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After nearly ten years of discussion and effort to formulate and adopt a radically new basic planning law in Italy, the Italian government has given up, at least for the time being, and has adopted legislation to patch up the worst faults of the 1942 law. The uncontrolled fringe growth of Italian cities, coupled with the explosive rise in car ownership, has resulted in such an obvious and widespread deterioration in the urban environment that immediate strengthening of the civic powers of guidance and control can no longer be postponed in the hope of achieving the ideal solution.

The new law is the first piece of comprehensive planning legislation adopted in Italy since the days of Mussolini, and should bring substantial improvement in the effectiveness of public planning. However, serious weaknesses will remain, and these can only be corrected by basic changes in the entire process by which public development policy is conceived and given effect.

Physical development is virtually out of control in all parts of Italy today. Mountains and seashore are being destroyed by unsuitable subdivision. Public access to these important recreational areas is rapidly being lost, just as increases in leisure and income make public recreation a critical need. Historical and archaeological regions are being engulfed in shoddy buildings, or overshadowed by solid walls of new skyscrapers. Resources are being wasted in unplanned developments which never reach full use for lack of basic infrastructure or services.

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But it is in the cities, and especially in the metropolitan areas, that the failure of public authority to establish effective control over the development process is most costly to human and economic values.

There are four different problems which contribute to the breakdown of effective control over urban development in Italy:

1. In many smaller communities and quite a few larger ones there is no city plan or even a "development program," the latter being the simpler form of a city plan which Italian law permits in certain cases.
2. Where city plans have been made, they are too often inadequate because they fail to establish a meaningful development framework, and because the standards they establish are too low to achieve an acceptable environment.
3. Where adequate city plans have been created, they have been widely ignored or evaded.
4. Custom and legal provisions alike have been totally unrealistic in dealing with the problem of the allocation of the costs of urbanization. As a result, land owners have reaped excessive profits from the conversion of land from agricultural to urban use, while saddling the community with virtually all the costs of urbanization and improvement.

The new planning law,[1] called the *Legge Ponte* to suggest its role in bridging the gap between the old planning law of 1942 and a truly basic new law still to come, responds directly to each of these four problems.

Many of the worst examples of land development have occurred in communities where no city plan exists. Thus there is neither policy on what lands should be developed, nor standards as to density or adequacy of services. Under the 1942 basic law on planning, the Minister of Public Works promulgates a list of cities which are required to prepare a general plan. All of the major cities of Italy have been on this list for many years, and smaller communities are added regularly for reasons such as unusual population growth or decline, change in economic base, or landscape or archeologic values to be conserved. In the past there has been no effective means of enforcing the Minister's decree. Cities have simply postponed the work of pre-

1. Legge 6 Agosto 1967 N. 765 Modifiche ed Integrazioni alla Legge Urbanistica 17 Agosto 1942 N. 1150. The law was adopted August 6, 1967 but did not become fully effective until one year later.

paring a plan, sometimes for several years. Once a plan was prepared, more years would be consumed in shuffling it back and forth between the city council and the Minister of Public Works whose approval is needed before a plan becomes effective. Although a legal means existed to give effect to the plan in the interval between adoption by the city and final approval by the Minister, the invoking of this provision was optional with the city, and many local governments under pressure of developers refused to invoke the safeguard provision, preferring to extend the anarchic conditions of no plan.

The *Legge Ponte* meets this situation directly, establishing a two year maximum period from the date a city appears on the list until the plan must be submitted to the Minister for approval. A city is given three months for the employment of a planner, a year for the completion of the plan, and an additional nine months for public hearings, adoption, and submittal to the Minister. This provision also applies to cities previously on the list, but which have not taken action. If the community fails to meet the time schedule, it is "reminded" by the Minister. If no action ensues, the Minister, acting through the provincial government, may order the city council to consider the plan, or, as a last resort, may appoint a special commission to supercede the council for the purpose of acting on the plan. The interim safeguard provisions are made mandatory during this two year period and are no longer optional as in the past.

Perhaps an even stronger motivation for the prompt adoption of the city plan (or development program) is the direct prohibition of land subdivision in the absence of a regular or simplified general plan. This provision, contained in Article 8 of the *Legge Ponte,* suddenly reverses the situation where it had been in the interest of the developer to discourage the establishment of any plan, thus leaving himself free to do whatever he wished, now he will be moved to urge prompt adoption of the city plan because in its absence no land may be subdivided or built upon. The importance of this change is revealed by the fact that during the past decade nearly three-quarters of all land development occurred in situations where there was no city plan.[2]

The second problem which the *Legge Ponte* confronts is the quality of the adopted plans. Overcrowding of the land, failure to provide even minimum facilities and services, and a brutal disregard of land-

2. This fact was revealed in a study by the Minister of Public Works, Ministero dei Lavori Pubblici *Indagine sulle Lottizzazione* (Rome 1968) p. 50.

scape and archeological qualities of the environment has been the rule rather than the exception during Italy's land development boom. While a substantial portion of these offenses occurred in the absence of a city plan, there were enough examples of bad development done in compliance with official city plans to raise serious questions as to the adequacy and professional quality of the plans themselves. Responding to this exigency, the *Legge Ponte* provides for national standards regarding building height and setback, population density, and areas to be provided for schools, parks, automobile parking, and other social services. The standards are promulgated by decree of the Minister of Public Works. The first set of standards was issued in April, 1968, and immediately became effective for all future and existing city plans.[3]

The norms are related to six different types or zones of land development, ranging from the historic centers of ancient cities to areas destined for agricultural use. The standards established are minimum ones, below which no new city plan will be permitted to fall. Among the more significant of the new national standards are the following:

A minimum of 18 square meters of land per person must be provided for schools, community facilities, parks and playgrounds, and parking. Modifications somewhat increasing or reducing the basic standard are related to the special character and needs of the several zones. In addition, special requirements are established for higher education, regional health facilities, and regional parks.

Firm population density limits are established in relation to size and character of the community and type of area. These densities vary with the zones previously referred to, and range from .03 cubic meters of building volume per square meter of land in agricultural zones, to a high of seven cubic meters of building per square meter of land in cities of over 200,000 population. A maximum of five cubic meters per square meter is established in city centers of historic importance.[4]

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3. Decreto Ministeriale 2 Aprile 1968. Limiti inderogabili di densità edilizia, di altezza, di distanza fra i fabbricati e rapporti massimi tra spazí destinati agli insediamenti residenziale e produttivi e spazi pubblici o riservati alle attività collettivi, al verde pubblico, o a parcheggi da osservare ai fini della formazione dei nuovi strumenti urbanistici o della revisione di quelli esistenti, ai sensi dell'art. 17 della legge 6 agosto 1967 N. 765.

4. At the population occupancy ratio prescribed by the *Legge Ponte,* seven cubic meters of building per square meter of land represents a population density of about 875 persons per hectare (about 350 persons per acre). To appreciate

Given the very low standards which prevailed in unplanned development and the inadequacy of public provisions revealed in many of the official plans, the new development standards cannot fail to produce a substantial improvement. There is a basic question, however, whether one set of standards for a country as diverse as Italy can be truly responsive to local needs. Already suffering from rigidity and over-centralization, Italian city planning by these standards will be pressed even more firmly into a single rigid mold.

The next major problem to be confronted by the *Legge Ponte* is the widespread evasion or violation of existing planning and building regulations. Most Italian city planners agree that the event which finally brought the Ministry of Public Works and the legislature of Italy to the consideration and passage of the new law was the building scandal in Agrigento. A huge landslide in July 1966, in which many new multi-story steel and concrete buildings were destroyed, brought to light the chaotic building situation which had prevailed during the immediately preceeding years. A commission was appointed by the Minister of Public Works to investigate the landslide and the destruction of so many new buildings. The findings shocked the nation. It was revealed that the violation of building regulations had become so common that hardly a new building in the city was in conformity with the codes. The magnitude of the violations is indicated by the fact that 72 new buildings which legally would have been permitted a total of 635,000 cubic meters had actually been built to total 1,050,000 cubic meters, or over 65% in excess of the legally permitted cubage.[5] Much of this excessive building had been permitted by means of variances granted after the violation was discovered. A builder would secure a permit for the legal building volume, build an additional floor or two, and then request a variance to legalize what had been done. Other buildings were built without permits and simply ignored the building and planning regulations.

The violations in Agrigento were especially flagrant, but they were certainly not unique. One of the purposes of the *Legge Ponte,* therefore, is to establish regulations and procedures to bring the anarchic building industry under legal control. Because the issuance of vari-

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the significance of this figure it must be understood that development in major Italian cities during the past decade has approached densities of 2,000 persons per hectare!

5. Ministero dei Lavori Pubblici, *Commissione di Indagine sulla Situazione Urbanistico-Edilizia di Agrigento* (Rome 1966) pp. 71-73.

ances had been so widely abused, the authority to issue variances was taken away, except for public buildings. The law substantially strengthened the power of the city to deal with illegal building. The more important new provisions are as follows:

(a) Work on a construction project which is charged with violation may be halted until the matter is settled.
(b) Buildings constructed without, or in violation of a building permit, may be ordered demolished at the builder's expense.
(c) When demolition is not feasible or warranted, damages equal to the value represented by the illegal construction may be assessed.
(d) Buildings found to be in violation of building and planning regulations will lose all State subventions and contributions.

The last two provisions are expected to be the most effective if they are enforced because they will remove the economic gain to be made from illegal building. Changes relating to variances will remove the authority of careless or venal local governments to permit excessive building, while the penalty provisions will strengthen the hands of the responsible local governments.

The last problem with which the *Legge Ponte* deals is the subdivision of land without provision for proper services and facilities. The limitation of land development to those areas under the control of a general plan is the first step, thus insuring that the use, density, and standards of development applicable to the land are established by public policy. The law further provides that private land development may occur only in accordance with a contractual agreement between the developer and the commune providing:

1. For the dedication to the community of all lands necessary for public purposes.
2. The financing by the developer of the site improvements, such as streets, water, sewers, and lighting.
3. That the developer pay a stipulated sum for such off-site public improvements as schools, hospitals, etc.

The financially hard-pressed cities finally have the authority to determine what lands should be developed and for what purposes, and to require that those lands be properly and completely prepared for use at the expense of the developer.

It is clear that the abuses which the new law seeks to correct stem not so much from a lack of legal controls as from a failure of enforcement. True, the widespread evasion and violation of public development policy has been made easier because of the weakness and

ambiguity of the laws themselves, but more fundamentally, development control has failed because local government has been willing to condone or ignore violation of the law. In this situation it is necessary to ask, "Can a new law make any real improvement?" It is not possible to give an unequivocal answer to this question. The response has been to transfer standard setting and final responsibility for action to the state. There is some reason to hope that such a transfer may bring improvement because Italy's fragmented political system tends to emphasize national and play down local issues, local government is financially starved and the local bureaucracy is poorly trained and underpaid, and there is no strong tradition in Italy of grass-roots participation in local affairs. All these considerations make local officials and politicians particularly susceptible to the pressures of developers impatient with public interference in their efforts to squeeze the greatest return from each new project. The transfer of responsibility to the national government puts activity in a much more visible arena. At the same time bureaucratic responsibility falls on a better paid group. Finally, the removal of final authority from the scene of action makes successful connivance much more difficult. In the short range, therefore, it seems probable that the new law may bring about a meaningful improvement in Italian environmental control.

Permanent and fundamental improvement must await changes in two basic areas which the new law does not confront. The most fundamental question is the clarification of the nature of private rights in, and public control over, the ownership of land. Four years ago, when a comprehensive new planning law was being considered, the expropriation of all land subject to urbanization was the government's proposed solution.[6] That legislation could not be passed, largely because of the opposition aroused by this proposal. The *Legge Ponte* does not confront the issue. In mid-1968, however, the problem was given new importance when Italy's highest court declared vital parts of the basic 1942 planning law unconstitutional on the grounds that the designation in the plan of areas destined for streets, parks, school sites, and other public purposes constituted an expropriation of private land without compensation.[7] The court's ruling nullified every general

6. For a discussion of the proposed new organic planning law which the government had been unable to adopt, see Corwin Mocine, "Urban Growth and a New Planning Law in Italy" *Land Economics* (November 1965) pp. 347-353.

7. Constitutional Court of Italy, decision Number 55, May 29, 1968.

plan in the nation, and presented Italian communities with a real crisis. The government responded quickly with hastily drawn legislation.

One of the reasons for the court's finding was the unlimited duration of the land use proposals of the general plan. The government, taking advantage of this element of the judgment, sought a remedy through legislation, establishing a five year time limit for any proposal in a general plan designating land for a public use. Within this five year period the city must either expropriate the land, or prepare a plan for action[8] including a definite budget for the purchase of the land. The law solved the immediate crisis by restoring the legality and effectiveness of the nation's city plans, but the basic problem remains. No one believes that Italian cities can, within five years or even fifteen, provide the funds to purchase all the lands which their long-range plans designate for public purposes. The legal crisis has thus only been postponed to the summer of 1973. Many planners and some lawyers are urging that Italy should separate the right of building on land from the right of ownership. Under this proposal the right to build would rest with the community and would only be relinquished in accordance with the city plan and in return for payment of a fee. The right to own the land and use it for farming or other non-building purposes would remain with the private owner. Whatever may be the constitutional status of this proposal, the real question is whether parliament would find it politically possible to take such a step. The overwhelming political pressures which the real estate and development interests have been able to generate during the past decade leave little hope for any such radical solution.

In addition to this fundamental problem of private ownership and public control there are other deficiencies which must await a more complete and organic reformulation of Italian planning law. The most important change which new planning legislation should accomplish is to reduce the rigidity and centralization of city planning practice. This rigidity begins with the general plan itself. The plan is prepared in great detail since it must serve the precise purposes of land use control, as well as the more general purposes of long-range policy expression. The plan becomes legally effective only by decree

8. The action plan, known as the "Piano Particolareggiato" is prescribed in the basic planning legislation of 1942 and has a legal duration of ten years. It is defined as a detailed plan of execution and must include a budget for the financing of the contemplated work.

of the President of Italy, and can only be changed in the same manner. Planning should be a process through which the day-to-day development decisions of the community are guided in desired and predetermined directions. These directions, in turn, are developed out of the social and political processes of the community. To fulfill this purpose planning must be sensitive and adjustable, it must be able to accommodate to new trends and pressures, take advantage of new opportunities, and correct mistakes. When every modification or extension of the general plan requires two years or more of procedural steps, ending with the signature of the President of Italy, the plan cannot possibly serve its purpose within a meaningful democratic planning process. A reduction in the rigid and centralized requirements for the general plan could pave the way for a more truly democratic planning process. Local responsibility would be encouraged, and the rich variety of urban tradition which characterizes Italy would be emphasized. It may be argued that the *Legge Ponte* was adopted specifically to correct the faults and failures of local planning administration. In a limited way this is true, but the process of local planning under the 1942 planning law seems purposely designed to create political irresponsibility, and discourage genuine democratic participation and involvement.

In the current crisis of urban development in Italy the new rigidity and the increased central authority of the *Legge Ponte* may be the only feasible way to avoid a complete destruction of the urban environment. In the long run, however, truly vital local planning that preserves the urban variety so important in the Italian culture, and evokes creative new responses to today's problems will only come from a concept of planning which encourages responsible, innovative local action.