July 15, 2024, stating, “Chandigarh's proposal regarding the conversion of industrial/commercial plots from leasehold to freehold has been examined & not agreed to.”¹⁷

RESEARCH QUESTIONS

- To what extent did the Conversion of Land Use (CLU) Policy 2005 for industrial sites into B2C/commercial sites promote cronyism?
- Did the CLU Policy 2005 lead to the undermining of principles of cultural & heritage protection as envisioned by Le Corbusier?

OBJECTIVES OF THE STUDY

- To find out if a new draft of a Conversion of Land Use Policy, similar to the CLU Policy 2005, be implemented in the Industrial Area of Chandigarh.
- To find out if the CLU Policy 2005 was an opening for crony capitalism.
- To find out if the CLU Policy 2005 was according to Le Corbusier’s principles & vision.

SCOPE OF THE STUDY

This study is related to the CLU Policy which was implemented in 2005, in Chandigarh—the allowed conversion of industrial sites into Business-To-Consumer by paying a conversion fee. The study highlights the presence of escape sections, loopholes, negative impacts on the urban

[conversion/articleshow/95841364.cms](https://www.conversion/articleshow/95841364.cms) (last visited on July 6, 2024).

¹³ Dr SS Bhatti, *CHANDIGARH An Irony of History* 315 (1st ed. 2013).

¹⁴ Ministry of Home Affairs

¹⁵ Hillary Victor, MHA rejects freehold ownership proposal for commercial plots, *Hindustan Times*, July 16, 2024.

¹⁶ Estate Officer & Anr. v. Charanjit Kaur, Miscellaneous Application No. 331/2022 in Civil Appeal No. 4964/2021, (2022) SC (India).

¹⁷ Hillary Victor, MHA rejects freehold ownership proposal for commercial plots, *supra note* 16.

fabric, violation of heritage principles, conservation & issues in technicality within the policy.

RESEARCH METHODOLOGY

The policy documents were analysed with primary sources of literature such as case laws, & government reports & also secondary literature such as academic papers & newspaper articles. The policy has also been analysed according to Le Corbusier's vision, the Athens Charter 1933 & the Chandigarh Master Plan 2031. Statistical methods were also used to calculate figures & costs to calculate the percentage increase in property value over a specified period (e.g. 150% increase in property value in 15 months) to show the nature of the real estate market.

- **RESEARCH DESIGN**

The following study is done critically & descriptively, with arguments to clarify each constructive issue mentioned & discussed.

- **SOURCES OF DATA**

The CAGR was calculated to show the annualised growth rate of property values by using the formula $CAGR = \left(\frac{\text{Ending Value}}{\text{Beginning Value}} \right)^{\frac{1}{n}} - 1$, where n = the number of years.

The conversion fee was calculated using the formula. $\text{Conversion Fee} = \text{Average Price} \times (1 - \text{Locational Disadvantage}) \times (1 - \text{Early Application Concession})$

The estimation of payment plans was done with the help of the following formula.

$$\text{Total Interest} = \text{Principal Amount} \times (1 + \text{Interest Rate})^n - \text{Principal Amount}$$

$$\text{For Percentage Increase} = \left(\frac{\text{Increase In Value}}{\text{Value in Year 1988}} \right) \times 100$$

$$\text{For Rent Increase} = \left(\frac{\text{Rent In 1989} - \text{Rent in 1988}}{\text{Rent In 1988}} \right) \times 100$$

$$\text{For ROI} = \left(\frac{\text{Net Profit}}{\text{Cost of Investment}} \right) \times 100$$

Annual Instalment: A = annual instalment, P = principal, r = interest rate per period, n = number of instalments

$$A = \frac{P \times r \times (1 + r)^n}{(1 + r)^n - 1}$$

SUBSTANTIVE LAWS WIDENING THE HORIZON

Chandigarh Conversion of Land Use of Industrial Sites into Commercial Activity/Services in Industrial Area, Phase I & Phase II, Chandigarh Scheme, 2005: (*hereinafter mentioned as 'CLU Policy 2005'*) allowed the conversion of industrial plots for commercial use under conditions & payment of a fee, which led to the building of various multiplexes, service centres, etc. This was ultimately repealed in 2008.¹⁸

Chandigarh Master Plan 2031: Official document by the Chandigarh Administration, containing directives for planning & heritage preservation in Chandigarh.¹⁹

1.1 CLU 2005 POLICY - AN OPENING FOR CRONY CAPITALISM

1.2 INTRODUCTION:

The CLU policy 2005 allows for crony capitalism due to the legal framework being imperfect. Humans are fallible & are prone to flaws, but the policy has opened itself to exploitation & financial gain mechanisms. The policy allowed the conversion of the industrial plots to Commercial Sites by paying a fee. Plots were opened for establishing offices, hotels, banks, service centres, & malls. Due to such procedural complexities, bureaucratic layers, flexible fee structures, & an increased role of CITCO have resulted in partial practices. The problems can be understood only if one has a good understanding of the very concept of crony capitalism.

India was ranked 10th in the world as per the 'Crony-Capitalism Index.'²⁰ Crony capitalism is a system where close relationships between businesses & government officials influence economic activity, allowing preferential treatment to certain individuals or companies.²¹ In this system, powerful individuals or groups leverage their connections to gain advantages, like subsidies. This creates an uneven playing field where wealth & opportunities are concentrated among a select few, while others struggle to compete.²²

¹⁸ *Chandigarh: Will Industrial Area go commercial? UT mulls land use conversion, supra note 13.*

¹⁹ Chandigarh Master Plan 2031.

²⁰ India #10 on 'Crony Capitalism' Index — how 'The Economist' ranked 43 biggest economies, *available at: <https://theprint.in/economy/india-10-on-crony-capitalism-index-how-the-economist-ranked-43-biggest-economies/1563224/>* (last visited July 5, 2024).

²¹ Economic Systems Explained: Crony Capitalism vs Capitalism, *available at: <https://prospectprofits.com/crony-capitalism-vs-capitalism/>* (last visited July 7, 2024).

²² *Ibid.*

1.3 INCENTIVE FOR THE NEED OF PREFERENTIAL TREATMENT OR CRONYISM:

Raghuram Rajan, the former RBI Governor, said: “The crooked politician needs the businessman for funds to supply patronage to the poor & fight elections. The corrupt businessman needs the

crooked politician for cheap public resources & contracts.²³

The policy allows corrupt businessmen to access public resources cheaply, creating an unfair advantage over smaller competitors. Money lubricates these relationships, as bureaucrats may grant subsidies that provide a competitive edge over others.²⁴

The price of industrial property has seen significant hikes. A factory on a 2 Kanal plot, purchased for Rs 8 lakh in late 1988, was valued at Rs 20 lakh by the end of 1989, a 2.5 times increase in 15 months. Monthly rent also rose, though the percentage investment remained unchanged. When the factory was worth Rs 8 lakh, rent was Rs 8,000 per month; it increased to Rs 20,000 per month when the property value

reached Rs 20 lakh.²⁵

From the above information, we can calculate the percentage increase in property value, Annualised Growth Rate (CAGR)²⁶, Rent Increase & Return On Investment²⁷. The figures for 1988-89 show a good depiction of the realities in 2005.

The property value appreciated 150% in 15 months, showing a high demand for industrial plots in Chandigarh. The CAGR of 108.14% shows limited supply or high investment risk. Rent soared by 150%, from ₹8,000 to ₹20,000 per month, but the ROI remained the same at 12% per annum. This shows that the rental market changes according to the property value.

The above figures can all indeed be an incentive for crony capitalists. The CAGR of 108.14% & a constant ROI of 12% provide high returns, making it a profitable investment. Systems of preferential treatment & bias help businessmen to advance their self-interests, often by exploiting

²³ Khalid Nikhat, *Crony Capitalism in India*, 4 *Asian Bus. & Mgmt.* 1-3 (2019).

²⁴ Enderwick P., What's Bad About Crony Capitalism? 4 *Asian Bus. & Mgmt.* 117-132 (2005).

²⁵ Dr SS Bhatti, *CHANDIGARH An Irony of History*, *supra* note 14 at 316.

²⁶ The *compound annual growth rate (CAGR)* is the mean annual growth rate of an investment over a period longer than one year.

²⁷ Return on investment or return on costs is the ratio between net income and investment.

certain loopholes or technical issues in the Conversion of Land Use Policies. They accomplish this corruption by using the power of government to procure for themselves “systems either of preference or restraint.”²⁸

The increase in property value by 150% in 15 months, shows that speculative investments with risks can also provide grand returns. The incentive present here for cronies is to acquire properties at lower prices & sell them at massive profits. The cronies can also take a different approach to using existing provisions of the policy. *Section 6 & 7 of the CLU Policy 2005*, strategically allows certain applicants for conversion of the land, the encumbrances of these sections shall be discussed later on in the paper. Another incentive for the cronies is the stable ROI of 12%. Even though property values & rents are increasing. These investments can be maintained without much risk as the ROI remains the same at 12%. This is appealing for long-term investments without risks. In the *Residents Welfare Association vs The Union Territory of Chandigarh (2023)* case it was held that “further increase in real estate prices, will be in stark contradiction to the original aspect of creating more affordable housing, whereby the character of the city will be lost. Chandigarh is today known throughout the world for being one of the best-planned urban environments.”²⁹

1.4 INCONSISTENCIES, PROCEDURAL FLAWS & EXPLOITABLE PROVISIONS OF THE CLU POLICY 2005:

(i) - Section 3; of CLU Policy 2005³⁰; provides that the Estate Office³¹ of Chandigarh shall be the Designated Agency for the implementation of this scheme. The powers of the state Officer are discretionary & vague without transparent criteria for decision-making, leading to bias, favouritism & preferential treatment due to lack of accountability. Henceforth, this would undermine fair competition & equitable opportunities. “Discretionary state power challenges aspects of the rule of law, by transferring decisions from legislators to departments & bureaucrats risking the uniform application of key fairness & equality norms.”³² “We elect legislators to make decisions regarding the resources of the state & we hold them accountable for the exercise of that

²⁸ Is the System Rigged? Adam Smith on Crony Capitalism, Its Causes—and Cures, *available at: <https://www.heritage.org/markets-and-finance/report/the-system-rigged-adam-smith-crony-capitalism-its-causes-and-cures>* (last visited on July 7, 2024)

²⁹ Residents Welfare Association vs The Union Territory Of Chandigarh

³⁰ Chandigarh Administration, Chandigarh Conversion of Land Use of Industrial Sites into Commercial Activity/Services in Industrial Area Phase I and Phase II Chandigarh Scheme 2005, Chandigarh Admin. Gazette, Sept. 19, 2005, at 683.

³¹ Estate Office is a department of Chandigarh Administration which deals with the property matters of Chandigarh Administration. About Us, *available at: <https://estateoffice.chd.gov.in/>* (last visited July 14, 2024)

³² Schmidt R. & Scott C., *Regulatory Discretion: Structuring Power in the Era of Regulatory Capitalism*, 41(3) Cambridge U. Press 454-473 (2021).

power. The decisions are now of ‘street-level bureaucrats’ rather than of elected politicians. How may we know that the capacity of the officials to make discretionary decisions is being made for the public purposes set down in the legislation as compared with some private purpose, for example, to assist a friend.”³³ In an interpretation of the Athens Charter 1933³⁴, it was also concluded by J. Tyrwhitt that “The irresponsibility of private enterprises has resulted in a disastrous rupture of the equilibrium between strong economic forces on one side &, on the other, weak administrative controls & powerless social interests.”³⁵

(ii) - Section 6;³⁶

SECTION	FEATURE	DETAILS
6 (i)	APPLICATION PROCESS	
	WHO CAN APPLY	Property owner, leaseholder, tenant (with owner’s consent)
	PAYMENT METHOD	Demand Draft (D.D) or Pay Order from a bank
	PAYEE	To the Designated Agency
	SUB-LESSEES OF CITCO	Need CITCO’s recommendation
	PAYMENT CONDITION	Clear all payments related to the property before applying
6(ii)	CONVERSION FEE	
	FEE CALCULATION	50% of the average price of commercial sites sold in auctions in the last 3 years which is ‘INR. 79145.57’
	INDUSTRIAL AREA PH. I & II	50% fee reduction because of locational disadvantages in the area.
	EARLY APPLICATION CONCESSION	10% discount, if applied within one year of scheme notification
	LATER APPLICATION CONCESSION	5% discount if applied after one year but before March 17, 2007
	FLOOR AREA RATIO (FAR) FOR CALCULATION	3.0 for commercial properties auctioned in the last 3 years
	FAR AFTER CONVERSION	2.0 for Phase I & II
	GROUND COVERAGE AFTER CONVERSION	Up to 50% allowed if currently 40% is allowed
	LOWER GROUND FLOOR	Allowed if more than half of its height is above ground level
	COMPLIANCE	Must follow fire safety laws and other guidelines

³³ R Baldwin et al, *Understanding Regulation* (Oxford University Press 2012) 54

³⁴ Athens Charter 1933 was an inspiration for Le Corbusier.

³⁵ The Athens Charter, Translated by J. Tyrwhitt, Paris, France: The Library of the Graduate Sch. of Design, Harvard Univ. (1946).

³⁶ *Supra note 34.*

Section 6 outlines conditions for converting industrial to commercial land use, focusing on payment methods, application processes, & conversion fees. The table below lists the features of the scheme. The involvement of CITCO’s recommendations, adds layers of the administration & bureaucracy which can be misrepresented.

CONVERSION FEE PER SQUARE METER	
Average Price of Commercial Sites in 3 Years = ₹	79,145.57
Initial Conversion Fee (50% of Avg. Price) = ₹	39,572.785
Locational Discount (further 50%) = ₹	19,786.3925
Application within 1 year (10% concession) = ₹	17,807.75325
Application after 1 year, but before 17.3.2007 (5% concession) = ₹	18,797.072375

The calculations in figure³⁷ have been calculated based on the average price (₹ 79145.57 per sq metre) of the commercial sites based on auctions of the past 3 years. The concession of 50% due to ‘locational disadvantages’

can be subjective & be misinterpreted to benefit certain individuals. “There exists no clear procedure that governments must follow to select concessionaires or only restraints exist, which officials can escape by ignoring requirements.”³⁸ Pending recommendations can be used to aid in cronyism by denying the applications of others.³⁹ “The creation of concession agreements is highly conducive to corruption, exhibiting three of five key causes of corruption identified by the World Bank: lack of institutional restraints, lack of transparency of actors, & lack of general accountability.”⁴⁰

SCENARIO 1: APPLICATION WITHIN 1 YEAR OF NOTIFICATION	
Initial Conversion Fee (50%) = ₹	39,572.785
Locational Disadvantage Reduction = ₹	19,786.3925
Early Application Concession (10%) = ₹	17,807.75325
SCENARIO 2: APPLICATION AFTER 1 YEAR BUT BEFORE 17.3.2007	
Initial Conversion Fee (50%) = ₹	39,572.785
Locational Disadvantage Reduction (50%) = ₹	19,786.3925
Later Application Concession (5%) = ₹	18,797.072375

In Scenario 1;⁴¹ If an applicant applies within one year of the notification, the conversion fee per square metre will be ₹ 17,807.75325 after all concessions applicable.

In Scenario 2;⁴² if an applicant applies after 1 year but before March 17, 2007; the

³⁷ See 40.

³⁸ Nicholas Miranda, Concession Agreements: From Private Contract to Public Policy, 117 Yale L.J. 522 (2007).

³⁹ World Bank, Anti-Corruption, available at: <http://www.worldbank.org/anticorruption> (last visited July 7, 2024).

⁴⁰ Vito Tanzi, Corruption Around the World: Causes, Consequences, Scope, and Cures, 45 IMF Staff Papers 559, 569 (1998), available at: <http://idari.cu.edu.tr/igunes/butce/makalebutece29.pdf>.

⁴¹ Ibid.

⁴² Ibid.

conversion fee per square metre will be ₹ 18,797.072375. Any person applying within one year of this policy saves an extra 10% on the already reduced fee due to the locational disadvantage. For a property of 1000 square metres, the total conversion cost would be ₹ 17,807,753.25, as compared to ₹ 18,797,072.375 if applied later. This entire saving of nearly 10 lakh Indian Rupees is a significant advantage.

Furthermore, a 10% concession is given to applicants who apply within a year of the scheme's notification. A 5% concession is given for applications after a year but before March 17, 2007.

Cronies with advanced knowledge of the scheme can strategically time their application to gain the most. The benefits under this scheme are unequal as for a 500 sq. metre plot, the cost difference for early & late applicants is ₹ 447,830.25, favouring cronyism. "Without any true accountability, concessionaires & government officials are free to exchange quid pro quo payments without fear of direct retribution from the populace."⁴³

(ii) - Section 7; of the scheme⁴⁴ provides the payment options for the conversion fees. It provides the following options for payment:

- I. In a lump sum
- II. In 2, 3, 4 or 5 instalments with a 7% rate of interest (paid within 5 years.)
- III. In 10 annual instalments with an 8.25% rate of interest.

By taking the conversion fee as ₹ 17,807.75325 per sq. metre; we can calculate the estimates of the instalment payment plan. The conversion fee for a 1000 sq. metre plot would be ₹ 1,78,07,753.25 while keeping this as the principal amount, the plan can be created. The data shows

⁴³ Supra note 43.

⁴⁴ Supra note 34.

figures regarding the various payment plan options provided under the CLU Policy 2005:

The lump sum option has no interest, with a total payment of ₹ 1,78,07,753.25. Henceforth, it is

Figure depicting the payment plan options

OPTION	INSTALMENTS	INTEREST RATE	FIRST INSTALMENT	REMAINING BALANCE	ANNUAL INSTALMENT	TOTAL INTEREST PAID	% INCREASE DUE TO INTEREST
LUMP SUM	1	7%	1,78,07,753.25	0	0	0	0%
2 ANNUAL INSTALMENTS	2	7%	89,03,876.62	89,03,876.62	95,27,148	6,23,271.38	7%
3 ANNUAL INSTALMENTS	3	7%	59,35,917.75	1,18,71,835.50	65,66,215.16	12,60,593.82	10.62%
4 ANNUAL INSTALMENTS	4	7%	44,51,938.31	1,33,55,814.94	50,89,255.74	19,11,952.28	14.32%
5 ANNUAL INSTALMENTS	5	7%	35,61,550.65	1,42,46,202.60	42,05,880.41	25,77,316.85	18.09%
6 ANNUAL INSTALMENTS	6	8.25%	29,67,958.88	1,48,39,794.37	37,41,243.72	38,66,428.23	26.05%
7 ANNUAL INSTALMENTS	7	8.25%	25,44,393.32	1,52,63,359.93	33,26,874.36	46,97,454.59	30.78%
8 ANNUAL INSTALMENTS	8	8.25%	22,25,969.16	1,55,81,784.09	30,18,467.83	55,47,490.42	35.60%
9 ANNUAL INSTALMENTS	9	8.25%	19,78,639.25	1,58,29,113.99	27,80,687.92	64,16,388.37	40.54%
10 ANNUAL INSTALMENTS	10	8.25%	17,80,775.33	1,60,26,977.93	25,92,329.26	73,03,978.43	45.57%

the best option financially. Other options include a 7% & 8.25% interest.

In the 2 to 5 annual instalment plans, the first instalment is reduced from ₹ 89,03,876.62 to ₹ 35,61,550.65 due to the increase in instalments. The total interest paid is from ₹ 6,23,271.38 - ₹ 25,77,316.65, resulting in the percentage increase due to interest from 7% to 18.09%. The annual instalment amount has also been reduced from ₹ 95,27,148 to ₹ 42,05,880.41.

In the 6 to 10 annual instalment plans, the financial strain increases a lot. The first instalment reduces from ₹ 29,67,958.88 (6 instalments) to ₹ 17,80,775.33 (10 instalments). The remaining balance for these options starts at ₹ 1,48,39,794.37 & increases to ₹ 1,60,26,977.93. The total interest paid ranges from ₹ 38,66,428.23 (6 instalments) to ₹ 73,03,978.43 (10 instalments). Henceforth, the percentage increase due to interest has changed from 26.05% to now 45.57%.

This payment plan, allowing lump fees, increasing interest & costs for longer periods shows an inclination towards cronyism. Consequently, smaller groups cannot afford the lump sum payment & the extended payment options.

2.1 CLU 2005 POLICY - VIOLATIVE OF LE CORBUSIER'S VISION:

2.2 INTRODUCTION:

Chandigarh has a heritage value & it is important to preserve & maintain the integrity of the original concepts & planning postulates of the Sun, Space & Verdure. Corbusian Chandigarh should be preserved in its present form as far as possible. The architecture of the city needs to be preserved & retained in sync with Le Corbusier's vision.⁴⁵ “*Clause 1.12 of the CMP–2031* states that Chandigarh has a universally acclaimed rich ‘Heritage’ & ‘Green City’ characters.”⁴⁶ “The philosophy envisioned by Pandit Jawahar Lal Nehru concerning the new city should not be lost sight.”⁴⁷ “The philosophy, plans & designs used by Le Corbusier, should be kept in mind while preservation & maintenance. No development must be allowed which jeopardises their original concept.”⁴⁸

“While planning the city of *Brasilia* as the capital of Brazil, Le Corbusier's treatise titled “How to Conceive Urbanism” & Urban Living served as an inspiration. Despite various changes, the chief architect, Lucio Costa's Pilot Project (Plano Piloto) remains preserved. Brasilia has preserved its original guiding principles intact, as reflected in the protection of its urban scales, legally protected by local & federal organisations of the government of the country. These changes in no way jeopardise the singular & outstanding value of Plano Piloto, which remains wholly preserved physically.”⁴⁹

“The Supreme Court found that similar steps need to be taken by the Chandigarh Administration as well as the Government of India to protect the heritage status of Le Corbusier's Chandigarh.”⁵⁰

2.3 CHANDIGARH MASTER PLAN 2031:

“The implemented Master Plan for Chandigarh was developed in 1951 by Le Corbusier. Based on four city functions: Living, Working, Care of Body & Spirit, & Circulation in CIAM's Athens Charter (1933). Major centres of WORKING are: Capitol Complex, City Centre & Industrial Area.”⁵¹ The CMP has highlighted the problems caused by to first conversion policy, “The new land uses are incompatible in terms of function & the overall ambience with the old ones & there

⁴⁵ Residents Welfare Association vs The Union Territory Of Chandigarh

⁴⁶ Chandigarh Master Plan 2031 *supra note 4*.

⁴⁷ Residents Welfare Association vs The Union Territory Of Chandigarh

⁴⁸ Ibid.

⁴⁹ Brasilia, UNESCO World Heritage Convention. Available at: <https://whc.unesco.org/en/list/445/> (last visited July 14, 2024).

⁵⁰ Residents Welfare Association vs The Union Territory Of Chandigarh

⁵¹ Dr SS Bhatti, *CHANDIGARH An Irony of History*, *supra note 14 at 509*.

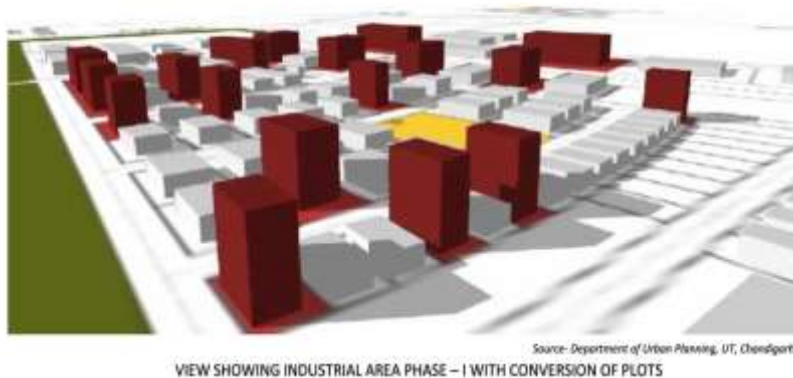
is pressure to remove the long-established old uses, there is adverse impact on the coherence of the city's urban design. The industrial area's already inadequate infrastructure has been aggravated. Large-scale commercial activities have resulted in traffic bottlenecks.”⁵²

2.4 INCOMPATIBLE AND MIXED LAND USE DUE TO CLU POLICY 2005:

“The policy has resulted in the arbitrary mixing of land use in the industrial area with multiplexes, five-star hotels & malls located next to kabari shops, horse cart stands & industries. The new land uses are incompatible in terms of function, public interface, architectural expression & overall ambience with the old ones & there is pressure to remove the long-established old uses & their users.”⁵³

This same reading was also observed in the interpretation of the Athens Charter 1933 as places of work such as industry, offices, government, etc are no longer rationally distributed within the urban complex.⁵⁴

2.5 DESTRUCTION OF THE COHERENCE OF THE CITY'S URBAN DESIGN:



The extension of FAR & building height to 30 metres by the policy have resulted in many high-rise structures coming up adjoining the low-rise architecturally controlled buildings. These structures are seen in the entry to the city along NH 21 & have adversely affected the city's image of being built on sound

⁵² Check indl area conversion policy need, says UT dept, *supra note 8*.

⁵³ Chandigarh Master Plan 2031.

⁵⁴ “The Athens Charter,” *supra note 39*.

urban design principles.⁵⁵

The Athens Charter emphasises that town planning is a science based on three dimensions & not two. Tampering with height regulations results in problems in freeing spaces for traffic circulations.⁵⁶

“In the year 2010, a Committee of Experts came to be constituted by GoI to look at both the original concept of the city of Chandigarh & the maintenance of important heritage buildings. The Heritage Committee noted the relaxations in FARs & has recommended that no relaxation be given & the relaxations already granted should be revoked.”⁵⁷

“The report of the Board of ‘Inquiry & Hearing’ reveals that Chandigarh was conceived as a “Garden City,” it observed that Chandigarh *is planned as a low-rise city, has heritage value, it is important to maintain the integrity of the original concepts, architecture of the city needs to be retained.*”⁵⁸

2.6 TRAFFIC AND TRANSPORTATION PROBLEMS:

The existing road network & parking areas are insufficient for the increased traffic generated by large-scale commercial activities especially malls & multiplexes resulting in traffic bottlenecks. Connections between dwelling & place of work are no longer reasonable: they impose excessively long journeys to work.⁵⁹ The Charter recommends that distances between workplaces & dwelling places should be reduced to a minimum & industrial sector should be separated from residential sectors by an area of green open space.⁶⁰

*The Court in a case held that “When the cities are overcrowded, the roads are narrow & the traffic is increasing, the situation will be extremely hazardous for the children & senior citizens. There will be no greenery in the buildings & the people will always crave fresh & pure air. The buildings without greens will add to the ever-increasing temperature of the overcrowded cities & urban areas. To put it differently, all constructions without adequate green & recreational areas will have a serious impact on the environment & human life.”*⁶¹

⁵⁵ Chandigarh Master Plan 2031.

⁵⁶ “The Athens Charter,” *supra note 39*.

⁵⁷ Residents Welfare Association vs The Union Territory Of Chandigarh *at 59 (i)*

⁵⁸ *Ibid.* at 57.

⁵⁹ Chandigarh Master Plan 2031.

⁶⁰ “The Athens Charter,” *supra note 39*.

⁶¹ Municipal Corporation of Greater Mumbai & Ors. v. Kohinoor CTNL Infrastructure Co. Pvt. Ltd. & Anr., 2014 (4)

2.7 UNESCO & HERITAGE VALUE:

A UNESCO heritage status shall bring about a boost to domestic & international tourism & related benefits to the city's economy & build public awareness about the values of Chandigarh's unique modern heritage.⁶² *Clause 19.11* talks about the inclusion of Chandigarh in the UNESCO World Heritage List due to its outstanding universal value.⁶³

An article in 'India Today' depicts the sorry state of affairs as to how the city of Bengaluru, once considered to be one of India's best cities, a 'Garden city' has been ruined on account of urban development. The expansion of the city without thought given towards transportation & ease of mobility has led to traffic jams. The only one to benefit was the politician-businessman-builder nexus, which has thrived. The infrastructure lagged, as roads remained narrow.⁶⁴

Such a growth may adversely affect the heritage status of Phase-I of Chandigarh which is sought to be inscribed as a UNESCO heritage city.⁶⁵

"It was submitted that Chandigarh has been included in the Tentative United Nations Educational, Scientific & Cultural Organization (UNESCO) World Heritage List due to its outstanding universal value, & the same needs to be maintained by prohibiting haphazard developments which will take away its distinct character."⁶⁶ "Corbusian Chandigarh", has now derived a modern heritage value. He submitted that, if an apartment is permitted to be constructed on a single dwelling unit, it will jeopardise the original character of the city.⁶⁷

Similarly, extending the FAR & building height would harm the original character of Chandigarh.

CONCLUSION:

The CLU Policy 2005 has promoted cronyism due to its procedural issues, flexible payment options & discretionary powers. The Estate Office powers are full of ambiguity & are without clear decision-making criteria which allows bias, & preferential treatment. This has facilitated

SCC 538, available at: <https://indiankanoon.org/doc/71685328/>. (Last accessed July 14, 2024).

⁶² Residents Welfare Association vs The Union Territory Of Chandigarh

⁶³ Chandigarh Master Plan 2031.

⁶⁴ Chengappa, Raj, and Ajay Sukumaran. "Bengaluru – How to Ruin India's Best City." *India Today*, 24 October 2022. Available at: <https://www.indiatoday.in/magazine/issue-24th-october-2022-archive/story/20221024-how-to-ruin-indias-best-city-2286157-2022-10-24>. Last accessed 14 July 2024.

⁶⁵ Residents Welfare Association vs The Union Territory of Chandigarh.

⁶⁶ *Ibid.* at 27.

⁶⁷ *Ibid.* at 161.

crony practices as multiple administrative layers are also involved such as the role of CITCO in recommending sub-lessees. The flexible fee structures & concessions dependent solely on timelines allow people with insider knowledge to time their applications for incentives. The ROI & increase in property values stand out as strong financial incentives for businesses to engage in corrupt crony practices.

Yes, the CLU Policy 2005 has also undermined the principles of culture & heritage as envisioned by Le Corbusier. It led to a mixture of land uses such as malls & hotels. This ruined the functional & urban coherence of the Chandigarh & Industrial Area. The increase in FAR & heights have resulted in high-rise structures which violate the essence of Chandigarh as a city with low-rise structures. The policy has also worsened existing infrastructure inadequacies such as sewerage & water supply. The issue of traffic bottlenecks & insufficient parking & other developments has jeopardised Chandigarh to get the UNESCO World Heritage status.

