Lakshmi Raj: Shaping spaces in post industrial Mumbai: Urban regimes, planning instruments and splintering communities
Nainan, N.M.
CHAPTER 6: MRTPS AND THE CONSENSUS NEEDED FOR A NEW DEVELOPMENT PLAN

INTRODUCTION

As seen in the last chapter the MRTP Act prescribes the process for drafting and adopting the Development Plan. What strikes the reader about the planning process is the consensus required among different key actors: the chief minister and other ministers, officers, planners, landowners, councillors, civil society organizations and slum dwellers. However, this list of actors is drawn from the legislation and not from empirical evidence. In this section of the chapter I shall study the process of drafting and adopting the Development Plan from the mid-1980s till 1991. The process of formulating the revised Development Plan for Bombay was initiated in 1977, and the plan was finally passed in stages sixteen years later (between 1990 and 1993). Some of the critical stages of the plan formulation are presented in figure 6.1.

The chapter will examine which actors intervened in the planning process, the interests and constraints of these actors as well as how they organized themselves. The approach is to identify actors as they engage in policymaking processes or as they exercise their agency. This exercise of agency by non-official actors is at times outside the formal planning process and at other times invited by the state agencies. I have selected four such events or encounters where official actors or officers of the state meet non-official actors. The selection of these encounters between sections of society and state is based on the coverage they received in the print media. The first encounter which gained extensive media attention was the setting up of the Planning Committee to hear objections and recommendations; the second was the state’s chief minister deleting the reservations of some plots; third was the setting up of the D’Souza Committee; and the final instance was the Public Interest Litigation (PIL) filed by environmental groups. Some of the actors stand out as key designers and influencers of the policymaking process. The next section will provide more information and analysis on the selected actors, based on three criteria—their interests, resources and constraints.

Section 6.2 will presents the actors’ reaction to the Draft Development Plan. Two sources of data—primary and secondary—are used to identify the actors; the secondary sources include newspapers journals and government reports, maps and databases. Some of the databases have been analysed to get a citywide perspective. Further, some databases were verified by conducting a site survey of the plots. These findings are also presented in this chapter. Based on an analysis of these sources, the various actors and the organizations that are actively engaged are drawn out. The primary sources, such as interviews with actors and case studies of some of the plots, help to identify actors that are beyond the formal realm of the law. Section 6.3 will present the case study of Fulanchiwadi where I use a bottom-up process in identifying actors at the plot level and show how it ties up to the planning process at the city level. In the last section of the chapter the actors’ interests and constraints will be analyzed, drawing out some key conclusions. (MCGB 1984)
6.1 THE DRAFT DEVELOPMENT PLAN

The Report on the Draft Development Plan (Revised) 1981-2001, published by the administrator and the Municipal Commissioner of MCGB in 1984, has three parts divided over fourteen chapters. The acknowledgment page lists out the various contributors to the planning process, including various state and central government departments as well as parastatal entities, such as the City and Industrial Development Corporation of Maharashtra Ltd (CIDCO) and the Bombay Metropolitan Regional Development Authority (BMRDA), and private agencies such as the Tata Economic Consultancy Group, the Organization Research Group, Kirloskar Consultants and others.

Two major options for the type of growth to be promoted by the plan are presented. The first is to continue with the mono-centric pattern of southward growth, which itself was understood to lead to a continuous growth in population—estimated to reach 13.7 million by the year 2000. The second option was a poly-nucleated type of growth, which can be achieved through distributing activities. It was estimated that the second option would result in the stabilization of population growth by 2000. The revised Development Plan was prepared by adopting the second option for a projected population of 9.87 million by the year 2000.

The report lamented on the difficulties the authorities faced in acquiring land for public amenities and recommended three possible means of increasing revenues, in order to raise funds for the land acquisition aspect of the development plan. The first was to amend the MRTP Act in such a way as to provide compensation to landowners at prevailing market rates by bringing it in line with the practices of the BMRDA and Maharashtra Housing and Area Development Authority Act (MHADA). The second recommendation was to incorporate a new section in the MRTP Act, empowering the

---

26 A series of other fiscal and tax-based recommendations were also made to increase revenue of the municipal authority.

82
planning authority to levy development charges on the community of the locality where the implementation of a certain proposal of the Development Plan has resulted in increased property values. The report argued that a similar policy had already been implemented by the Calcutta Metropolitan Development Authority in 1980. The third recommendation was to levy a Development Tax Cess to be recovered when the landowners approach the corporation for developing their lands. This tax was being levied in Tamil Nadu State, and by exercising this tax the MCGB aimed to stop landowners benefiting from increases in land values.

The concept of Transfer of Development Rights (TDR) is introduced towards the very end of the plan as a ‘policy to allow the owners of the lands reserved for various social amenities in the development plan to develop the said plots for combined uses thereby getting the reservation site developed for the amenity for which such land is reserved at the same time allowing the owner to get certain potential of the plot for his beneficial use’ (MCGB 1984, point 14.4.4.5 of chapter XIV).

According to the MCGB’s draft plan, TDR from the Island City should be used in the suburbs and from a plot in the suburbs to another plot in the same ward or another plot, located towards the north of the reserved plot. This recommendation was a total reversal of what had been practiced in the 1970s, i.e. the 'Floating FSI' 27. In one particular case, the MCGM made an exception as an experiment, permitting a builder to transfer development rights of a plot in the northern suburbs (low-price area) to a plot in Bandra West (high-price area). As there was no rule defining such a mechanism, when the experiment was discovered by a new officer it was declared an irregularity, and the case was hushed up, as it involved senior officers from the planning department and a powerful builder.

The report lays down six basic steps for the development of the TDR Programme and identifies strategies to ensure marketability (without which the TDR Programme would not succeed) along with rules for granting TDR. The section on TDR of the Development Plan justifies its need based on earlier experiences of inadequate funds from the state and central government for land acquisition. It also criticised the municipal corporation’s inability to raise sufficient funds to keep pace with the growth in population of the city. Ironically, MCGB’s Draft Development Plan recommended TDR as a measure for enhancing public participation in implementing the Development Plan—not as a means for generating revenue or as an alternative means of compensation for land acquisition.

The Draft Development Plan had proposed a number of alternatives, with the planners incorporating a cafeteria approach: leaving it to local and state politicians to decide which financial strategy was more amenable. The pros and cons of each alternative within the context of existing land markets and existing landownership by public and private entities were not seriously examined. The only tactical manoeuvre of the planners was to integrate TDR as a public participation strategy, while it clearly belonged to the section of revenue generation for land acquisition.

6.2 ACTORS’ REACTIONS TO THE DRAFT DEVELOPMENT PLAN

From the very beginning various actors showed keen interest in monitoring the movement of the Development Plan. The Practicing Engineers Architects and Town Planners Association (PEATA) closely interacted with planners right from the formulation stage of the Development Plan. PEATA was initiator and proponent of the TDR mechanism. Jaswant B. Mehta (1996), an architect and member of PEATA, offers some insight in the issues that came up before the planning officer:

When an exercise was undertaken for preparing the draft development plan for Greater Bombay in 1981 for the period 1981-2001, it was obvious that land acquisition would be even a still bigger hurdle than was the case during the earlier plan period because not only were the land requirements much higher but land prices had also increased manifold. Besides, much of the vacant land that was available in the earlier plan period had already been developed and

---

27 Floating FSI is the floor space index which is not linked to the plot where it originated.
encumbered. Reservations are proposed on as many as 1,716 hectares of land. This formed 63% of total requirements of land covering existing as well as proposed amenities.

Mehta (1996) recognized the role of PEATA in urging the municipal authorities and the state government to adopt a more pragmatic approach while acquiring land proposed to be ‘reserved’, by incorporating the concept of Transfer of Development Rights in matter of land acquisition. Just as PEATA’s focus was on instituting market mechanisms, the state government (through its Development Advisory Committee) was more concerned with the restrictions levied by the Development Plan on the city’s growth. The Bombay Development Advisory Committee (BDAC), a committee of planners and IAS officers set up by the state government, criticized the Development Plan for ‘doing very little justice to the task’ and the planners’ indifference that led to quick fix solutions (D’Souza 1987). The planners’ efforts to suggest that population growth was a problem and their attempts to control the growth of the city in the name of environmental concerns were also criticized. This group of actors looked for more fundamental changes with long-term growth perspectives for the city, and therefore criticized the report for its quick fix and the planners’ growth-control approach. Looking back at the revised Development Plan, the current MCGM planners criticized it by saying that although the Development Plan was planned for a projected population of 9.97 million for the period of 1981-2000, the actual population in 1991 had already reached 9.91, according to the 1991 census (Balachandran n.d.; Pathak 2007).

Clearly the Development Plan was designed for a smaller population size, setting aside large tracks of land outside of the development process. The plan was largely recommendatory, laying out various possible strategies to help generate revenues to cover the high cost of implementing the plan. At the same time, the plan also proposed innovations in public-private participation via market mechanisms, such as TDR. As such the Development Plan could be called a toolbox that lays out all the possibilities but leaves it open for decision makers to choose and select. That is precisely what appears to have happened according to the series of events presented below: the Development Plan for Bombay turned into an arena where the interests of a section of powerful actors dominated strategic decision-making processes.

The planners’ interest was to control growth (both in population and spatial dispersion) of the city and find means of funding the plan with minimal dependence on state or central government. They sought to raise funds though market mechanisms, as this formula had already been tried out elsewhere and looked more trustworthy than other means of raising funds. The IAS officers were more interested in dealing with the reality of a megacity. This suggests two very distinct interest groups with different values.

The planning committee hears objections and suggestions

Two different planning committees were established: one for receiving the objections/suggestions/recommendations on the Development Plan of the Island City and another one for the suburbs. These committees were distinct from each other: the planning committee for the Island City was made up of officials (led by an IAS administrator, Mr. Sukhtankar), while the suburban city planning committee was made up of councillors.28 From 1985 to 1987, the BMC was suspended for the Island City. When the hearing of objections for the suburban areas was to commence, the political conditions had changed. Local elections had been held and the municipal corporation was functioning once again: it was now mandatory to constitute a planning committee with councillors. Thus the objections for the suburban areas were heard by a multi-party representative planning committee, unlike the Island City hearings which were held before a panel of only administrators.

28 Two IAS officers deputed to the MCGM by the state government and two officers of the MCGB - the deputy director of town planning and deputy city engineer constituted the planning committee for the Island City. The planning committee for suburbs consisted of five members (all political party representatives); i.e. a standing committee chairman and four councilors representing different political parties with seats in the corporation.
Between 1985 and 1990, the Congress Party was in charge of the Government of Maharashtra and the Government of India, while Shiv Sena ruled the MCGB. In 1985 and 1986 the five member all-party planning committee of the MCGB set up to look into public grievances on the revised Draft Development Plan, which recommended deletion of reservation on 1,380 plots (measuring a total of 19.4 square kilometres). The councillors appointed a small committee that came up with a scheme giving concessions to landowners. The MCGB’s council approved the committee’s recommendations in just one day and these were sent to the state government. Thus at the local level there is evidence to show that all the political parties were in consensus over sanctioning concessions to landowners, although these undermined existing policies.

These changes in plot reservations were brought to light during the Public Interest Litigation (PIL) filed by civil society groups in 1989, when the state government further de-reserved land plot zones in favour of landowners. In the majority of the cases the landowners approached the planning committee through an architect who placed the case of the landowner vs. land tiler before the planning committee. The request usually was to either delete part of the public zoning from their land so that they could use it for private purpose or completely change the zoning in a direction that would secure more profit for the landowner.

Commenting on the changes recommended by the planning committee for the suburban wards, the D’Souza Committee pointed out some extremes:

- The committee’s ‘considerateness had stretched into caprice…there was an unfortunate readiness to drop a recreational or educational reservation (particularly the latter), or to convert into an irrelevant allocation more convenient to the landowner, regardless of the community need’ (D’Souza Committee Report 1987, 44).
- The planning committee’s decision to convert a part of a plot reserved for recreation into reservation for a school was ‘a spurious adjustment’ that favoured the landowner on condition that the applicant handed over 30% of the land to BMC free of charge. And in another case the committee suggested that a No Development Zone (NDZ) plot be converted into a residential zone and then set out a bargain; instead of the normal practice of demanding 50% of land for different public amenities it felt that 25% would be adequate in this case.
- Certain claims were upheld by the committee (such as title immunity) because the land belonged to an original inhabitant of Mumbai.
- The part-release of land plots had no uniformity. In the words of the D’Souza Committee (1987, 46), ‘We have rejected these bargains, doubting their legality. Moreover, most of these cases will attract the grant of TDR; the landowners will have the choice of waiting for regular acquisition against compensation or giving up the land and earning Development Rights Certificate’.

Looking at newspaper reports and interviews with the architects engaged by private landowners and builders, it appears that the de-reservation was done in exchange for money. Some newspaper articles point specifically to the role played by architects and planners as middlemen or agents of private landowners in this process(Mahesh 1990a; Mishra 1990; Chakravarty 1990). What the media and the committee overlooked is that corruption only comes to play when there is a dire need that is not being fulfilled by legal means—thus requiring actors to undertake extralegal actions. This holds true for both private landowners and their tenants (agricultural or otherwise) who sought relief from the zoning created stalemate. Another need fulfilled via the de-reservations was the need to secure security of tenure for the inhabitants of the large number of shacks and wadis (construed on private lands with expressed permission of the landowner). These shack dwellers were voters of the very political parties that ruled the municipal corporation and state government; it was in the interest of these political parties to secure some benefit for their voters.

29 Amarnath Patil of the Shiv Sena chaired the committee; other members were Puspakant Mhatre (Civic Forum), Dr. Rambesh Prabho Shiva Sena), Indumati Patel (Congress-I) and Ramannand Lad (Congress-S).
30 According to the D’Souza Committee (1987, 43), the ward plans for the twenty-year plan were approved by the MCGM ‘after a consideration that took the body not days or hours but minutes’.
Analysis of 1,380 de-reservations by MCGM’s planning committee

The analysis of 1,380 plots de-reserved in the mid-1980s shows that the de-reserved plots are spread out across all wards, including sizable numbers in the Island City. C Ward has 142 de-reserved plots and in E Ward the number of plots de-reserved is 104. In the western suburbs, R Ward has the largest number of de-reservations (169 plots) while K East and K West have 126 and 127 respectively. With only 44 plots de-reserved, M Ward is clearly not a preferred ward for de-reservation.

The analysis shows that some types of reservations were not popular with landowners. The largest number of interventions concern deletions in zoning of open space amenities—with 77 garden plots, 193 recreational grounds and 129 playgrounds being scrapped. The next largest number of interventions is to be found in 119 plots reserved for public housing, 56 secondary schools and playgrounds and 14 No Development Zone (NDZ) areas.

A 10% sample from the total 1,380 plots was further analyzed to assess the specific interests of the applicants. Using SPSS, a random selection of 10% of the plots (i.e., 103 plots) was made, showing that 83% of all applicants were private landowners or their representatives. The majority of the applicants for de-reservation of private lands were landowners, their agricultural tenants/chawl owners, or land managers who had bought the land rights from the landowners (this category of actor is also called the Consequent Authority—CA). The analysis showed that a large section of the private lands not only had multiple tenure claimants, but also had been sold through informal means to builders. The planning committee members themselves also applied for de-reservation, either as landowners or on behalf of the squatter settlements. The charities include small local mandals and bhagani groups.

<table>
<thead>
<tr>
<th>Applicants</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private (landowner, tenants, CA-builder)</td>
<td>85</td>
<td>83</td>
</tr>
<tr>
<td>Government</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>Others (elected representatives, political parties, religious institutions)</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Charity (local mandal and bhagani)</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

Source: (The Government of Maharashtra 1989a)

The analysis of the sample also shows that there is a specific demand of de-reserving only part of the zone and maintaining the reservation in a section of the zone. Perhaps this is due to the process of placing reservations across plots of land that may be owned by different individuals (there are three such cases in the data set). Complete deletion of reservation is requested in 33 of the 103 cases, or almost one-third of the sample. All ‘public housing’ has been changed to simply ‘housing’. While the large number of reservations of playgrounds had been deleted, in a few cases the reservation has been kept.

---

31 This was perhaps the most difficult task of the data collection process. The entire list of de-reservations had been tabled in the Assembly in 1991, and most of the key actors had a copy; however, no one was willing to share it with researchers. Even after multiple visits to the Assembly library—which has every document ever tabled in the assembly, including notes on all discussions—not even they were willing to provide a copy of the report. Finally, it was Mr. Sadashiv Tinaikar—the municipal commissioner at the time, now retired—who dug it out from his attic full of reports and documents. I am grateful to him for his invaluable help.

32 As per the first Development Plan a total number of 1,876 plots of land were reserved, 964 were acquired under LAA and 299 under ULCRA, leaving 964 plots to be acquired. A question then arises: How can 1,380 plots be de-reserved by government action? Simple mathematics fails here as the plots that were reserved for public amenities in the 1964 plan were areas that were broken down into smaller plots via a process of land surveys. Thus one single large plot of the 1964 plan appears as six or more plots under the revised Development Plan. Large plots were broken down into smaller ones due to varied landownership and tenure, which came to recognized in the process of land surveys. Thus this comparison is not made in this study.
changed into built up structures, such as dispensary or maternity homes. It is lucrative for landowners to construct public health amenities and sell them to private managers. A shift from ‘industrial’ to ‘commercial’ is also observable amongst the de-reserved plots. This reflects the de-industrialization the city was going through, with previous land reservations acquiring new functions.

Thus, the analysis of secondary data (newspapers and the list of de-reserved plots recommended by the planning committee) shows that the planning committee went a step further than its primary task (to hear objections and recommendations) and in collusion with the Urban Development Department of the state government undertook changing of the land zonings of land plots that were mostly owned by private entities. These changed land zoning (full or on a part of the plot of land) were intended to provide direct benefit to the landowner, who now could use part of the land for commercial purposes—either for the construction of housing units for sale or for the construction of amenities which could be run by private sector (and have high exchange value on the market). Another actor benefiting from the de-reservation of land plots is the squatter settlements living on the said land plot, provided it was rezoned into public housing. Non-public amenity zoning allows the landowners to realize the market value of the land: however, the realization of development of a plot of land is a long and winding process with few guarantees (as we shall see in the next sections).

The chief minister deletes reservations

Other initiatives to delete reservations also took place. In 1989, Maharashtra Chief Minister Sharad Pawar de-reserved another 285 land plots in Bombay itself (in addition to the 1,380 plots mentioned above, when the plan arrived to the state government for approval. The total area of these plots was 3.8 square kilometres and 950 square yards. Another major land scandal during this time was the state government’s issuing of permission to change land use. It granted permissions to certain Mumbai textile mills to dispose of excess land for commercial or residential construction and changed the reservation in the revised Development Plans for the suburbs (Thakkar 1995).33 In a similar move, the chief minister changed the zoning of 20,000 hectares of land from agricultural or ‘green’ to urbanizable in the Vasai-Virar suburban area of Mumbai. Most of the land in this area belonged to tribal communities that used it for cultivation and raising fish in the water bodies. Such sweeping changes were supported by private sector landowners and developers. An analysis of the 285 plots de-reserved by the state government shows the following trends:

1. The de-reservation of plots is spread throughout all the wards in the city. However, the largest number of plots is to be found in the K Ward where 25% (N=71) of the de-reserved plots are located, followed by 12.3% of plots in P Ward (N=35) and 11% in R Wards. This means that about 48% of the plots are located in the western suburbs.
2. M Ward appears less interesting for de-reservation, having only 7.7% of the 285 plots (N=22). One of the largest areas rezoned from NDZ to ‘industrial’ (100 acres) is to be found in M Ward.
3. Some of the larger plots in terms of land area are also to be found in the western suburbs. The majority of them are NDZ lands, which have been converted either into ‘tourism’ or ‘residential’ uses.
4. Amongst the applicants for de-reservation, the data shows that the largest number of de-reservations (62% of total applications) was demanded by private actors, followed by government bodies (26% of the total). What was most surprising was to find that 22 applications by charities and 10 by elected representatives were made. Of these 10, in 4 cases the applicant is the same person, an MLA and a minister during that period (see table 6.2).

33 For more details on the mill lands see Adarkar 2008.
5. An analysis of the old reservations shows that a large number of plots brought in for de-reservations were either NDZ lands (12), Playgrounds (26), Recreation Grounds (36), gardens (23), public housing (14) and housing for migrants (10).

6. In 164 cases the applicants were demanding that the reservations be deleted, in 9 cases the change was towards commercial use of the land for shops and markets, and in 25 cases the demand was to change reservations from public amenities into residential use.

Table 6.2: De-reservation applicants and applications by the state government

<table>
<thead>
<tr>
<th>Actor</th>
<th>Applicants of de-reservation</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private sector</td>
<td></td>
<td>176</td>
<td>62</td>
</tr>
<tr>
<td>Government</td>
<td></td>
<td>75</td>
<td>26</td>
</tr>
<tr>
<td>Civil society</td>
<td></td>
<td>22</td>
<td>8</td>
</tr>
<tr>
<td>Other (elected representatives and print media)</td>
<td></td>
<td>12</td>
<td>4</td>
</tr>
</tbody>
</table>

Source: (The Government of Maharashtra 1989b)

Thus the data on 285 de-reservations shows that majority of private sector actors tried to reduce or completely delete open space and public/migrant housing reservations from their lands. In some instances they tried to change a small part of their reservation or part-reservation, while in other instance the efforts were to delete the existing open space reservations in order to build on that land. The NDZ de-reservation shows the efforts of the private sector to shift towards tourism and high-end users. Two charities demand de-reservation of plots for low-income housing, where one plot is owned by a private entity and the other by local government.

Another important mechanism used by private landowners was to change NDZ lands to residential uses. These are lands that should have technically come under the Urban Land Ceiling and Regulation Act (ULCRA) but because they were under the NDZ they were not considered ‘non-buildable’ and therefore not considered under ULCRA. Also saltpans were considered non-vacant as per the ULCRA, and therefore were left unclaimed under this act.

Justifying the actions of re-reservations/de-reservations by the state government, the Secretary for Urban Development at that time, D. T. Joseph, writes, 'When it was seen that the DP for Greater Bombay was too large, and that a lot of changes had been recommended by the BMC, perhaps interim measures were thought of…and taken a decision on requests made (by landowners for deletion)…and inform the applicant that when the government sanctions the DP, the decision would be reflected in the Plan’ (Joseph 1996, 292).

S. S. Tinaikar, a retired MCGM municipal commissioner, labelled de-reservations as a ‘scandal’, as the releases of plots for development on case-by-case basis by the government authorities resulted in a public outcry of mala fide abuse of position and interventions by court, which has prevented the government tampering with the development plan (pers. com.). Summing up the role of politicians in land matters, Thakkar highlighted that big plots marked for recreation are de-reserved or allotted to a fictitious party or are subject to controversial sale, and that politicians played a prominent part in all these deals (Tinaikar 1996).

The difference between the first set of de-reservations undertaken by the planning committee and the second set undertaken by the chief minister is that the second set constituted lands that were owned by large landowners and listed under the ULCRA, which is implemented by the state government. D. T. Joseph’s argument that it was necessary to de-reserve in the face of delays of passing the Development Plan falls flat as de-reservations were only another name for exceptions to the ULCRA rules that state
government had been dishing out. The only difference was that de-reservations did not require the engagement of the ULCRA machinery; they could be directly allotted by the office of the Chief Minister.

What factors contributed to the large-scale liberalization of land by the MCGM, the chief minister and his office in the Mumbai Metropolitan Region? Was it taking advantage of an opportune moment when the Development Plan was being revised, or did it have to do with the kind of political leadership in power in the city and state government? Interestingly, the largest land use changes were made between 1989 and 1991, coinciding with the reign of Sharad Pawar as the Chief Minister of Maharashtra. Thus it would be incorrect to claim that it was an opportune moment and that any chief minister would have done the same as Sharad Pawar. On the contrary, it appears that the answer lies in the kind of leadership style and class interest that Sharad Pawar represents. Hailing from the most powerful lobby in Maharashtra (the sugar lobby), he clearly saw himself as a representative of the elite landowning class and looked for ways to protect his class interest when he liberalized large tracks of land from the tight controls of the state regime. He also had a reputation as a ‘Young Turk’ among the political circles, an ambitious politician who came to leadership at a very young age with the desire to ascend to the national scale. In his long career as politician, he has led two independent political parties and has walked in and out of the Congress Party several times.

The D’Souza Committee

In 1986, the state government appointed the D’Souza Committee—also known as the Bombay Development Plan Advisory Committee (BDPAC)—which consisted of four senior government officials. Although the committee was set up to examine the charges of corruption against the municipal planning committee, it paid special attention to the development control rules. Part of the report of this committee was accepted by the government and justified substantial modification to the development control rules (Joseph 1996).

The D’Souza Committee held a completely one-sided view of the plan for the city: it believed that the city could be best governed by accepting the special economic role the city has for the state and nation. Growth should be stimulated through private participation and liberalization of the FSI regime. It predicted consistent growth of the city: 'Despite the efforts of planners and environmentalists...Bombay will grow in numbers as well as in economic strength' (D’Souza Committee Report 1987, 4). The committee criticised the low FSI of the already developed Island City, characterizing it as the result of the ‘misguided’ pursuit of the chimera of ‘decongestion’, and also proposed to change some of the NDZ areas into development areas, as it forecast that with the growing population pressures these areas would be otherwise converted into slum colonies.

Criticizing the planning committee for the ‘bargains’ it struck with landowners, the D’Souza Committee rejected their proposals. However, softening its stance, the committee proposed TDR and AR as compensatory measures for landowners: ’In fact, most of our recommendations on individual objections and suggestions are predicated on the assumption that the part of the Development Control Rules in relation to TDR as well as our support of the BMC’s concept of “Accommodation Reservation” (which allows an owner of a library reservation, for instance, to develop the land for his own use if he provides the BMC with library space) will meet with Government approval. If they do not, many of our recommendations on individual reservations may appear harsh’ (D’Souza Committee Report 1987, 44). The significant contribution of the D’Souza Committee was not only in strengthening the TDR instruments but its further amplification (‘widening their application’) of the MCGB proposal for TDR as given in the draft Development Plan.

Justifying the TDR proposal of the MCGB, the committee sees the proposal as seeking to separate the development potential of a plot of reserved land from the land itself and thus allowing the owner to use that potential elsewhere, if he or she has surrendered the land for public use. The committee report states,
TDR offers the government an escape from compulsory acquisition and evens out some of the discrimination that a development plan inflicts between those whose land is reserved and other landowners and it reduces the tendency of affected landowners to pressure government and BMC for a removal of reservation. Development rights will accrue to the owner of a plot reserved for BMC use after he has surrendered it free of encroachments...for which he will get a Development Right Certificate giving him a Floor Space Index (FSI) credit which he can either use for himself or transfer to any one...the use on any single plot will, however, be limited to a FSI of 0.4 over what is normally permitted on the plot. This confines FSI to the same limit as obtained in the old DC Rule where it applied to road land surrender by the landowner (D’Souza 1987, 25).

Even while recognizing that the scheme suffers from an important flaw—that it does not ‘discriminate qualitatively between an acre of reserved land in the Island City or say in Kandivili (northern suburbs)—the committee could not find a solution ‘that would be immune to attempts to corrupt it’ (ibid.). The D’Souza Committee saw TDR as a means to solve problems of decaying housing stock and for owners of plots covered by slums: ‘If a landlord is prepared to rebuild an old building and house in the present occupants he should be encouraged to do so by the offer of Development Rights which he can use in the same way as if his land were subject to reservation’ (ibid.).

With regards to Accommodation Reservation (AR), the D’Souza Committee supported the idea of curtailing the total land to be acquired by the MCGB for open spaces, municipal primary schools, streets, bus depots, fire brigade stations, and sewerage pumping stations. With regard to other allocations, said the committee, landowners should be able to develop their plots keeping in mind the rules relevant to the zones where the plots were located. Thus, while the D’Souza Committee set aside the de-reservations as business deals, it turned the irregular practice into a policy. Namely, AR allowed part of the land plot (usually one-third) to be zoned for the landowner’s private use, if the rest of the plot was used for constructing public amenities and was handed over to the municipal corporation. In a similar move, the committee recommended TDR as compensatory mechanism for landowners, thus turning earlier irregular practices into policy. However, its efforts in making landowners pay once again by undertaking development for public purpose under AR was not welcomed with open arms by the those councillors who functioned as agents of landowners and builders.

In reaction to this unwillingness, the D’Souza Committee commented that the builders’ suggestions had been given undue weight in the drafting of the Development Plan. The discussion on the D’Souza Committee Report gave rise to ugly scenes in the MCGB general body, with the opposition walking out and a virtual battle of words and blows between the councillors of Shiv Sena and Congress I. The house was adjourned and complaints and counter-complaints were filed with the police (the Daily 22 August 1986; Thakkar 1995). The allegations of the D’Souza Committee against the municipal corporation did not go well with Shiv Sena—the ruling party in local government—as it saw the D’Souza Committee’s efforts in portraying the municipal corporation as the only culprit as a political act of absolving the Congress-led state government.

While city planners were conservative in their approach and drew plans for a conservative population growth, working towards reducing congestion in the city and directing growth towards the suburbs, the members of the D’souza Committee (mostly state government planners and officials) saw a more expansive role for the city in the near future, in line with the opinions of the political leadership of the state government.

**Environmental groups file Public Interest Litigations**

On 11 April 1989, Chandrashekhar Prabhu, a Congress MLA from the Opera House, an electoral constituency in the Island City, raised objections to the method adopted by the MCGB and the state government in preparing the Development Plan for Bombay, accusing the planning committee of corruption. Following his protests in the assembly, Chandrashekhar Prabhu along with fellow
Congress ex-councillor Kisan Mehta and others, filed a Writ Petition in 1989 in the Bombay High Court under the banner of the Save Bombay Committee. This petition challenged the legality of the state government’s de-reservation of plots reserved for public amenities. Quoting from the Maharashtra Regional and Town Planning Act, the Save Bombay Committee wanted the court to limit the powers of the state government in changing the Development Plan as the state government’s role was only to sanction it—not to bring about further changes in the plan (such as de-reservations). These activists also insisted that public had the right to receive detailed information on location and ownership of the de-reserved plots. Under the MRTA Act changes to the plan have to be presented to the public and the public’s objections and suggestions have to be heard. The petitioners also pointed out that no such process had been followed by the state government when it de-reserved the plots and therefore the de-reservations were illegal.

In its judgment, the Bombay High Court ordered the state government to make public the list of de-reserved plots. Accordingly, the Urban Development Department Secretary presented a list of some 1,000 plots in court by. By filing PILs, the environmental groups became an active actor in the drafting of the Development Plan. Their interests were to ensure that the rules prescribed by the MRTA were followed and decision-making on planning was open to public view and participation.

An analysis of four key events in the policymaking process has been presented above, highlighting key actors that intervened in the urban development planning process. Within sectors too we find that there are sub-groups that have one-sided opinions on the path that the city should take in the next twenty years. The Development Plan is seen as an opportunity for actors to be pro-active and voice their opinion. Some of the actors identified include the Chief Minister of Maharashtra, the state government, councillors of the MCGB, environmental groups, private landowners, builders, city level planners and engineers, state level town planners, architects, professionals, IAS officers, and land occupiers/shack dwellers.

With the objective of seeking the perceptions of actors that intervened in the making of the Development Plan, a bottom-up approach to identifying actors was also undertaken using primary data collection. The next section will present this bottom-up approach and analyze the actor’s interests, resources and constraints.

6.3 THE BOTTOM-UP PROCESS OF IDENTIFYING ACTORS

With the objective of taking a closer look at the impact of de-reservations on the local level, a study of all the de-reservation sites of M Ward was undertaken. I personally visited the de-reserved sites and documented their current use site-by-site. From the total number of sites visited, one de-reservation plot was selected for further study. The selection was based on the availability of all actors, and their expressed willingness to be interviewed. Fulanchiwadi was selected, as the senior leader who had participated in the de-reservation process, as well as the architect who had presented the request of de-reservation to the planning committee both expressed their willingness to participate in the study.

Data on the de-reserved plots of M Ward were categorized, based on the type of zoning and the sector to which the de-reservation applicants belonged. A classification was developed to help locate the movement of plots from one zone to another. Plots where the zoning was changed to commercial use are called ‘up-zoning’. Those plots that moved from their earlier status to a public use are categorized as ‘down-zoning’. The finding show that some plots were up-zoned, changing from public housing to housing or from industry to commercial. In these cases, the actor desired to change the zoning towards providing a higher exchange value for themselves or those whom they represented. Changes in de-reservation that did not appear to bring about much change in the exchange value of the land are called ‘neutral’ in impact. A third category of changes is the correction in maps and boundaries, and therefore not related to the use or exchange value of the plot of land.

34 This process is called a ‘funneling process’ (see chapter 3 for more details).
Table 6.3: **Zoning and shifts in land value in M Ward**

<table>
<thead>
<tr>
<th>Category</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up-zoning</td>
<td>53</td>
<td>79.1</td>
</tr>
<tr>
<td>Down-zoning</td>
<td>7</td>
<td>10.4</td>
</tr>
<tr>
<td>Map correction</td>
<td>3</td>
<td>4.5</td>
</tr>
<tr>
<td>Other (not traceable/neutral)</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>67</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Table 6.4: **Landowners and change in zoning in M Ward**

<table>
<thead>
<tr>
<th>Actors/Type of zoning</th>
<th>Up</th>
<th>Down</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private landowners/builders</td>
<td>38</td>
<td>3</td>
<td>1</td>
<td>42</td>
</tr>
<tr>
<td>Government</td>
<td>7</td>
<td>4</td>
<td>1</td>
<td>12</td>
</tr>
<tr>
<td>Civil society (housing co-operatives, different classes)</td>
<td>7</td>
<td>3</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>Other (sports club, not traceable)</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>53</strong></td>
<td><strong>7</strong></td>
<td><strong>7</strong></td>
<td><strong>67</strong></td>
</tr>
</tbody>
</table>

The fieldwork findings show that only three of the de-reservations can be considered valid as they were map corrections, while most of the others were undertaken with some specific motive. The vast majority (79.1%) of de-reservation have been up-zonings, which means that the primary actions of actors aimed at realizing higher exchange value for themselves or those whom they represented by, as they requested to de-reserve their lands from public amenities to private use (table 6.3 and 6.4). In the 67 plots partly or completely de-reserved in M Ward, certain trends are noticeable:

- The largest number of plots (nineteen or 28% of the total) was de-reserved from zoning for housing. The losers were housing for Harijans (Dalits) and plots reserved for open spaces and educational amenities. The case study of the Lal Dongar plot explores the impact of the changes in reservation from Harijan housing to housing (see box on case study of Lal Dongar).
- Eleven plots (16% of total) lost their status of reserved for public housing and four of these plots were de-reserved for industrial use.
- The reservations lost in this process of change include eleven open spaces and five educational and sports complexes. One such plot is the Tilak Nagar plot, originally reserved for a motor training school (see box on Tilak Nagar below).
- The current use of twenty-eight de-reserved plots shows that nine of these plots have been fenced and locked, four have been put to industrial use, five plots are still left open with boards announcing developments, five are currently inhabited by slum populations and five have been converted into high-income housing.

**Tilak Nagar plot for a motor training school**

The location of the plot

The location of the plot in question is part of a MHADA colony called Tilak Nagar, which consists of low-income housing high-rise flats all of which are units of 180 square feet each. Even before independence, this area was widely used by various industries (e.g. Burma Shell) in the neighbourhood to house their workers. The MHADA housing colonies were constructed only in the mid-1970s. The plot in question has been carved out of a larger plot used as a playground. The playground and the plot in question are divided by a stone wall and surrounded from all the sides by roads. On the side of the playground there is a large asbestos shade with a temple and a small two-room hut where a Balwadi school operates. Across the road from the plot in question is a line of row houses constructed for municipal bus drivers.
Current use of the plot

The plot in question—originally reserved for a garden—was de-reserved for a motor training school by the MCGB. As of time of writing there has been no construction and a signboard of the ‘International School’ has been put up. The signboard indicates various members of the school board, including a Congress MLA and Sharad Pawar.

Analysis

MHADA is the landowner of this particular plot and the rest of the area. MCGM has de-reserved it for a motor training school and given part of the plot to a private trust (owned by politicians) which aims to set up an international school. The de-reservation of part of the playground appears to be partial up-zoning, as now it is zoned for construction of a private school. This is how certain plots zoned for public use are lost.

While the predominant behaviour of all actors is to up-zone there are some differences in behaviour of private actors and public actors. A very large number of private actors (a titleholder or his representative) have maximized the use of the de-reservation instrument. Of the twelve plots where public agencies are identified as the owner, we found that four plots had been down-zoned. Thus it appears that the predominant behaviour of private sector actors is to up-zone, while government actors do both up-zoning and down-zoning.

Case Study of Lal Dongar

This area, comprising around 72 hectares, was allotted pre-independence to the Magaswargi (backward) Dalit community from Marathwada. A housing co-operative society was formed in 1977 for building houses. In 1956 33 families formed a social society but after 1971 the number of families living on the plot increased, and 30 more families were included as members in what later became the co-operative.

In 1971, half of the land was a pond; in 1985 it was partly de-reserved to allow builders to make houses for non-Magaswargi. In exchange, the builder made a contract with the local residents that in exchange for receiving the pond land he would construct pucca houses as well as carry out repairs and provide other basic amenities to the residents. Only about half of the 60 members benefited from the repairs, and a three wing building was constructed in place of the pond. Members who did not benefit from the developmental or repair works approached the High Court in 2000 and a court order was passed in the favour of the complainants. However, even now some households are living with just basic amenities. Because they do not have photo passes and are not considered members of the housing co-operative, they cannot receive public amenities with the consent of the landowner (in this case the housing co-operative).

Partial up-zoning for HIG: The case of Fulanchiwadi

A closer look at one of the de-reserved plots (Fulanchiwadi) introduces us to a whole new range of actors that participated in the de-reservation process. Fulanchiwadi is located in Ghatla Village, a section of an eastern suburban administrative ward, M East Ward. In Marathi, Fulanchiwadi translates into ‘flower orchard’, which is precisely what it was in the early 1950s. Parts of it continued to be used for agriculture till the late 1970s. The total area of the garden was well above 2,000 m². A long-time resident of the area, Sadanannad Vasudeve Agvekar (age 84), recollects, ‘A section of Fulanchiwadi was inhabited by the Wadar community who were in the majority here. Towards the corner of the community some Muslims were living there then and only seven houses belonged to Maharashtrians. Parts of the land had already been rented out to Bhikaji Baburao Nandeshe; he was a tenant of the Kaskar Kashinath Patil. He grew flowers such as Cherda, Zandu and even some vegetables, such as brinjals and chillies’.

35 ‘Kashkar’ is a farmer who tills the land.
Ramkant Patil, a seventy-year-old architect, describes the area of Fulanchiwadi in the early 1960s: ‘Ghatla Village and Borla Village much of the land was a fulanchiwadi, a flower orchard, the landowners here were mostly the original inhabitants of the seven islands, such as Patils, Mhatre, Gaikwad, Purav, Chemburkar, all Agri caste groups. They gave their lands out to a possessionary (agricultural tenants) to cultivate their lands’.36

The owner of Fulanchiwadi was Mahimkar, a family of lawyers whose family is said to be living abroad. Mahimkar belongs to the Agri community too, which traditionally engages in agriculture. They are one of the few indigenous tribes of Bombay. Mahimkar rented this land to Kashinath Patil, who in turn rented it out to other sub-tenants. Lands used as flower gardens became reserved as per the first Development Plan of 1964. In this case they were reserved as green areas, then as per law the reserved lands were notified and acquired by the local government.

**Intervention by the agricultural tenant**

In practice, the executors of the Land Acquisition Act recognized the rights of both the landowner and the agricultural tenant. While the landowner was awarded 80% of the compensation amount for the land, 20% was awarded to the agricultural tenant. In most cases the landowner—an absentee landlord with no direct presence or control over the land—was happy to receive 80% of the compensation amount even if it was not at market rent. However, the agricultural tenants were not happy with their small share.

With a need to establish their own rights, the agricultural tenants of the land often expanded on the land by allowing more residential huts to be erected—the initial states of slum formation. The residents of the slum formed a Community Based Organisation (CBO) and from 1981 to 1984, with the help of the councillors and the MLA, secured the construction of public toilets. From 1984 to 1989, the number of huts on both Kashinath Patil Wadi and Mukti Nagar doubled, as the CBO leader recalls with pride:

> In 1982 Kashi Nath Patil sold Fulanchiwadi to Mulji Rao, a very rich and famous man, for 85 lakhs. He started fencing his land and building a compound, but Narayan Rane,37 who was a Shakha Pramukh of the Shiv Sena by that time, stopped the fencing. Simultaneously, Kashinath Patil’s stepson went to court against the sale and in the meantime slums were permitted to grow on the disputed land. Narayan Rane’s objective was to encourage slums on the open areas. From 1982 to 1985, the entire open area, which was a large maidan, was converted into a slum. Every family that wanted to build a house here had to get permission from Rane and then pay his then friend Mahindra Patil (who later became the right hand of Dawood)38 with additional 1,000 to 2,000 rupees paid to the BMC employees and everyone was kept happy’.39

We find that at the plot level reservations and zoning have an influence in terms of restricting the development of land but they do not stop landowners from either selling part of their land, or permitting agriculture or the creation of shacks on the reserved plot.

The agricultural tenant of the land, Kashinath Patil, established a network with the local police and the municipal officers, which allowed him to expand his claim on the land by renting it out. The interest of the agricultural tenant is to extend the claim over more land and resist the process of acquisition. If acquisition does happen the tenant stands to lose the most—not only losing tilling rights but also receiving only 20% of the government’s compensation. In such a scenario, the tenant earns money by

---

36 Interviewed by author,

37 Narayan Rane, who started his political carrier in this part of the city, grew to be a powerful Shiv Sena councillor. He also was mayor, and, when Shiv Sena and the BJP alliance came to power in the state government, he was also made Chief Minister of Maharashtra. He is currently (as of 2008) with the Congress Party and holds the position of Revenue Minister for the State of Maharashtra.

38 Dawood Ibrahim, who came to prominence in the mid-1970s, is one the most sought after mafia bosses of Bombay.

39 Interview by author
creating tenancy, as each tenant pays a deposit and a monthly rent. Further, for protecting their houses from demolition, the agricultural tenant also collects money from the tenants and pays-off the officers of the municipal authorities. The agricultural tenant keeps a percentage of these monies as a fee, a fact that is well known to the residents. Thus it was left to the agricultural tenants, who were recognized by the local municipal administrators as having legal entitlement to the land, to build bridges with these officials (see figure 6.2).

In 1985, when the Fulanchiwadi plot was declared as reserved area for gardens under the revised Development Plan of Bombay, Kashinath Patil moved to influence de-reservation of a part of the land where his house and adjoining cultivated land was located. A total area of 4,957 m² was requested by Kashinath Patil to be reserved as ‘housing’ for the construction of middle class housing for Jayveera Housing Co-operative Society. The agricultural tenant led this process by appointing an architect who made a presentation to the planning committee justifying the change in reservation. The agricultural tenant requested that the planning committee reserve a part of Fulanchiwadi as ‘housing’ (figure 6.3). The goal of the agricultural tenant was to up-zone part of this plot. The architect admits that the agricultural tenant had entered into an agreement to develop Middle-Income Group (MIG) housing units with a housing co-operative society of Rashtriya Chemicals and Fertilizer Ltd employees, called Jayveera Housing Co-operative Society.

Figure 6.2: The Fulanchiwadi Network (1970s-80s)

Intervention by shack dwellers/sub-tenants of the agricultural tenant

Also the sub-tenants formed linkages with existing mafia and an emerging political party that promised to protect the Marathi Manus (Marathi people) from outsiders. Agvekar, a tenant, even became a local leader of the Shiv Sena: ‘We thought it was a good idea to get Narayan (Rane) to work with us’. They employed two strategies: (1) they themselves became members of the Shiv Sena and (2) they created leadership positions for the mafia leaders in the local branch offices (shakhas) of this

---

40 Data on de-reservations obtained from lists tabled in the Maharashtra Assembly in 1991.
41 Rashtriya Chemicals and Fertilizer Ltd is a chemical production company owned by the Government of India; it has its production unit in the Fulanchiwadi neighborhood.
new political party. The CBO leader shares, 'Narayan was my child. It was I who brought him to the Shiv Sena.'

The current Shakha Pramukh (head of Shiv Sena’s branch officer) of Election Ward 147 traces back the kind of work the shakha then undertook: ‘The shakha was formed sometime in the late 1970s when the area was troubled by local goons who would ask for hafta [weekly protection payments] if people started repairing their homes just before the monsoons. I remember Kaleshikar was a tadipaar gunda [head of local goons]. My neighbour was repairing her home and the local gunda asked for hafta, the poor woman had to pawn her mangalsutra [a piece of jewellery symbolizing marriage] to pay the goon. He belonged to the Chota Rajan Gang. …the Shakha took on the responsibility to face these gundas and protect the local population from their terror.’ Over time the network was so strong that it was even able to subvert the rule of law. Agvekar shares, ‘As we had the muscle power and political power of the Shiv Sena we were able to retain our houses.’

The resident’s organizations of Mukti Nagar and Kashinath Patil Wadi were more interested in getting the plot reserved as public housing, thinking that this would protect them from any future evictions. Using Shiv Sena connections, the resident’s organization influenced the MCGB to rezone 9,280 m² and another 7,522 m²—originally reserved for public gardens and flower gardens and public housing—and have it reserved only for public housing.

This proposal, favourable to Mukti Nagar residents, was placed before the planning committee of the MCGB led by a Shiv Sena councillor. This was accepted by the planning committee and as we see in the section of the Development Plan in figure 6.4, all three amenities exist on the plot of land reserved for garden, public housing, as well as only housing, and the proposal accommodated interests of all actors: the private interests of the agricultural tenant, who got a portion of the land for housing; the occupant’s interests; who got land reserved for public housing; and the public interest, as a part of the land remained in reservation for a garden.

---

43 Avinash Rane, interviewed by author in May 2007.
44 A name given to a common offender who is ordered to live outside of the city limits.
45 A similar method of creating tenancies is used by large landowners and their agricultural tenants when their lands were declared as surplus lands under the urban land ceiling act. In reply to the court case filed by Baburao Samant and others on the issue of the implementation of the Urban Land Ceiling Act the government affidavit declares that lands owned by Jeejeebhoy Bheramji have huts built on them. This method of creating settlements of tenants is well established and these land plots came to be as ‘encumbered lands’ by the government. Until about 1999, a total of 11.14% (see figure) of the total lands which were acquired by the SLAO of Mumbai were said to be encumbered.
Figure 6.3: The Fulanchiwadi network period (1981-1991)
The case study of Fulanchiwadi shows that at the local level there are actors that are not visible if one only examines the city level policy process, as some actors (e.g., local political leaders, mafia/local goons, shack dwellers/sub-tenants) do not emerge as visible actors at the city level. Furthermore, the landowner itself is not a single person but is comprised of two or even three different tenancy holders (such as the title holder, the agricultural tenant and other sub-tenants), all with different degrees of ownership—some recognized by law and others not.

The Fulanchiwadi case also raises some important issues and questions related to planning and how it can be undertaken for lands already occupied and used for non-urban functions. Another issue is the significant gaps in the older forms of planning and the lives of marginalized urban population living informality on the plot. Will these new forms of planning and service delivery be able to fill the gap between the different classes and socio-economic fragmentation of the city? Will the new technocratic/managerial planners be better prepared to deal with conflicting rationalities between state and the various actors on the market? These questions can only be answered once we have assessed the performance of the market instruments in planning and service provision. Table 6.5 gives the total number of actors identified by three different sources of data. The table shows that the largest number of actors is from the state sector, with a few actors belonging to the private sector and civil society. The bottom-up approach revealed actors not identified in the top-down approach. In fact rather than being two different approaches, it appears that they are actually different scale levels of interfaces between actors. Where the planning committee and municipal government is the middle scale; the Fulanchiwadi community networks negotiating between shack dwellers, agricultural tenants and local
leaders reflects the micro-scale: and the negotiations with the state government or petitions filed by environmentalist are the macro-scale of interfaces. Perhaps there are more, but they would need to be further examined outside of this study. In the following section, the resources, interests, and constraints of these actors will be examined.

Table 6.5: Actors according to sector

<table>
<thead>
<tr>
<th>Sector</th>
<th>Actors</th>
<th>In law</th>
<th>In practice</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Top-down</td>
<td>Bottom-up</td>
</tr>
<tr>
<td>Public</td>
<td>Chief Minister</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Public</td>
<td>Minister of Urban Development</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Public</td>
<td>MLA’s</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Public</td>
<td>Officer appointed to receive objections and recommendations</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Public</td>
<td>Director of Town Planning</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Public</td>
<td>Planning Committee of Local Government</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Public</td>
<td>Planning officials of local government</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Civil society/Private</td>
<td>General public raising objections</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Private</td>
<td>Landowners (public and private)</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Public</td>
<td>Service providers (public)</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Private</td>
<td>Service providers (private)</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Private</td>
<td>Builders</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Private</td>
<td>Land occupiers (squatters)</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Public</td>
<td>Councillors</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Public</td>
<td>IAS officers</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Civil society</td>
<td>Environmental organizations</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Civil society/Private</td>
<td>Organizations of planners and engineers</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Public</td>
<td>Political parties and their leaders</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Private</td>
<td>Mafia</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Private</td>
<td>Agricultural tenants</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Private</td>
<td>Sub-tenants</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

6.4 THE ACTORS’ INTERESTS AND CONSTRAINTS

Actors in the public sector

Planners and engineers

Identifying the limitations faced by city planners, D. T. Joseph shares, ‘A development plan depends on how well and precisely the existing land use plan has been prepared. City survey records, aerial photography and satellite imagery could be used for this purpose. But in the case of the revised Development Plan of Greater Bombay, only the city survey records have been used. Naturally, this has not been updated, and hence sometimes the reservation/designation turns out to be unrealistic’ (Joseph 1996, 289).

Two of the three planners (Mr. Athale, Mr. Panthbalkundri and Mr. Pathak) who participated in the drafting of the Development Plan were interviewed for this study.46 Two of them held a BS in Engineering and had continued their education with a MS in Planning. One of them was deputed from the local government to complete his education at the School of Planning and Architecture (SPA); his master’s study was a direct contribution to developing the norms used for public amenities. It would be rash to generalize, but it is generally a practice with the local bodies to depute municipal engineers to the SPA, to gain skills in planning and contribute to the Development Plan. Municipal planners

---

46 Interviewed by author, April 2007.
generally play a supportive role to the planning officers who are deputed from the State Government Agency of Town Planning.

Thus, the municipal corporation overcame its lack of adequate human resources for undertaking the planning exercise, by deputing their engineers to gain the required skills. The interests of the engineering group are well connected with the interests of the builders and contractors that they sought to fulfil even as they designed the plans. The ideas and proposals from professional organizations (such as PEATA) were easily accepted, co-created and experimented with (a well-entrenched practice as shown in earlier chapters).

All the three planners who played important drafting roles in the revised Development Plan are now working for the private sector. One of them held a position of vice-president with a big builder in Mumbai, the other worked for a large private industrial house seeking to acquire land for an industrial Special Economic Zone (SEZ), and the third held a position with a consultancy firm.

It appears that it is in the long-term interests of the planners to satisfy the interests of the association they belong to. So even though they had been educated in planning norms and standards, they were well aware of the limitations and strengths of realizing a blueprint plan, and therefore they were conservative in their projection of population growth of the city and chose to work as representatives and agents of professional associations to bring experiments that were carried out in the shadows of the local government into light by transforming them into formal rules.

**IAS officers as planners**

The most influential officers who contributed to the Development Plan were organized under the two committees: the J. B. D’Souza Committee and the Shrinivasan Committee. The majority of them were IAS officers, secretaries to various state departments (Law, Bombay Port Trust Chairman, Housing Secretary, Secretary Industry, Secretary Technical Education). J. B. D’Souza was a retired IAS officer, and former Municipal Commissioner of Mumbai and Chief Secretary to the Prime Minister of Maharashtra. V. K. Pathak was the only planner on the committee, serving as Chief Planner of the BMRDA at the time. The convener of the Shrinivasan Committee, Mr. D. T Joseph, was Secretary for Urban Development of Maharashtra; holding a BA and MA degree in English literature, he referred to himself as a ‘generalist’.  

The self-articulated objective of the D’Souza Committee was, ‘to identify city development policies to promote and sustain growth with social justice in a resource efficient manner’ (D’Souza 1987, 7). But their resources were limited in terms of the allotted time for preparing reports and finances for investigating alleged irregularities in the municipal planning committee. Other self-identified shortcomings were their limited powers as they were not allowed to introduce new designation or reservations on land, and their inability to inspect reservations physically within the set time limit.

The D’Souza Committee went beyond its immediate mandate and commented on the shortcomings of the Draft Development Plan. Its constraint was that it could not turn a controlling perspective in its mandate into a growth-led one; however, it was successful in sowing the seeds of future policy changes. The committee’s report appears very brief and hurriedly completed in terms of the proposed recommendations for the vision and growth for the city. The Srinivasan Committee worked for a longer period and became the ultimate body to sanction the plan ward by ward. It was also the committee that undertook the writing of the development control rules for Bombay.

Clearly as the planning process moves upwards towards the state government, the IAS officers play a primary role—not only in sanctioning but also in planning. The D’Souza Committee was constituted of both planners as well as IAS officers, with planners in the minority; the chairing J. B. D’Souza himself was not a planner.

---

---

47 Talk given to students of School of Planning, Thane Municipal Corporation, on 10 September 2008.
A hostel for MLAs?

A primary school and trust called Balkalyani existed on the land owned by the state government at Malabar Hill. In 1989, the plot of land on which the school and trust existed was allotted to a government employees’ housing co-operative society, called Angarki Co-operative Society. In July 1989, Balkalyani trustees filed a writ petition accusing Mr. Sharad Pawar of misallocation of certain lands to a co-operative society of IAS and other officers. The court charged him with ‘mala fide in the performance of his duties and thus acting against his oath by the constitution’ and further condemned him for ‘resisting from the solemn duty of protecting state property and ensuring compliance with the legal provision by throwing to the winds all basic principles’ (Judgment, Bombay High Court, 9 July 1992).

A sixty-nine page judgment was passed by the Bombay High Court. The judges strongly criticized the nexus between politicians and bureaucrats, which hampered the proper functioning of the government and the protection of weaker elements of society. On 31 September 1992, when Sharad Pawar was Defence Minister, a veteran Union leader and Member of state Parliament, George Fernandes, presented the court judgment in the Lok Sabha demanding Sharad Pawar’s resignation. In his reply to parliament, Sharad Pawar brought to the notice of the parliamentarians that the chief promoter of Angarki Co-operative Society had applied for allotment of plot in July 1986 and the then ministers had already cleared the allotment before his time as a Chief Minister. George Fernandes and others pointed out that everyone who scrutinized the allocation also received land—a total of fourteen plots had been dispersed in this process.

The Angarki Co-operative Society appealed against the judgment of the High Court in the Supreme Court of India and the on 31 December 1996, the Supreme Court upheld the judgment of the High Court and agreed with the High Court which had stated the proceedings of the plot to be illegal. The Supreme Court also noted that the actions of the state government in allotting the plot were arbitrary, dismissed the case and ordered the state government to pay the costs of Rs.25,000 to the primary school. The Supreme Court pointed to the role of the IAS officers in creating this plot by rezoning government land and allotting it to themselves: ‘There is can be no doubt but for the status and position of Ranganathan was holding it could not have happened. Ranganathan was personally interested in the allotment of the plot for the society of which he was a promoter. Ranganathan himself was secretary in the Department of Revenue, the collector and all other officers were his colleagues and subordinates. We have no hesitation in holding that there was a patent clash of interest and duties of Ranganathan’ (Judgment, The Supreme Court of India, 31 December, 1996).

Among the most important officers during that period were Mr. Shrinivas, Mr. Afzalpurkar and Mr. Tinaikar, all of whom have procured very large apartments in an IAS officers housing society, mere 100 meters to the south of the state government secretariat. Securing permanent housing in Mumbai in the high-priced Island City areas is the aspiration of most IAS officers. Their aspirations can become a reality only when politicians sanction plots of land to housing co-operatives promoted by IAS officers. Angarki Housing Co-operative appealed to the chief minister to allot it a piece of land located in the upscale neighbourhood of Malabar Hill and directly benefited from the 1989 de-reservations of plots.

Similar collective efforts were taken up by senior government officials (such as IAS officers, police officers as well as judges), whose sole interest was to gain spacious housing in pristine neighbourhoods. Furthermore, the state government IAS officers held a very liberal vision of growth for the city, both in economic and population terms. This common idea guided their interventions in the planning process.

The Chief Minister: Interest, resource and constraints

Land deals and the use of Bombay’s land and exemptions as sources for political party revenue is nothing new, and much has been written about both the land scam of the Backbay Reclamation in the 1970s and the ULCRA exemptions since the late 1970s.
What was distinctly different here was the quantum of land deals (de-reservations), their spread over the entire region and, most importantly, the fact that the de-reservations created an environment where liberal ideas of land management were more easily embraced by all actors than would have normally been the case. The extent of the practices and their continuation over time—which turned practices into policies—requires a combination of risk taking ability and power to hold to the position—a rare combination for any chief minister to have. The leadership and the interests upheld by the chief minister appear to play a significant role in urban regime change.

Between 1985 and 1993, Maharashtra went through chaotic political times as one chief minister followed another in quick succession. Of the five chief ministers who headed the state during this period, Sharad Pawar held two of the longest tenures, one from 1988 to 1991 and then from early 1993 to 1995. Enjoying sufficient time as the dominant political leader of Maharashtra, Sharad Pawar was able to launch a variant of ‘liberalization’ in the state, long before it happened in the rest of the country. Sharad Pawar brought in a unique combination of skills as well as strong networks with state government, central government, the political elite and the entrepreneurial class (builders and landowners). This empowered him to do what other chief ministers could not have done—to liberalize land policies (Narayanan 2003; Banerjee-Guha 1995; Sainath 1999). This is not surprising, as Sharad Pawar himself belongs to the landowning and industrial class, coming from Baramati the sugar-growing region of Maharashtra. He also has been a key negotiator for the sugar lobby of Maharashtra.

Sharad Pawar started his political career in Maharashtra at the young age of twenty-seven when he was elected to the state assembly. Other than holding various posts, for example Minister for Home, Food and Civil Supplies, he has also been the Chief Minister of Maharashtra thrice (July 1978 to February 1980, June 1988 to June 1991, and last from early 1993 to 1995). He was also Defence Minister under Prime Minister Narasimha Rao and is currently India’s Agriculture Minister. He was also one among the three candidates shortlisted by the Congress Party for the powerful position of Prime Minister of India after the assassination of Rajiv Gandhi. A maverick politician, he moved in his political career from one party to the other and even started two parties: the now defunct Congress (S) and the Nationalist Congress Party (NCP), which along with the Congress Party is currently in power in Maharashtra (Ravindranath 1992).

Sharad Pawar's power lies in his exceptional leadership style (dictated by the maxim ‘no permanent enemies and no permanent friends’), keen negotiating skills and patronization of upcoming politicians of promise. Highly ambitious, he aspired to be Prime Minister of India, and it was this ambition which probably drove him to take a number of steps towards liberalization as well as starting economic and liberal political reform in Maharashtra much earlier than it occurred in the rest of the country). Some prominent examples include reservation of 30% seats in local bodies for women, or the passing of the women policy and the introduction of liberal land policies. Sharad Pawar championed Singapore as a model-city for Bombay’s development into a global city.

Pawar’s power was reinforced by two of his strongest allies: a large section of the media that swears by him and his ties with Shiv Sena’s chief Bal Thackeray. Pawar owns a Marathi daily *Sakal*, and his generosity in charitable causes has spawned several anecdotes, regarding his monetary assistance to ailing journalists or even an opposition political leader who fell ill and was hospitalized. P. Sainath, commenting on the secretive supportive relationship between Pawar and the Shiv Sena, writes, ‘Whenever he [Pawar] was sidelined in the Congress (I), Pawar played ‘footsie’ with Shiv Sena chief Bal Thackeray, aiding him in giving hell to Congress (I). There have been times when a gasping Shiv Sena found new wind with his assistance’ (Sainath 1999). Recalling the role played by Sharad Pawar, Tinniakar48 called him ‘the biggest collector’, meaning the contributions that chief ministers of every state are required to provide to the party bosses. It is no simple task to start a breakaway political party from the Congress Party. The survival and expansion of the PWP to other parts of Maharashtra needed funds and these financial interests played a large role in the decisions that Pawar took to de-reserve plots in Mumbai.

48 Author’s interview with Mr. Sadashiv Tinniakar, former Municipal Commissioner of Mumbai, 15 April 2007.
Numerous political parties participate actively in the elections of the municipal corporation—twenty parties in the 1948-1992 period, according to Thakkar (1995). Given the political culture of Mumbai, where only 30%-40% of the population votes and majority of the voters are from slums or have a working class background, there is fierce competition at the local slum level. Some communities dominated by one Jati have strong loyalties to a political party, which in turn promises to take up their interests (e.g., the Republic Party is known for its commitment to the cause of Dalits, who have become Buddhists). Such block voting communities tend to cluster together so that their votes can collectively bring a political office, which they hope will translate into receiving better amenities or other services. The common interest of all political parties is to ensure that their candidates receive the largest number of votes, thus securing and/or retaining a seat in the municipal corporation term after term.

Mumbai was a Congress Party stronghold till 1968, when the Shiv Sena emerged. Based on the ‘sons of the soil’ movement, Shiv Sena drew supporters from a small section of the Marathi-speaking middle class and a growing number of shack dwellers. In 1985, Shiv Sena won the largest number of seats (74) in the MCGB. The Congress Party was the second largest opposition party with 37 seats, the BJP had 13 seats, and 10 seats went to the Janata Party.

By the mid-1980s, the Congress Party had lost its post-independence charm, partially due to Indira Gandhi’s excesses. It also came be to viewed more as representative of the rural landed communities and urban middle class than of the poor. Until the late 1990s, the conflict for control of local government in Mumbai was essentially a two party tussle between the Congress and Shiv Sena. Both parties had conflicting views on a number of issues but a common perspective on the city’s growth perspective. Further, as all political parties in local self-government realize, they need to work closely with the political leadership of the state government and the IAS officers’ lobby, which has for historical reasons always been close to the Congress Party. For similar reasons, Shiv Sena built an understanding with the Congress leadership over time.

The design of various committees in the municipal corporation requires for representatives of the largest parties in the house to work together. Thus the planning committee, set up to hear objections to the revised Development Plan, included one member from each political party with seats in the MCGB. Despite their ideological and party differences, the members of the planning committee had a common interest and appeared to have little problem to function as a collective (there were only scarce media reports of internal conflicts). Two common interests reduced the differences between the various members of the planning committee. One was the fee received for de-reservation of every square meter of land, openly written about in newspapers and spoken about in the MCGB’s general body. The other was the deletion of amenity zoning from lands occupied by slums and reserving these plots for housing purposes. The deletion of amenity zoning from land occupied by slums not only benefited the councillors and their voters but also helped the party raise funds, as their actions also benefited the landowner/builder. Fulanchiwadi is a good example of these overlapping interests among the agricultural tenants, the shack dwellers and the political leaders of the area. All councillors and political parties could gain from the de-reservation process by offering services to their voters they consolidated their constituency and thus ensuring their own future as political leaders.

The largest constraint faced by the planning committee was that the changes they proposed could be only recommendations. To become policy, these recommendations needed support from the MCGB general body, the municipal commissioner as well as from the engineers and planners. Finally, the recommendations would need approval of the state government, the ultimate authority for the Development Plan. Thus to ensure that the recommendations became policy, they had to become part of a coalition which together could create consensus for the change.
Actors in Private Sector

Private landowners

It is estimated that about 51% of land in Bombay was privately owned in the 1980s (MCGB 1985). The landowner is also known as the titleholder whose name appears on the property card of the land. Landowners can be categorized as large, medium and small landowners.49

Large landowners are said to be one of the most powerful private actors in Mumbai. The Gazetteer of Maharashtra tracks the large tracts of lands in Mumbai given in the eighteenth and nineteenth century to some Parsi families for their contributions to British rulers. The size of lands owned by large landowners on average falls above 100 acres per private entity. In addition, the Khots were also holders of large pieces of lands in Mumbai. Some of the big landowners were also large industrialists with close ties to national level political parties. Prominent large landowning families include Godrej, F. E. Dinshaw, Jeejeebhoj Byramjee, Soli Engineer, Fali Bomanji, Godrej Soaps, A. H. Wadia, and Khot.

In 1976, the Government of India passed the ULCRA, applicable to all private landowners, oblige them to surrender open lands measuring more than 500 m². In response, these landowners metamorphosed into family trusts to seek exemptions and protections under this act (e.g., Dinsha Wacha Trust and Gaorakshan Trust).50 In a number of cases, land acquisition was avoided by going to the courts or encouraging squatting on the open lands. Unable to change the ULCRA, several private landowners sold their lands at low prices to developers and builders. For instance, parts of land once owned by F. E. Dinshaw now belongs to Raheja Builders; similarly the S. F. Engineer Group sold their lands to a number of builders, including Thakur, Evershine and Gundecha. In some cases, landowners themselves became builders, as in the case of Godrej. From a government reply to a PIL submitted to the Mumbai High Court by the Collector of Mumbai, it is seen that there are 12 very large landowners in Mumbai. These large landowners have not participated in delivering public amenities to those living on their lands, nor has the state forced them to do so. Instead, the state has allowed these large landowners to get away with non-compliance.

Medium size private landowners (with 10 to 99 acres) whose land came under reservation under the Development Plan also undertook a similar exercise. By the mid-1980s, the main private landowners were no longer the Parsi or Muslim families. They had sold their lands as they found that they did not have the knowledge, skill and resources required for land management and dealing with home grown politicians. These lands were bought by builders—mostly Sindhi (Hiranandani and Raheja) or from other entrepreneurial communities—who sought means to develop land in such a manner as to earn huge profits over a long period time. About 70% of privately held land in Mumbai is owned by owners of medium-sized plots. According to a government affidavit,51 the total number of such landholders is 268. These landowners are individuals, family trusts or companies, and together they own 70.6% of private land declared surplus under the ULCRA. The private landowners who claim ownership over some 34 textile mills also are included amongst the middle size plot owners. This is another section of the landed class that has influenced development control rules seeking to allow redevelopment of these lands. There is an overlap between textile mill owners and large landowners. Plots below 9 acres constitute 11.6% of privately owned land in Mumbai. Owners of these plots have shown the most interest in undertaking housing projects under sections 20 and 21 of the ULCRA. This is perhaps due to the fact that they have no other source of income and need to realize the gains from their lands, or because these lands are now owned by owners with building experience.

49 There is no single source of data that gives a clear picture of landowners and the quantum of land owned by them. I have used two different sources of data to understand and categorise landowners as per the amount of land they own. Thus the findings are only indicative and not definitive.
50 For instance section 19 of the ULCRA exempts landowners from surrendering their land, if they are trusts undertaking philanthropic works.
51 Submitted to court in response to the Public Interest Litigation filed by Babu Rao Samant and others demanding that the state government implement the ULCRA.
Most large landowners were not interested in developing their lands but were keen to find means by which their land could be protected from acquisition by the state. Landowners who were builders were interested in getting their lands out of amenity zoning. Similarly, agricultural tenants’ interest was to get some portion of the land de-reserved so that they could bring it under their direct use. In short, all landowners were interested in acquiring direct control over land. The resources large landowners used for this end were their ownership of land and industries (Godrej, Wadia, owner of Bombay Dyeing), which gave them financial power, as well as their longstanding relationship with national and state level politicians. Their main constraint was their limited access and distrust of newly emerging political parties, such as the Shiv Sena and its allies, which threatened to disturb their relationships with the Congress Party.

The original agricultural landlords preferred to sell their holdings as they did not have the means to influence government and found it difficult to hold on to the land. Over time (especially during the 1980s), farmers or/and titleholders sold their land to builders. This shift of landownership from user to entrepreneur put the builders in the position of owners of capital assets and primary stakeholders in the development of these lands. Despite reservation, LAA and ULCRA, changes in landownership was known to occur and was sustained and informally recognized by the state by giving the new buyers the status of Consequent Authority (CA)—a legal term that partly recognizes the transfer of ULCRA land to another private person. This phenomenon of small and medium landowners selling part or all their lands to builders has been reported by some of the architects interviewed in this study. In most cases the CA was a builder who had interest in developing the land for private profit. (Chandrashekar Prabhu, Chandrashekhar Deshpande and Ramkant Patil).

**Builders and their organizations**

Builders are individual entrepreneurs who buy private lands and construct housing units on them, in order to sell them on the open market. Initially a small group, builders came into the limelight in the 1970s with the Backbay Reclamation scam.

Builders are generally identified by the scale of their projects. Large builders undertake large land or greenfield developments, which often require amalgamation of small plots to develop large townships. Then there are builders who develop individual plots of land and builders known for redeveloping old buildings, mostly in the Island City. Large builders who had profited from the Back Bay Reclamation scheme and diverted ULCRA plots to private use (e.g., Hiranandani in Powai and Raheja in Oshiwara) built strong networks with all sectors of the state and local governments, in addition to benefiting from their access to land and financial resources. One of the oldest organizations of builders in Maharashtra is the Association of Building Industry of Maharashtra (ABIM). In the words of an official of the association, ‘It was a pure developers group, with builders such as Maker, Mittal, Hiranandani, Raheja, Tulsiani. It was formed in 1973.’52 All of these large builders benefitted from the Back Bay Reclamation. In 1982, the single-plot builders split from the ABIM over a struggle for ‘leadership’ and formed a new organization called the Builder, Developer, Planners Association, which included all categories of building entrepreneur and professional actor (except landowner).

Both organizations, however, came together during the 1985 negotiations with the local and state governments over de-reservation of plots and the revised Development Plan, and in 1989 they merged to form the Maharashtra Chambers of Housing and Industry (MCHI), which describes itself as a voluntary association of developers. Contractors are not a part of MCHI but there is an overlap of some of the MCHI members with Builders Association of India (BAI). BAI is one of the oldest associations of government contractors and builders.53 Also at the national level builders associations have formed a strong platform to lobby for changes in central government policies. This organization

52 Interview Ravi Najar, officer at the Maharashtra Chambers of Housing and Industry, interviewed by author in May 2007.
53 A builder is someone who owns the land and also has the capital to undertake construction on it. A contractor is someone who only undertakes construction on land owned by someone else.
is called the Confederation of Real Estate Developers' Associations of India (CREDAI), and there are a number of large builders from Mumbai amongst its leadership.

Then there is the Practicing Engineers and Architects and Town Planners Association (PEATA), known to advocate builders’ causes behind the scenes (Narayan 2003). Builders are also members of PEATA, formed in the mid-1960s originally to represent licensed surveyors who did not have a forum. PEATA is known for its ability to create a space for ‘innovative interpretations of urban land policies’—i.e. bending the rules for the benefit of its members—by taking its members’ proposals to the MCGM. It is said that a certain large builder played a key role in setting up PEATA as he wanted a space, ‘where creative interpretations of the DC rules could be made’. Today PEATA includes professionals who are also employees of local government. A majority of the interviewed professionals believed that it is essential to secure PEATA membership if one wants to do business in Mumbai. PEATA’s power is believed to lie in its close links with the building and planning department of the MCGM. PEATA has replicated the hierarchy of the MCGM by creating its own sub-committees in the zonal offices of the Building Proposals Department, thereby effectively creating space to intermingle with officials from different levels of MCGM.

As a result, close cliques of professionals with certain MCGM officers developed. According to a PEATA member, these networks became very important: ‘One will find that certain officers keep rotating back to the same office and some professionals became experts of specific developmental fields, for example GL Raheja, a big builder works in the western suburbs, Babladi and Ranjit Naik in slums.’54 Indicating that the clique of professionals from MCGM and PEATA not only engaged in changing the rules of development but also engaged in selecting personnel to lead certain developmental projects or zones. Further, the hierarchy of the municipal corporation was mirrored in a structure of PEATA, thus facilitating dialogue between the two institutions.

Builders had very clear interests—to develop plots with higher FSI so that higher profits could be made in better-priced areas, located in the northern and western suburbs of Mumbai. Together with PEATA they possessed a vast knowledge of development control rules and close ties with local and state government officials. Their main constraint in the early 1980s was the existing rigid framework of land acquisition laws and rules, which provided unattractive compensation packages to the landowners, thereby restricting land supply in the market. One big builder in nexus with MCGM officers had already experimented with TDR, whereby he was offered TDR in exchange of a plot of land zoned for a playground. However, as no policy existed to support this experiment, the entire exercise was treated as an irregularity, a FSI scam (Tinaikar 1996; Thakkar 1995). PEATA was well aware of this action, as several builders were vehement promoters and supporters of this idea.

Land occupiers

On the basis of their legal status, land occupiers can be categorized as tenants, sub-tenants, slum dwellers and pavement dwellers. Their use of tenements and land plots can be divided into four broad categories: only residential, only commercial, agricultural and mixed. It was estimated that the slum population (which numbered 83,500 households in 1957) had grown to seven million households in 1984 (D’Souza Committee Report 1987).

Land occupiers: Tenants

Land occupiers are accepted as legal tenants in tenanted properties, a majority of which are in the Island City. In the suburbs and extended suburbs tenancies created after independence do not have the same protection as those in the Island City. These new tenants were declared ‘encroaching settlers’ under the Development Plan, as this land had been reserved by local government for some other purpose. As they were in violation of the development plans, such tenants were required to pay compensation to local government for encroaching on the agricultural tenant’s lands.

54 Interview with a member of PEATA, May 2007.
Thus, while the tenants of Latif Compound (see box below) were recognized as legal tenants and could seek protection under the Rent Act, the tenants of Fulanchiwadi were declared encroachers. The rights of the tenants are directly related to the rights of the landowner. In Fulanchiwadi the rights of the agricultural tenants were questioned as local government was establishing its own rights over the same plots.

**Latif Compound**
The plot is situated in the F South Ward of the Island City of Mumbai. It is identified as C. S. No. 65 of Dadar Naigaon Division, measuring 3,718 m². This plot of land was reserved, along with few other adjacent plots, for public use as recreation grounds in the sanctioned Development Plan of 1967. The land is situated in the residential zone also known as a market area. It took 40 years—more than three development plan periods—to finally acquire the 3,718 m² reserved.

In the case of Fulanchiwadi, the occupiers organized themselves in various organizations, under the banner of residents’ organizations or tenants’ organizations, and affiliated themselves to political parties, thus gaining influence through political power. They sought to have their community officially declared a slum area under the Maharashtra Slum Improvement and Re-development Act. An important feature of this act is that it set a cut-off date for those slum households to be considered eligible slum dwellers. The cut-off date is set by the state government and is often extended before every assembly election. Demolition has been the single most used strategy of landowners (including government) to keep their lands from being further encroached.

Subletting is known to exist in all settlements, although subletting in slum areas is not recognized by law (which only recognizes occupancies). Subletting is usually for a period of eleven months against a large deposit and a monthly rent. The 2001 census on household ownership and size shows that of the total number of 1,774,332 households in the city 382,578 households (22%) live in rented houses. Of these, 8% do not have any exclusive room and 68% have a single room (Census of Mumbai 2001).

Government lands have also been occupied by settlers. Surveys by government and NGOs have identified such occupiers on lands owned by the local, state and central government. Some of these occupiers are on lands considered essential infrastructure for the functioning of the city (i.e., pavements, railway lines, roads, and forest lands). These occupiers have been treated differently from slum dwellers, with little official tolerance and regular demolitions (Patel 2005).

Occupiers of the land were interested in ensuring that they would not be evicted from their houses and would be provided with public amenities. As these occupiers were clustered together and usually in large numbers, their main resource was their right to vote, which they used to bargain with political leaders in exchange for public amenities and land tenure. This is a common feature in the political economy of India where slum residents in urban areas seek to affiliate themselves to a political party, as a means of exercising influence over land tenure and amenities (Baud and de Wit 2008). While most political parties prefer to work on securing tenure for the land occupied by slum dwellers, the socialist Janata Dal tried a different route. In response to the 1976 ULCRA, Mrinal Gore and Baburao Samant of the Socialist Party organized slum dwellers and tenants under the banner of Nagrik Niwa Parishad to demand land under ULCRA for housing. They were successful in their effort and were promised a large section of land at Goregaon in P South Ward. In the slum areas of Fulanchiwadi in the early 1980s, many youth and men became members of the Shiv Sena, as they were attracted to the party’s charismatic leader. They perceived the Shiv Sena as a party that would stand up for their rights. Some of the occupants were also direct tenants of the agricultural tenant and they felt that if the agricultural tenant were given rights to the land then they would be ensured security of tenure. However, the process of influencing city level planners was not easy and required information on how and where to best to use influence and find the means to finance intermediaries. Also they were constrained by political splits amongst themselves as not all occupiers supported the same political party.
Mafia

‘Mafia’, ‘don’ and ‘gunda’ are the terms used to address an individual or group that use illegal means—violence, threats and blackmail—to make profits. Thus they either carry out these activities on behalf of a patron or for their own direct benefit. Two types of mafia are active in squatter colonies. One is known as dada or bhai (brother), and sees itself as protectors of the vulnerable and powerless against abuse, regardless whether the perpetrator is another gunda or the landowner. The other is an opportunistic intermediary that uses violence to claim territory and terror to gather money. The first category enjoys high social standing in the community, while the other is considered a threat by the residents.

The criminal is also perceived as a victim by the squatters. Dons at the community level are known to enjoy the status of social leaders and often make a transition to formal political activity. Much of the Shiv Sena’s leadership has emerged from community leaders who engaged in gang-like activities (including protection, settlement of disputes, enforcement of agreements and expulsions from properties) (Pendse 2003). This also holds true for other political parties. As a result, several political leaders who emerged from the gangs have strong connections with the organized crime world of the city. Narayan Rane is said to belong to the Harya Naraya gang (Naraya was the short name used for Narayan).

The mafia, which is an active actor in influencing the Development Plan as shown by the Fulanchiwadi case study, are the don-leaders. The don-leaders are identified as the Shiv Sena head of the shakha; their interest is to protect the land occupiers/squatters, whom they view as victims of state indifference, in exchange for money. These don-leaders gained strength and political power by being invited into the Shiv Sena. Their biggest challenges are combating the existing gangs that operate on a particular territory and limited knowledge of the local and state government laws and regulations.

Civil society

Although as per law the general public is invited to raise their objections and give their recommendations, in reality the majority of the objections received against the ULCRA were from private landowners, primarily as demands for de-reservations. A small number of civil society organizations also participated in submitting their recommendations and raising objections. The following paragraphs analyze two categories of civil society groups that were active in influencing the Development Plan: squatter’s organizations and environmental groups.

Civil society: Shack dwellers’ organizations

Starting with the national emergency in the late 1970s and lasting until the early 1980s, many forced relocations and evictions took place in large cities of India. In Bombay itself, the Janata Colony was relocated outside the BARC colony, followed by the 1984 large-scale demolitions of pavement dwellers (Banerjee-Guha 2007). The demolitions of pavement dwellers’ homes drew substantial attention from the media as well as the College of Social Work, an academic institution that administered a census documenting all of the city’s pavement dwellers.

In reaction to the brutality of the state, a number of not-for-profit developmental organizations started working with shack dwellers: BUILD, YUVA, SPARC and others. Also, a federation of organizations was formed, called the Committee for the Right to Housing, along with a mass movement called Navara Haq Surakhsha Sammittee. All these organizations were not affiliated to any political party and drew their resources from funds and donations. They were affiliated to academic institutions or churches and had social workers, architects or journalists as their leaders. Some of the NGOs were also affiliated to civil rights organizations at the national and international level. The state’s strategies were challenged on two fronts: by civil rights groups (supported by media outlets) that challenged evictions by filing PILs55 and by organizing slum residents into housing organizations to push for

55 Olga Tellis vs. the State of Maharashtra is one of the many cases filed.
basic amenities. The courts took the view that displacement was legitimate only when the public interest was affected and when it was accompanied by an acceptable rehabilitation package. Such communities formed stronger alliances with emerging political parties, such as the Shiv Sena, which in return for votes promised to protect them from forced relocation. Their strongest resource was their occupancy of the lands as well as their swelling voting population.

Squatter settlements are bound by common landownership and land status; however, they are not necessarily homogeneous communities, often building sub-communities based on jati, region of migration and language. These differences often provided for preferred treatment of some communities while marginalizing others. As a result, even though they engaged in collective bargaining on the common interest issue of securing basic amenities, externally they collaborated with competing political parties (Das 1995; Vora and Palshikar 2003).

Civil society: Environmental groups

Pressure groups made up of the political elite have always been active in Mumbai, but with limited influence. Environmental organizations are a small but growing group that is concerned with land use and utilization of space in the city, specifically preserving green areas at the cost of the urban poor settlements (Guha 2008; Pendse 2003).

Two environmental groups went to court against the proposed changes to the reservations, initiated by the planning committee and the chief minister in 1989. The first was the Save Bombay Committee (SBC), led by ex-councillor Kisan Mehta (Congress), who was also a freedom fighter and a Gandhian. He set up the SBC in 1973 to work on urban and regional planning and development; the main goal was to ensure equal opportunities to all citizens by reducing overcrowding and combating inequalities as well as to preserve open spaces, promote reforestation and environmental protection. The other organization was the Bombay Environment Action Group (BEAG) led by one of its founding members, Shyam Chainani (63). He studied engineering at IIT, MIT and Cambridge, is the son of an ex-Chief Justice of the Mumbai High Court and worked with the Tatas. BEAG aims to protect the environment and ecology by conserving and protecting natural resources, wildlife and forests, man-made heritage, air, water and combating noise pollution. It creates awareness about environmental issues by publishing research reports and organizing seminars. Their ‘extreme green’ approach to defining environment is perceived by developmental organizations as anti-poor. BEAG’s uniqueness lies in its persistence in using PILs as their prime strategy of influencing public policy (they have filed several hundred cases). BEAG is made up of just five trustees, two activists and a small office staff (The Indian Express 2005).

The most valuable resource of both environmental groups was their embeddedness within the political elite; MLAs or industry leaders. This made it easier for them to access information, which was very closely guarded in those days, and could exercise influence in an indirect way. Both SBC and BEAG had the financial resources and the know-how to deal with the courts, which they often pursued. Their main constraint was shortage of information, difficult to obtain even for elected members of the assembly, such as Chandrashekhar Prabhu. In the 1980s, both organizations were just small pressure groups of activists, a far cry from the NGOs they are today with strong infrastructure and human resource. Recalling BEAG’s early days, Debi Goenka shares, ‘You see we were working in an era where we did not have the Right to Information Act, no money, no technology. It was difficult to get across a paper to the other person, we were in an era where xeroxing [photocopying] was not so well known and we had to depend on the ammonia machines…there was a serious limitation to communicate, no internet…no e-mails, no mobile phones’.56

Criticizing the role of both these groups, the D’Souza Committee writes that they shared similar ideas on planning and the belief in an optimal size for Mumbai, and consequently were opposed to the trend of urban growth. Their pressures on the Development Plan, according to the D’Souza Committee, led

---

56 Interview conducted by author, 17 May 2006.
to reserving some areas as Non Development Zones and other environmentally friendly policies. Quoting Williams (1973) the D’Souza Committee Report reads (1987, 3), 'It is clear that all these instruments aimed at keeping people out tend to keep out those with lower incomes. In short, local population control policies are regressive...city after city are experiencing three cornered fights amongst the advocates of business and development, the poor and working class and their liberal advocates and the environmentalists in alliance with no-growth people who are usually middle class young or upper middle class’.

Civil society in the mid- and late 1980s was made up of two sets of organizations upholding contradictory views on the desired growth for the city. While the environmental groups saw the growing slum population as a problem that needed to be addressed and reduced, developmental organizations viewed shack dwellers as citizens whose human and housing rights had been denied.

6.5 CONCLUSIONS

Formulating a development plan for a city is long drawn-out, complex and conflict-prone process. Crucial aspects of the plan deal with redistributive policies of land development and directly impact commercial use, housing needs and other interests of multiple actors, thus drawing in all economic and social classes to the policymaking arena. Various departments of local and state government are engaged in the decision-making process, including the elected representatives, councillors at the local level and MLAs at the state level. Also high-ranking officials—such as the Chief Minister of Maharashtra, the Minister of Urban Development and the Municipal Commissioner of MCGM—play key roles.

The process of planning and sanctioning requires a consensus-building process that creates spaces for interaction of many different actors: landowners, shack dwellers, professionals from the construction industry and middle class civil society groups. Thus the design of the planning process itself allows and invites participation of many formal and informal actors. A study of the laws governing the planning process (the MRTP Act), the critical events of the plan preparation process and the case studies of communities directly engaged in influencing the plan reveals a large number of actors active within the three broad sectors. Within the state sector, key actors are the political parties, government officials and elected representatives at the local and state levels. Private sector actors include private landowners, occupants and their leaders as well as environmental groups. The informal actors—i.e. those not recognized in the legal framework—include sets of actors representing the mafia, political parties, organizations of squatter settlements and professional associations. Agricultural tenants and their sub-tenants is another informal group.

The stalemate of the early 1980s regarding the Land Ceiling Act and the slow process of acquisition under the LAA had both the landowners and the builders frustrated; as a result there was a blockage in land supply entering the market, either due to litigation or just by having plots reserved but not acquired. Local government did not have the resources to neither acquire the land nor the powers to dramatically change the Development Plan of the City of Bombay. These conditions spurred on PEATA, a professional body of professional in the building industry and landowners, during the formulation of the Second Development Plan of the City of Bombay to push for the TDR instrument, as a means to de-regulate the rigid land acquisition regulations.

The informal use of TDR in the earlier Development Plan and its appearance as a policy option in the report of the Second Development Plan is evidence of the success of the powerful association of professionals, which is well embedded in the municipal corporation and able to influence its decision making. PEATA and its members take full credit for the introduction of the innovative TDR instrument in Mumbai. PEATA, with municipal engineers and planners as well as private practitioners and builders as members, forms a space for innovation and experimentation within the rigid hierarchies of the municipal corporation. It emerges as one of the most powerful actor in influencing the urban land regulation regime. Their main resource was their high-level of embeddedness in the municipal system, along with landownership, which made it possible for them to actually make a pact
to implement the TDR instrument to deliver amenities. Also, PEATA’s strong relationship with government officials and their working knowledge of land markets and market instruments were key resources for the organization.

The process of de-reservation of land plots reserved for public amenities and the subsequent introduction of AR was pushed by two important sets of actors: the land squatters represented by the political parties as one interest group and the landowners and their representatives (builders/professionals) as another interest group. Both sought to de-reserve a large section of the plots, rezoning public amenities into either slum housing or commercial use. The only section of society that did not benefit from these interests and had interests contrary to the squatters was the middle class, represented by environmental groups. These groups sought to block the process of de-reservation of public amenity lands. The resources that the middle class groups had were their strong personal links with several MLAs, access to courts and the print media.

The resources of the land squatters included their voting powers and their political affinity to a newly emerging political party (Shiv Sena), which promised land security in exchange for votes. The overt interest of all state actors appears to be the same: to generate resources for overcoming difficulties in raising funds for the development plan. But there are also particular interests for some sub-categories of actors. For example, the IAS officers were very interested in getting a plot of land de-reserved from its earlier public amenity reservation into housing for their own use.

The chief minister of any state government is expected to raise funds for his own political party and Bombay’s land was a potential source of such funding. Similarly, the councillors and the planning committee at the municipal level also had interests in raising funds for their own party. Among all the state actors, the chief minister stands out as the most powerful actor, not only for the position he holds but also as an individual, as his resources include ownership over land, industry and a Marathi language newspaper as well as his strong patronage network amongst media, officers and private entrepreneurs. The resources of the IAS officers and planners lie in their knowledge of the law and managing of information about the limitations and possibilities within the given law as well as the way in which new instruments can be introduced into the old act. The planners had another important resource for new ideas, the common space within PEATA, which provided a platform for discussing and generating new ideas.

Local government is constrained by its limited powers to only provide recommendations, and is thus completely dependent on state government. The planners too depend on the will of the politicians to choose between the various options for raising funds. Further, given the existing planning context, the planners did not have sufficient information on land prices and land markets; as a result the TDR instrument was formulated in a way that was not land price sensitive. Also, the planners were not able to completely envisage how the TDR market would function, or how the role of cartels and possible clustering of TDR usage would impact public amenities and city space.

The private sector actors that engaged in policymaking and influencing processes included large landowners, builders who had become landowners by buying land from small- and medium-size landowners, the land occupiers and the land mafia. The landowners and builders had a common interest in developing land that was ‘reserved for public amenities’. The squatters or the land occupiers were interested in housing security, i.e. being recognized as legal occupiers of the land. The mafia and the social leaders were interested in protecting the occupiers’ interests in exchange for votes and money.

A majority of the large landowners did not depend completely on the land in question for their livelihood, as they had other sources of income, such as ownership of industry and other businesses (e.g., Wadias owned textile mills, while Godrej owned industries). As a result they were in no hurry to realize the economic value of their land. The builders on the other hand were keen to realize economic value of their land and therefore actively participated in platforms such as PEATA. The occupiers’ resources were their long-term occupation of the plot as well as their large voting population, which
made them necessary allies for any political party aspiring to win local elections. The mafia’s resource was in the social approval they received as protectors from the occupiers and the muscle power which they used to arm-twist landowners or officers into providing basic amenities to the slum dwellers.

The constraints faced by the occupiers in realizing tenure security and basic amenities emanate from their status as slum dwellers on private land that is zoned for public amenities. Mafia lacked the larger societal approval and respectability for their role of ‘protective brother’ of the slum dwellers. The role of protector, including wheeling and dealing with municipal ward officials, and the use of violence as a negotiating tool are activities in violation of the law. The majority of mafia dons overcame this constraint by joining hands with a political party.

As in most geographic communities, there was more than one organization representing the occupiers, mostly based on pre-existing jati or language based divisions. The organizations also affiliated themselves with different parties and often competed with each other to establish political supremacy during municipal elections. The initial constraints faced by the environmental organizations included poor and scarce human resources and rudimentary technology. Their efforts in influencing land policies were by and large limited to using the courts as an arena.

**Embeddedness of actors and overlapping sectors**

The policy environment was made more complex by both the embeddedness of the actors and the overlap between sectors. The private sector associations (builders, entrepreneurs and professionals) were found to be embedded in informal networks of relationships, attempting to influence the planning process in the direction of liberalisation. Earlier practices and experiments that existed informally within these networks crept into the Development Plan as recommendations for new rules and policies.

The political establishment overlaps with the local mafia. The local mafia dons are also leaders of community organizations of the occupiers, which are closely connected to political parties. Community leaders take up the struggles of occupiers for security and housing and are elected as councillors within local government.

Also actors from different sectors have common interests; for example, the agricultural land tenant and slum squatter have a common interest to ensure that land is de-reserved from public amenity. Similarly, landowners and builders have a common interest to ensure that land is made available for development. Planners and professional associations are interested in seeing that land resources, frozen due to litigation and rigid regulation, are de-regulated and more land comes into the market (both for private and public use). Acting according to their interests, the actors appear to function in two polarized, broad and loosely connected networks. The so-called ‘growth coalition’ supports further de-regulation of development control rules of the city and liberalization of land policies, which would permit higher population density, including de-reservations. The actors interested in maintaining regulation and zoning of lands by leaving large tracks of land undeveloped, i.e. reserving more land as ‘no development zones’ (through the Coastal Regulations Zones) and retaining all public spaces, have been called the ‘no-growth coalition’. The no-growth coalition is led by environmental and middle class civil society organizations supported by large landowners. The growth coalition is led by politicians, small- and medium-size landowners and slum residents. The following chapter will analyze the two opposing strategies and arenas of influence of the two coalitions.

The planning process also brings forth a change in the power relationship between the local and the state government: the state government seeks to curtail the power of the local elected body by strengthening the role of the Municipal Commissioner of MCGM, who is appointed by the Chief Minister of Maharashtra.