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### Lakshmi Raj: Shaping spaces in post industrial Mumbai: Urban regimes, planning instruments and splintering communities

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## **CHAPTER 5: GOVERNMENT AND GOVERNANCE OF URBAN DEVELOPMENT IN MUMBAI**

### **INTRODUCTION**

The aim of this chapter is to describe the efforts taken by different levels of government to bring about urban development in Mumbai. This chapter also sets out the regulatory context within which the Development Plan for the city is formulated. Academic literature and earlier works have indicated the existence of informal networks with their own sets of rules. As they also frame the context within which the Development Plan of the city is formulated, these too are presented alongside the formal regulatory framework.

Section 5.1 will present an overview of the various levels of government and their style of urban intervention historically as well as providing a critique of the approach of Government of India (the national level). Section 5.2 will offer a critique of the intervention approach of the state government. Section 5.3 will assess the intervention approach of the local government (MCGM), its structure and its prescribed norms regarding public amenities. It will explore the planning process and the actors responsible for and involved in both the formal and informal aspects of planning. Section 5.4 will explore the relationship between MCGM and the state government.

### **5.1 THE ROLE OF THE GOVERNMENT OF INDIA IN URBAN DEVELOPMENT**

India is a federal country with three tiers of government: central government (also known as the Government of India—GOI), provincial government (known as the state government), and local government (corporations or municipalities). All government levels are democratically elected and elected officials are flanked by permanent administrative officers. The GOI's role vis-à-vis urban development consists of setting broad directions for development, framed in the urban policy. It also formulates various 'model acts', which serve to guide state governments in formulating similar laws at the provincial level.

GOI's primary intervention tool for urban development has been urban land legislation, the slant of the legislation has predominantly been of control. A number of laws have been passed by the GOI, such as the Urban Land Ceiling Act of 1976, Coastal Regulation Zones, and the Special Economic Zones Act. In the next section some of these influential acts are discussed in detail.

The central government formulates national level policies which guide policymaking at the State Level (e.g. slum policies). It also controls the flow of foreign funds to different sectors. Foreign Direct Investments (FDI) in housing and urban infrastructure have had a direct impact on the availability of capital for housing and the increase of the housing supply for higher income brackets in the India's megacities. Until recently, multilateral agencies (such as the World Bank) could not directly fund the projects of municipal corporations. They were expected to work directly with the central government, which would in turn sanction and transfer all multilateral investments.

Another feature of central government intervention and its impact on urban areas has been the launching of centrally funded programmes that are executed by the state or by municipal corporations, such as the Sarva Jyanti Rozgar Hami Yojna (SJRY), which aims to reach out to the families in urban areas that live below the poverty line. The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) is the most recent and largest central government programme of this kind; however, its impact is limited to a section of all the cities which fall with this programme.

The central government is also a directly interested stakeholder as a land owning authority in urban areas (e.g. Mumbai), where large chunks of land are owned by different departments of the GOI, such as the railway areas, the sea port and the airports. Large public sector units are owned by the GOI: Rashtriya Chemical Fertilizers, Bharat Petroleum and the nationalized textile mills. Certain areas of

the city, such as the salt pans, are also regulated by GOI. Large tracks of coastal lands on the eastern side of Mumbai are private lands used to pan salt. The recycling of these lands requires permissions from the GOI. A discussion of the legal tools that the GOI has formulated and endorses follows below.

### **Land Acquisition Act 1894**

The Land Acquisition Act was formulated during the British rule of India and has been retained in practice by the republic of India. The LAA 1894 allows the state to undertake compulsory acquisition of land for public purposes; it defines the eminent domain of the government in acquiring privately owned lands. The question of public purpose/public use has been extended to include a number of activities undertaken by the state individually or in partnership with other actors. In 1984, public purpose was extended to include land owned by private companies,. This would include land required for industry or for setting up offices and residential apartments for the private company. In section 8 of the act, 'Public Purpose' includes land required for the following purposes;

- Land for town planning and rural planning
- Planned development from public funds, for the purpose of policy implementation;
- Provision of land owned or controlled by state for use by a corporation;
- For residential projects for the poor or those residing in areas affected by natural calamities, or for schemes undertaken by government, local authority, or corporations owned or controlled by the state;
- Provision of land for education, housing, health or slum clearance schemes proposed by government through any authority established by the government for implementing such schemes;
- The provision of land for any other development scheme sponsored by the government;
- The provision of any premises or building for locating a public office.

Thus, the Land Acquisition Act defines 'public purpose' as pertaining to general public benefit or development. An activity can also be described as 'public' if it is established for commercial purposes by the government. This very broad and all inclusive definition of public purpose which includes almost all purpose takes away from act its public profile and is manipulated to benefit private interests. There is a need to make a distinction between public amenities and infrastructure for public use and other types of development which may be for economic benefit (they need to be explicitly excluded from being described as public purpose). The current law lumps together public infrastructure expansion of state owned corporation, refugee settlements and special economic zones (SEZs).

Under this act, the market value of the land is awarded as compensation to the land owner. Market value is determined by the rates prevailing at the date of publication of the notification. In addition, an amount of 12% per annum is added to the market value. However, 'market value' as decided by the government is often not accepted as the real price of the land by the landowner. Under the Land Acquisition Act, the acquiring body is the Special Land Acquisition Officer (SLAO) who works under the supervision of the Additional Collector of the state government. The MCGM is the utilizing body, which means that the amenities created on the acquired lands will be used by the MCGM. The process of identifying lands to be acquired, their surveying, intimidating private landowners is a long process that involves various departments of state and local government. In 1999, the department of state government in charge of implementation of the LAA carried out a survey, which indicated that 413 plots were acquired from 1978 to 1999. The status report of LAA shows that of these 413 acquired plots only 51% of these plots had been developed as public amenities. for the purpose for which they were acquired (see table 5.1).

**Table 5.1: Current status of plots acquired under the LAA (1978-1999)**

	Frequency	Percent
Court case pending	1	0.2
Amenity Developed	211	51.0
Encumbered	49	11.9
Not approved	47	11.4
Not developed	82	19.9
Partially developed	19	4.6
Vacant plot	4	1.0
Total	413	100

*Source: SLAO of Mumbai (n.d.)*

### **ULCRA 1976**

The Urban Land Ceiling and Regulation Act of 1976 was passed by the GOI during the National Emergency. The principal objectives of this act were to prevent concentration of urban land in a few hands, speculation and profiteering, and to bring about a more equitable distribution of land. A ceiling is applicable to different categories of urban agglomerations; depending on their population size, it could range from 500 m<sup>2</sup> to 2000 m<sup>2</sup>. For Mumbai, the ceiling was set at 500 m<sup>2</sup>. The Act exempts lands belonging to the government, local authorities, universities, educational institutions, trusts established for public or education purpose, and cooperative societies. The act was aimed to apply to private individuals and families who hold large quantities of land. In theory, the land acquired is to be distributed to the landless poor under the various government schemes; however, there are no provisions in the act that provide norms for distribution.

Using the data submitted by the state government in reply to a Public Interest Litigation (PIL) filed by Babu Rao Samant and others, it can be concluded that 17% of all land in Mumbai fell under the ULCRA. This figure is misleading, as it does not include the textile mill lands. The state government was able to acquire only 262 acres of land directly from private land owners: 62 acres were given to the Nagrik Niwar Parishad for constructing housing for the 'economically weaker sections' (EWS), 70 acres were handed over to MHADA and the rest was used for government offices and institutions. (see table 5.2).

**Table 5.2: Status of ULCRA land in Mumbai**

Category of actions taken by state		In acres
Pending cases in Greater Mumbai	above 10 acres	13,349
Pending cases in Greater Mumbai	above 100 acres	2,186
Exemptions for housing	0	3,123
Acquired by state government	(up to 2006)	262
Acquired by state government	(August 2006 – January 2007)	909
Total land under ULCRA		18,920
Total Area of Mumbai		108,376

*Source: Government Reply to PIL filed by Babu Rao Samant and others (2005)*

Secondary data from the ULCRA office in Mumbai reveals that totally 299 exemptions were given under section 21 of the ULCRA in Mumbai, of which only 31% of the projects are completed and 22% are ongoing. It is significant to note that 70 projects (23.4%) have been withdrawn by order of state government. In these cases large land holders have used the exemptions under section 21 to subvert the land acquisition process, as an effective tactic to retain open lands within the city.

Mr. V. K. Pathak, the former chief planner of MMRDA, is critical: 'The Act did not achieve the objective for which it was created; on the contrary, it had some counterproductive results. The scarcity of land affected by the urban land ceiling increased land prices. The process of obtaining exemptions helped rent-seeking behavior and made land market more oligopolistic' (Pathak 2007). While the central government repealed the Central Act in 1999, the Government of Maharashtra did this only in 2008, to fulfil a pre-condition of the JNNURM programme.

The Land Acquisition Act of 1894 gave the state the powers to exercise eminent domain. This meant that state had powers to acquire private lands for public uses or the general good. The legislation set compensation at market value. This right of the state has been repeatedly disputed in courts and has been retained even in the face of the right to property being recognized as a constitutional right. Litigation and judgments in the 1970's further strengthened the government's control over private land as it could now acquire land at nominal costs and not market value. The Land Acquisition Act did give government powers to acquire private land for public purpose, which includes planning and housing for displaced as a result of implementing the plan. The Urban Land Ceiling Act was designed to transfer land from the large land owners to no land owners by creating housing for them in urban areas. Furthermore, under this act acquisition of land was possible at a nominal price and not at market price. The passing of the Urban Land Ceiling Act in 1976 symbolized the increase of control of the state power over the private land owners. How this power is shared between the central and state governments and how does this impact development of Mumbai are issues taken up later in this chapter.

## **5.2 THE ROLE OF THE GOVERNMENT OF MAHARASHTRA IN URBAN DEVELOPMENT**

The Government of Maharashtra (which is responsible for all urban development) plays a large role in urban planning and formulation of urban development and housing legislation as well as in providing funding of large infrastructure development.

State governments in India are also in charge of social housing. To achieve this social goal of housing for low-income citizens, the state government has set up large institutions, such as Maharashtra Housing and Area Development Authority (MHADA), with the help of private contractors, predominantly using state funding. For slum residents, state institutions have drawn up laws that help legalize and bestow official status on slum areas, thereafter providing the residents with a form of non-transferable tenure security together with some basic amenities. In this section of the chapter, we shall analyze the intervention style of the state government in the period prior to 1991.

### **The Town Planning Act**

The Town Planning Act provides for land acquisition along with the statutory basis for preparation of the city's Development Plan. These development plans typically provide for land use zoning, and FSI zoning for a twenty year period. It also provides for reservation of plots of land to be acquired for public purpose. This zoning aims to ensure 'health and safety' and to balance 'demand and supply' of infrastructure services.

The Bombay Revised Development Plan Report lists the importance of the Bombay Town Planning Act of 1915: 1) It enabled the planners to plan freely without being vexed by illogical boundaries of private properties. 2) It enables the planners to raise resources for planning by levying betterment charges in justifiable and equitable way.' (MGCB 1984, 6, Chapter XIV)

Planning is generally conducted at three different scales: at the neighbourhood level using the Town Planning Schemes (TPS), at the city level with the City Development Plan, and at the regional level with the Regional Development Plan. A number of town planning schemes have been undertaken in Mumbai under this act, in the suburbs of Dadar, Matunga, Bandra and Santa Cruz. As the provisions of this act were limited to town planning schemes only, another act that allowed local bodies to prepare and execute comprehensive plans for the entire city/region was passed in 1955—the Bombay Regional Town Planning Act.

This comprehensive Bombay Regional Town Planning Act empowered the local government to plan and execute town planning schemes for various parts of the city, with provisions for acquiring land for urban development. In 1967, the earlier planning act was replaced by the Maharashtra Regional and Town Planning Act, which for the first time introduced the concept of regional planning with a board that undertook integrated and coordinated planning of physical and economic development of the region. The first Regional Plan was sanctioned by the state government in 1973.

The Development Control Regulations (DCR) form an integral part of development plans. The principal components of DCR relate to the use of provision in various land use zones, density zoning in terms of dwellings units permitted per unit area, and the maximum permissible ratio of floor space to plot (i.e. the floor space index—FSI).

The Maharashtra Regional and Town Planning Act which sets down the norms and process of planning depends on the LAA of 1894 for acquiring private land to realize its goals. It clarifies that planning is undertaken for public purposes and enables the use of the LAA for compulsory acquisition of land. Compensation is determined on the basis of the market value on the date of declaration of interest.

The act also allows the owner to serve a purchase notice to the appropriate planning authority if the land is not acquired within ten years after the date of the final Development Plan. If the land is not acquired within six months from the date of serving such notice, the reservation allotment or designation is deemed void and the land is deemed to be released from such reservation, allotment and designation. The land then becomes available to the land owner for the purpose of development. The landowner can adopt the use of the land free from reservation to uses similar to the plots of land adjacent to it. However, the government's response to land owners' efforts of serving a purchase notice has been inadequate. Until 1991 the usual approach of the government was to keep the land

under zoning and make attempts to acquire some land. This led to a stalemate in relationships between government and private land owners.

The Slum Improvement Act of 1971 is an improvement of an earlier act, the Slum Clearance Act of 1954, which empowered the municipal corporation to undertake slum clearance schemes, and schemes for re-housing the poor, promotion of housing associations, providing amenities and levying improvement charges. By virtue of this act, any area that could be declared a slum area for the execution of any work of improving a slum area or building in such an area or relevant of clearance area is deemed to be of public purpose. The state government or representative of the Competent Authority (CA) can acquire land for such purpose. The amendment of the 1984 Maharashtra Act allows the state government to transfer the lands so acquired by leasing them to a co-operative housing society of slum dwellers.

The compensation under this act is not at market value, but does specify a method for calculating the 'amount'. In Maharashtra, it is 60 times the net average monthly income derived from such land during the period of five consecutive years immediately preceding the date of publication of the notice of acquisition. Similar provisions are found in other legislation, such as the MMRD Act of 1975 and the MHADA Act of 1976 that enable acquisition of land below market value by prescribing the 'amount' at 100 the monthly income of the land.

Although the Act has provisions for acquiring and transferring land to slum dwellers, in reality very few settlements have gone through this process. In Mumbai a hundred odd cases are known, undertaken with the efforts of left-wing political parties and social movements. The operational difficulty of this approach is the acquisition process and low levels of compensation. There is also reluctance on the part of state institutions as they do not see the value in transferring land to slum dwellers without any improvements in living conditions of the slum.

As per the Maharashtra Housing and Area Development Authority Act of 1976, land required for housing activities can be acquired with the owner receiving similar compensation as under the Bombay Metropolitan Region Development Authority Act. Other acts which empower different agencies of the state to intervene in the land market include the Bombay Highways Act of 1955, Bombay Building Repairs and Reconstruction Board Act of 1969 and the Coastal Regulation Zone Act (which limits certain types of construction within the reach of the high tide line on the coast).

## **Regional planning**

While it is the role of the local government to develop the City Plan, preparation of the Regional Plan is the task of the Mumbai Metropolitan Regional Development Authority (MMRDA). MMRDA is a parastatal authority responsible for planning for the region and is under the direct leadership of the Chief Minister of the State. It has a nominated board made up from elected representatives from the different municipal corporations within the region as well as ministers and secretaries of the state government. The Chief Minister who is also minister for urban development chairs the board. The first regional plan was sanctioned by the state government in 1973. The City Development Plan is expected to be in agreement with the sanctioned Regional Plan. MMRDA has a more direct role to play in the city as a planning authority for certain sections of the city.

The growing power of state government—through the MMRDA—was first observed during the passing of the revised development plan. The state government appointed MMRDA (then BMRDA) as a special planning Authority for the Backbay Reclamation area located at the southern tip of the central business district of Mumbai, Bandra Kurla complex and Oshiwara District Centre (at a later stage the list also included the coastal islands of the Madh Marve region towards the north-west). The Maharashtra Housing and Area Development Authority (MHADA) was assigned as the Special Planning Authority for Dharavi. In this way, certain areas which held high land prices and were seen as locations of state interest were taken away from the municipal corporation. The excessive control of the Chief Minister over planning areas through MMRDA has often come under criticism.

A review of the various regulations and institutions under state government indicate that the state has largely an executive and planning role vis-à-vis urban development. To carry out its role it has set up specific institutions, such as MHADA and MMRDA. MHADA is responsible for housing for the entire state and constitutes various boards which have nominated appointees that report to the Housing Minister. MMRDA, on the other hand, is in charge of planning for the region and reports to the Chief Minister who chairs the authority, which is a board of nominated members from the legislative assembly. Despite the many regulation and institutions the state government has created to bring urban development under its control, the state's efforts were diluted by central legislation (e.g., the Land Acquisition Act and the ULCRA) and by well-organized private land owners who refused to allow plan implementation on land owned by them. As a result state government sought to exercise its influence by the use of development projects with the help of its social networks. These projects are more often than not joint public-private projects. The Backbay Reclamation project, Powi Project by Hiranandani developers, the Oshiwara project along with Raheja Builders are examples of such projects.

The state government became very active in public-private networking with the passing of the ULCRA. A few large builders escaped land acquisition under ULCRA, by signing a tripartite agreement with the government and the landowner to undertake redevelopment of the land and turn over a share of the developed land back to the government. In other instances, landowners and builders sought out the exemptions offered under ULCRA. Exemptions to ULCRA were tightly controlled by the state government and granted only at payment to agents or ministers of urban development. The state government was seen to have yielded to pressure from the construction and business lobbies; resulting in an emergence of nexus of builders, bureaucrats and politicians. While the above mentioned networks existed at the state government level and the Collector's department in charge of implementing ULCRA, similar networks were also known to exist at the city level. (Narayanan 2003).

### **5.3 THE ROLE OF MCGM IN URBAN DEVELOPMENT**

The Mumbai Municipal Corporation of Greater Mumbai (MCGM) is perhaps the largest municipal corporation in India with a reported staff of 149,471<sup>22</sup> in 1999. It executes a plethora of functions: water supply, primary and secondary education, engineering services and planning, fire protection, licensing trades, maintenance of pavements, and distribution of electricity and public bus services.

The foundation of the MCGM was laid by the British rulers in 1793, followed by the passing of the Bombay Municipal Corporation (BMC) Act of 1888, which recognized the corporation as the supreme governing body of the city and the Municipal Commissioner as its chief executive authority, responsible for carrying out its will. This act, with its many subsequent amendments, provided the framework for city government (Pinto and Pinto 2005). The act empowered the BMC to promote public safety and health by providing municipal drains, dispersal of sewage, construction of water closets, solid waste management and cleaning of public places.

The revised Development Plan of 1967 provided the following definition of public amenities:

The municipal corporation has some obligatory function such as primary education, public health, water supply, sewerage and drainage, wastewater management, fire projection, markets and slaughter houses, roads and bridges, streets and traffic lights, cemeteries etc. The provision of these community requirements with reference to the obligatory duties of the municipal corporation is of prime importance to improve the quality of life of the citizens of this metropolis. Various reservations for such community facilities are, therefore, required to be provided for in the development plan and implemented. It is therefore, necessary to describe the details of these community facilities required to be provided by the civic administration [...] (MCGM 1984, 1, chapter VIII)

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<sup>22</sup> This figure does not include 47,501 employees of the BEST Undertaking and those who are exclusively engaged in waste management service (totaling 32,876) (Siddiqui and Bhowmik, 2001).



The above definition does not differentiate between user groups, community, citizen and public. It uses these terms interchangeably. Further public amenities are called community facilities and have been identified as the obligatory duty of the municipal corporation, which means that amenities provided by the state are assumed to be for the public.

The first Development Plan for the city of Mumbai (then called Bombay) was prepared for a 20-year period starting in 1964. The state government along with local government undertook a very detailed process of developing a detailed master plan for the city based on norms for amenities for predicted population growth. In this Development Plan there were 1,876 plots reserved in all, with an approximate area of 1,142 hectares (that is 114,200,000 m<sup>2</sup>). It was estimated that the acquisition of the land required for the implementation of Bombay's Development Plan would require an investment of up to 7 billion rupees at 1964 prices. Of these 1,876 reservations only 413 were acquired between 1978 and 1990 under the LAA, and yet another 299 under the ULCRA. In total 712 were acquired; however, it does not automatically mean that they were all developed: acquisition is only the first step to developing public amenities. Of the 413 plots acquired under the LAA, almost 30% were acquired for open spaces with 'schools and roads' as the next largest category.

**Table 5.3: List of amenities for which land plots were acquired between 1978 and 1990 using the Land Acquisition Act**

Amenities	Number of plots acquired	Percent
Open space	123	29.8
Schools	81	19.6
Road	62	15
Market	29	7
Utilities (pumping stations, truck terminal etc.)	27	6.5
Medical amenities	22	5.3
Cemetery	20	4.8
Municipal housing	13	3.1
Incomplete info	7	1.7
Welfare centres and halls	7	1.7
Fire brigade	6	1.5
Municipal office	4	1
Public housing	4	1
REHAB housing	3	0.7
Harijan quarters	2	0.5
Potters colony	2	0.5
Dhobi Ghat	1	0.2
Total	413	100

*Data Source: SLAO of Mumbai*

### **Structure of the MCGM**

The MCGM consists of representatives elected for five year terms on the basis of adult franchise (currently numbering 227 councillors, each representing one ward). As per the 2009 elections there are 71 councillors from Indian National Congress, 14 from National Congress Party (NCP), 28 from Bharatiya Janata Party (BJP), 84 from Shiv Sena, 7 from Maharashtra Navnirman Sena (MNS), 1 Bahujan Samaj Party (BSP) and 3 from the Republican Party of India (RPI).

Municipal elections gained importance after 1950 when—for the first time—the BMC was composed only of elected members. In 1963, 140 single member constituencies were defined, and elections were held in 1968. In 1976, earmarked mandates for castes were introduced. In 1982, the number of seats for councillors was increased to 170, followed by elections in 1985. In 1990, 30% of seats were

reserved for women. The number of councillors was increased to 221 in 1991, followed by elections in 1992. In 1994, in compliance with amendments to the Constitution of India, one-third of the seats being set aside for women. In 2002, the number of seats was increased to 227.

The BMC Act makes a clear demarcation of functions between the executive wing and the deliberative wing. The deliberative wing is made up of all the elected representatives, and the executive wing is the bureaucratic staff. The BMC Act specifies seven statutory/collateral authorities at the city level, each charged with certain responsibilities: the Corporation, the Standing Committee, the Improvements Committee, the Bombay Electrical Supply and Transport Committee, the Education Committee, the Municipal Commissioner, and the General Manager of the Bombay Electrical Supply and Transport Undertaking. The first five are deliberative bodies with powers to sanction funds; the last two are executive.

At the central level, the corporation has the power to appoint ad-hoc committees (known as consultative committees) for consulting and reporting on special subjects, such as the Grants in Aid Committee (which looks after proposals for the award of grants to certain institutions), Planning Committee, a Review Committee for the City, Eastern and Western Suburbs (BMC, 1999). The constitutions of the committees reflect the numerical strength of the main parties in the corporation and their deliberations are not very formal (Siddiqui and Bhowmik 2004).

The Commissioner, drawn from the Indian Administrative Services, is a state government appointee who serves a renewable three-year term. He is the Chief Executive who controls and exercises supervision through the Deputy Municipal Commissioner over the various heads of departments in charge of civic services and the ward officers in terms of policy decisions taken by the deliberative wing as well as state executive directions passed down to the Commissioner. The Commissioner also initiates proposals involving policy and seeks approval on various projects to be executed for civic welfare. The Commissioner attends and participates at the meetings of the Corporation and the committees but does not have the right to vote. The exercise of some powers of the office—especially those that involve dispersal of significant funds, such as awarding contracts and disposal of property—have to be sanctioned by the Corporation and some of its committees. The Commissioner can be removed from office by the state government under two conditions, firstly if a proposal of the Commissioner is supported by not less than five-eighths of the total number of councillors second, if the state government finds that the official is incapable of performing the required duties or has been found guilty of misconduct or neglect. Thus not only ought the Chief Executive to be competent but also that he is able to gather support of the councillors.

In the Corporation, the Commissioner must directly initiate a proposal—pertaining to the municipal administration (including the various works)—for it to be considered for approval and implementation. According to (Tinaikar 1996), the Commissioner is 'the eye of rate-payers', sharing responsibility equally with the councillors but having greater accountability on account of this expertise and stake in permanent government services, as an employee of the government. The Commissioner also has the power to refuse to execute decisions imposed on him or her, if they are in violation of the law or the norms of financial propriety. He is the controller of municipal funds and represents the Municipal Corporation in courts. The Commissioner also has immense discretionary power to sanction projects and interpret laws to allow flexibility. In all, the powers of the Commissioner have always been considered to override the authority of the elected bodies in the Corporation (Tinaikar 1996).

While the Commissioner has the right to initiate projects and proposals, sanctioning them is the prerogative of the House of Elected Representatives. In the absence of the Commissioner, the house is merely a deliberating forum—debating, critiquing, questioning and advising the Commissioner who is expected to respond by either defending the administration or by complying with the wishes of the majority of councillors.

**Table 5.4: Public amenity norms**

<b>Amenity</b>	<b>Obligatory provision by MCGM</b>	<b>Categorization</b>
Primary schools	Obligatory	All existing schools (private or public) designated as public amenity
Secondary schools	Only 50 out of 700 are administered by the MCGM for poor section of society—not obligatory	Private schools are allowed to take up development of secondary schools on reserved plots
Libraries	Discretionary function	Justification of service so as to overcome restrictive and expensive libraries
Medical facilities (hospitals, maternity wards, public health activities and medical colleges)	Obligatory duty	Both free and paid
Recreational and entertainment facilities (recreation grounds, playgrounds, gardens and parks, stadium, clubs, gymkhana, swimming pools, sea beaches and promenades along sea fronts, green belts, hills, woodlands and outer parks)	Obligatory duty corporation under section 63 of BMC Act	Public spaces with full, limited and off-limits access for the general public
Cemeteries	Obligatory	Community specific cemeteries, disused cemeteries
Welfare Centre	Not an obligatory duty – however seen as a welfare intervention in slum areas and as substitute for recreational amenity	

Source: MCGM 1984

Surprisingly, housing is not seen as either a community or public amenity by the MCGM, probably because housing is a state subject and is seen as a responsibility of the state government (see table 5.4). However, local government is mandated the task to prepare the Development Plan, which contains land earmarked for public housing. Planning standards for urban areas are based on population, space required and area of access. The Government of Maharashtra first prescribed planning standards in March 1966 and revised them in 1979. Further revisions were carried out by the Municipal Corporation for the 1991 Development Plan (Joseph 1996).

### **Planning process and the actors engaged in planning**

The formal rules laid down under the Maharashtra Regional Town Planning Act of 1966 (MRTP), which prescribe the powers of different authorities in land use planning, indicate a very clearly laid out role matrix for different sets of actors. While the town planners of the Municipal Corporation have been assigned the role of surveyor, drafter and designer and recommender of plans, the councillors of the Municipal Corporation are assigned the role of receiving comments and objections from the public. The state government's role is also to hear objections and finally sanction the plan. The planning committee appears as the only platform that includes the elected representatives in the planning process. 'It consists of three members of the Standing Committee of the Planning Authority (MCGM) and such additional members of persons, not exceeding four, appointed by the state government having special knowledge or practical experience of matters retaining to town planning' (Section 28 MRTP, in Desai 2007, 43). Every stage of planning has been assigned a specific period and there is also a provision for sanctioning an interim development plan, as per section 32 of the

MRTP. The state government appears to have a larger role than the local government. The state government directs the planning process by appointing the planning officer, and has a say in nominating members of the planning committee; it also conducts hearings independently of the local body and has final say in adopting the plan.

Soon after the enactment of the MRTP, the first statutory Development Plan of Bombay was prepared and sanctioned by the state government in January 1967. Commenting on the plan, Joseph, who served as an urban development secretary during the passing of the 1991 development plan, writes,

The 1967 plan was one of those static master plans in which the existing land use was noted down, and then proposed land uses were designated, and reservations were made in accordance with the norms set up for the public utilities such as schools, hospitals, markets, public halls and gardens etc. These designations and reservations, also with the provision in the Land Acquisition Act and Municipal Act, helped BMC to control development. Employment or investment plan or environment did not play much of a role in this plan. (1996, 287)

The formal rules under the MRTP Act of 1966 set out what should be the contents of the Development Plan as well as the specific role for each actor and also the specific period within which they have to act.<sup>23</sup> While the overall sanctioning and policymaking authority lies with the state government, the survey, research and preparation of the plan has to be done by the planning authority. Through a notification in the Official Gazette, the state government identifies the planning authority. For Bombay in the 1980s the planning authority was the Municipal Corporation of Greater Bombay (MCGB). Under law the planning authority is required to prepare the plan and submit it within three years to the state government. If the planning authority is unable to complete its task within the prescribed period, the state government may grant an extension.

According to the rules under the MRTP Act, the planning authority is expected to undertake several actions: to pass a resolution in the Corporation House, declaring its intention to prepare a Development Plan; to send a map to the state government with the geographical boundaries of the area for which it proposes to prepare the plan; and to publish its intention in the official Gazette and local newspapers inviting suggestions or objections from the public within a period of no later than 60 days. Further, a copy of the plan should be made available for inspection by members of the public at the head office of the planning authority and the local authority. A town planning officer—usually an employee of the planning authority—is appointed to prepare a map of the current land use pattern and formulate proposals so that the MCGB can draw up the Development Plan.

The MRTP Act specifies the contents of the Development Plan, namely, a report on land use maps, survey maps and charts explaining the provisions made. It should also give the manner in which permission for developing a plot of land can be obtained and should include approximate cost estimates involved in acquisition of the land required by the planning authority for public purposes as well as the cost of the required works. At the end of the planning period of two years, the draft Development Plan has to be published.

The MRTP Act also provides for the establishment of a Planning Committee to receive suggestions or objections about the Development Plan. This committee is made up of a three member standing committee and not more than four additional persons appointed by the state government (because of their special knowledge or practical experience in town and country planning or environment or both).<sup>24</sup> A large number of objections are raised by private land owners whose lands have been reserved for public purpose. After the receipt of objections and suggestions about the draft Development Plan, the planning committee has to make relevant enquiries. Following this hearing, the

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<sup>23</sup> Section 22 of MRTP Act provides that proposals can be made to allocate land for purposes such as residential, industrial, agricultural and recreational as well as for schools, colleges and other educational institution, medical and public health institution, markets, social welfare and cultural institutions. Proposals can also be made to designate areas as open spaces for playgrounds and also for transport, water supply and other public utilities.

<sup>24</sup> A committee made up of councilors nominated by the political parties with seats in the house.

planning committee has two months—from the date it was established—within which to submit its report and recommendations to the planning authority. The planning authority may, based on these recommendations, modify the plan if it deems necessary.

This modified draft Development Plan has to be published in the official Gazette within a month of its submission to the state government for approval. If the planning authority has substantially modified the draft plan, a notice has to be published in the official Gazette and local newspapers inviting comments and suggestions concerning the proposed modifications.

Only after all these stages are completed is the draft Development Plan submitted by the planning authority to the state government, which is expected to sanction it within 12 months of publication in the official Gazette. Substantial modifications—if any—made by the state government have to be publicized through a notice in the official Gazette and local newspapers inviting objections and suggestions. The act requires the state government to consult the state's Director of Town Planning who is an employee of the state government, on the draft Development Plan. After all these steps are completed, the final Development Plan is published.

A provision in the MRTD Act gives the state government the power to prepare an interim Development Plan pending the final plan. This interim plan, however, has to be published in the official Gazette and can only deal with the allocation of land use for residential, industrial, commercial, agricultural and recreational purposes as well as for public purposes (e.g., playgrounds, green belts etc.).

Therefore, the formulation and sanctioning process of the development plans (including the development control rules) requires a multi-actor consensus. There are multiple actors involved in this process: 1) the Chief Minister as the head of the state government; 2) the state's Minister of Urban Development; 3) the members of the state's Legislative Assembly of Maharashtra; 4) the officer appointed by the state government to receive objections and suggestions to the plan; 5) the Director of Town Planning; 6) the planning committee of the local government; 7) the planning officials of the planning authority;<sup>25</sup> 8) the general public, providing objections and suggestions; 9) the private and public agencies that own the land that is to be acquired; 10) public-private agencies that serve as service providers, such as the transport and electric supply company; and 11) builders whose projects will be affected by development regulations.

Political parties represented in the state legislature and the Bombay Municipal Corporation (BMC) are also crucial actors in this process. Also, there are organizations and the networks of these actors (e.g., lobby groups that seek to influence the decision making on development plans) (Narayanan 2003; Thakkar 1995).

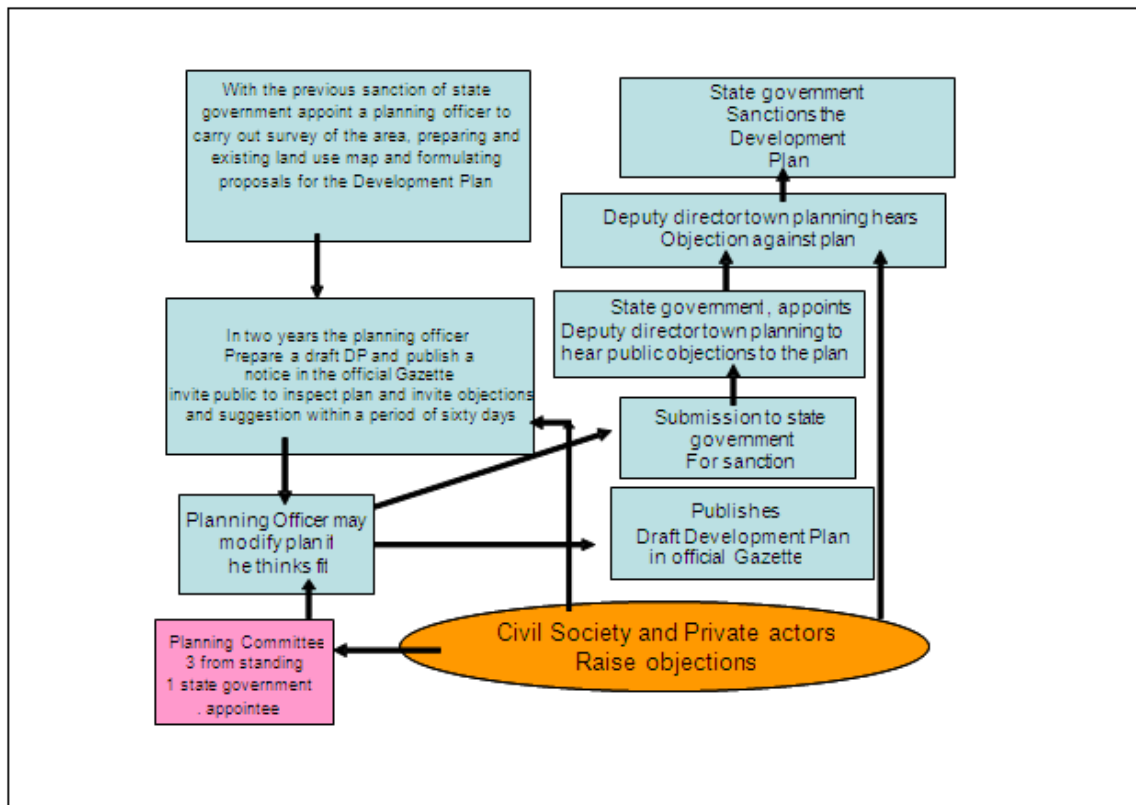
The next chapter will present key events of the process of drafting the development plan in the mid-1980s, with the goal of highlighting the main actors, their resources and interests.

In 1977, after the BMC signalled its intention to prepare a revised Development Plan, an officer from the Town Planning Directorate was sent on deputation to the BMC to work under Mr. B. B. Parikh, the Deputy Chief Engineer at the time. By 1983, a draft revised Development Plan was ready for wards A to G and the draft development control rules and the revised Development Plan for the suburbs were ready by 30 April 1984, when they were published. Altogether, there were about 7,700 plots reserved for public amenities in the entire city of Bombay. During the 60-day period allotted for public comments a total of 3,800 objections and suggestions were received (Joseph 1996).

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<sup>25</sup> The planning authority in this case is the local government, i.e. the Bombay Municipal Corporation (BMC).

**Figure 5.1: Planning flow chart as per the Town Planning Act of 1966**



### The Development Plan Department (DPD)

A special Development Planning Department exists within the MCGM; its role is to undertake land use surveys, sanction layout plans for buildings, realize the acquisition of lands for public amenities, and design and formulate land use regulation policies (also called the Development Plan) for the entire city. Development control regulations are also framed by the DPD and sanctioned by the state government. The development control regulations shape the city. It is the most important instrument for carrying out planning policy regarding the Development Plan.

In short, the DPD of the MCGM is the nucleus of urban planning in the municipal administration as it sets the design citywide development. The DPD is under direct control of the Director of Engineering Services and Projects and the Municipal Commissioner. This is the department that takes into consideration expected future city planning needs and formulates the policies and developments proposals that will safeguard the well-being of its citizens. The department has basically two important wings: 1) for the implementation of the sanctioned Development Plan and 2) for the revision of the Development Plan (an obligatory requirement under the provision of the MRTP Act). It also performs the on-going review of the plan (see figure 5.1).

The Development Plan is implemented either by external agencies (such as the landowners, private builders and other agencies with the city) or the Municipal Corporation itself. The task of the DPD is to guide the various departments of the MCGM to ensure that their proposals are consistent with DPD policy. Thus the DPD receives plans from all external agencies that perform any development works.

The role of private actors, contractors and their networks with officers comes to play in the implementation of plans. It is widely believed that contractor rings and their syndicates are function openly within the MCGM system. These are very old links, based on the old guilds, which can be traced to community or regional roots. A fair exchange of information, resources and influence occurs

within these networks. In addition, builders and professional architects are also well-connected to the DPD and the Director of Projects at the Municipal Corporation (often hailing from the same engineering schools, even as former classmates. Their joint forums, such as the Practicing Engineers Architects and Town Planners Association (PEATA), provide spaces for designing innovations in policy practices. This particular network was famous for its innovative interpretations of rules for network members. 'Floating FSI' was one such experimental idea, which allowed for transfer of development rights from the suburbs to the other, within the city (D'Souza 1987).

Certain ties among some actors have gained much attention in the press and academic writings. Some of these ties have formulated their own sets of norms and rules over time, thus establishing a parallel structure of relationships—a network of relationships where resources are exchanged as a means to assert influence over the other actors. These networks and their influences over the years is well-established and can be traced back to the 1980's (Thakkar 1995; Siddiqui and Bhowmik 2004).

The BMC Act does not mention political parties, which at the time of its drafting in 1881 were not yet present. The council was conceived as a body of civic-minded civil leaders with no political affiliations (Thakkar 1995). Over time the role of political parties has grown in the Municipal Corporation; currently almost all councillor seats are contested by candidates of different political parties. An informal forum of deliberation is the 'Group Leaders Meeting', which is mechanism for the leaders of different political groups to informally discuss various proposals before they are crystallized in formal policy proposals, which can be put before the Corporation or statutory authorities for formal sanctions. Siddiqui and Bhowmik (2004) trace the emergence of this system after independence when BMC elections came to be contested primarily along party lines. These two streams one of the officers and the other of the elected representatives run parallel to each other as two co-existing organizations within the municipal corporations, one serving the middle and upper classes and the other serving the poor who live in squatter settlements.

Underneath the maze-like formal structure of the MCGM, we find a network of relationships between local government and private actors. There appears to be a multiplicity of identities that actors hold in their roles. These identities and ties are hidden away from the public view and come out in the open during processes, which provide opportunities for collaboration (e.g., the process of drafting the Development Plan).

#### **5.4 MCGM AND STATE GOVERNMENT RELATIONS**

There are many ways in which state government exercises control over the BMC. First, it is the state legislature that passes laws defining the rules that govern the BMC. The Development Plan is sanctioned by the state government. Second, the Commissioner and the four Additional Commissioners (usually Indian Administrative Service (IAS) officers working in the BMC) are on deputation from the state government. It has been noted by BMC officers that the IAS officers feel responsible to the Chief Minister and the state government officers, rather than to the municipal councillors. Third, the state government has considerable powers regarding land use and construction. Important acts—for example, the Bombay Tenancy and Agricultural Lands Act of 1948, the Maharashtra Land Revenue Code of 1966, the Bombay Metropolitan Regional Development Authority Act of 1974, the Urban Land Ceiling Act of 1976 and the Maharashtra Regional Town Planning Act—directly impinge on the concerns of the Corporations. Under the MRTP Act, the final development plans have to be approved by the state government (Siddiqui and Bhowmik 2004).

Even though according to the law the Municipal Commissioner is the final authority that decides the dates of elections, in practice it is the state government that directs the election programme through informal means (Tinaikar 1996).

Finally the state government may take over the powers of the MCGM and appoint an administrator. This in fact happened in 1984, with the stated reason for intervention being MCGM's inability to prepare revised ward lists and hold elections on time.

The Government of the State of Maharashtra—as demonstrated by the sections above—is a very powerful actor in urban development. It chiefly intervenes through large projects and controls all urban institutions that are involved in urban development. Even directly elected bodies, such as the local government, have only suggestive powers vis à vis important decisions such as development plans.

## 5.5 CONCLUSIONS

The number of state actors and legislations, rules and regulation governing urban development is vast and fragmented. It is spread over different scales and levels of government, including government of India, state government and local government. There is a continuous struggle amongst various sections of government to gain more control over the planning and urban development process of Mumbai. Control over urban development policies rules and regulations can often be read as a proxy to the power equations between different levels of government, even though the proxy provides only a snapshot of power in action. The exercise of power by one of the levels of government, especially when it's of the controlling kind, often gives rise to a reaction from the other levels of government. It is this cumulative behaviour of government actors that creates a series of pictures which tell the story of urban development of Mumbai.

In the 1970s, in response to the increased control over private land by the government of India the state government increased its investment in joint projects with private landowners. Patron client relationships between the landowners/builders and state government/politicians strengthened via an exemption mechanism the ULCRA. Joint projects and exemptions for land development offer the opportunity to earn large profits not only for individual actors but also for political parties and state governments. It is no wonder that urban development gained precedence over other sectors of development nationwide in the mid-1980s. In the 1980s, state government increased its control over institutions of urban development, such as the MMRDA and MCGM. It is within this historical context of shifting power relations amongst state actors that the revised Development Plan of Mumbai was designed.

Networks between private actors and public actors present the informal context, which also influence the planning process. These networks are to be found at all the levels of government. Two predominant networks seek to influence the decision making process and the outcome is a result of this struggle between a rational approach to development propagated by techno-managerial officers and the market-driven approach by private land owners and some elected representatives.(Watson 2009; Narayanan 2003).

While special exemptions were offered to landowners, slum dwellers were given some basic amenities and partial tenure guaranteed by photo-pass and similar programmes. It appears that while a tussle between these two forces, techno managerial and markets are ongoing, the political parties and elected representatives need to maintain an act of serving the voters, which they do using funds allocated to them. Perhaps this is why political process in India is often referred to as a performance or a *Tamasha* (Blom-Hansen 2006).

The Development Plan is a major tool for urban development in Bombay, with land management is one its main instruments. Land surveying and its acquisition has been in practice since the British times. In terms of rules and regulations of land management there appears to be continuations from the rules formulated by the British Colonizers. The problems of applying those rules persist in magnitude and so does its impact on the residents of the city. Visible change is observable in the various levels of government emerging after independence. Shifts are observable in the strategies used by different levels of government to influence urban development. There are many new actors on the scene such as political parties, social groups and the media. So while the regulatory framework and land ownership pattern has not changed from the British times, what is new in the policy-making arena is the number of actors in the sector. In the next chapter I will present the planning process and conflict that it unleashed.