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

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CHAPTER 7: COALITIONS, STRATEGIES AND ARENAS

INTRODUCTION

In the previous chapter, the key actors and their interests, resources and constraints have been introduced vis-à-vis the formulation of policies and rules of land management in the revised Development Plan of the city. At the city level, two urban formations that link actors across sectors were identified: one pushing for de-regulation of land rules and another pushing for retaining zoning regulations to acquire private land for delivery of public amenities. Chapter 6 also showed that some actors collude to form multi-actor formations to influence policy. Such formations have also been called advocacy coalitions (Sabatier and Jenkins-Smith 1999). This chapter will take a closer look at the strategies advocacy coalitions develop and the venues through which they choose to influence the direction of urban land policy and regulations.

In this chapter, the Development Plan story will be further elaborated by presenting the strategies and arenas used by the two coalitions. The role played by the IAS officers of the government in bridging the two coalitions is discussed in the section on policy brokers, which describes the process by which the experiments of the growth coalition eventually became official policy. The outcome of the negotiations between the two coalitions resulted in the new development control rules for the city, presented in chapter 8.

7.1 THE PRO-GROWTH COALITION

Policy beliefs and resources

The pro-growth coalition was led by politicians whose primary constituency is made up of squatter settlement and the homeless. This coalition included the state level politicians, all the councillors in the MCGM as well as the Janata Dal (Bombay) movements, such as Nagrik Niwara Prakalp and other housing rights campaigns. There are two main factions within this coalition: one seeking to implement the ULCRA and obtain private lands for public housing, and another seeking to free up land from community amenities for private companies to undertake general housing construction. The first group had a ‘socialist’ goal in de-reserving zoned private lands, while the second group’s goal was to completely liberalize the land market through market instruments, such as compensation in lieu of land acquired by government (TDR and AR). The liberal fractions’ belief was that if the natural course of growth was not curtailed (which according to them the Development Plan was doing) then the private sector would bring privately held land and public amenities into the public realm, thus improving living conditions for all in the city. The formation that pushed for de-regulation of land rules was formed on the basis of two embedded associations: one of professionals (PEATA) and another based on class (voters from squatter settlements and the political parties representing them). Thus, the pro de-regulation formation is of the associational type, where pacts are made amongst actors to implement joint projects, enabled by policy changes.

It is not very clear ‘who chose who’—i.e. whether the professional association chose to partner up with the state (to influence policy change) or whether the local government chose the PEATA. It is clear, however, that it was only due to the attractive outcome of experiments of implementing TDR and the possibility for making a pact between the private landowners and developers and the public sector to deliver public amenities, if private lands were sanctioned for development through the TDR or other such market instrument. In a similar manner, AR landowners also appear to have made a pact that allowed them to develop some of the plots, provided they resettled the squatters somewhere on that same piece of land. The promissory letters issued by the state government to the landowners whose lands were de-reserved—even prior to the passing of the Development Plan—are clear evidence for the existence of these pacts.
The strategies used by the pro-deregulation association of professionals were to snowball the promissory note process to include all possible landowners and interest groups. Their strategies included building bridges among themselves and durably overcoming fragmentation by building a single body to negotiate with the state. In the process they settled disagreements and jointly decided on policy areas beneficial for all members. The strategy used by the pro-deregulation association was to similarly snowball the pact-making process to include all possible political parties representing common interests. The improvements committee included all political parties, and the share from income earned for each de-reservation was said to be equally divided among all political parties. Together these associations formed the pro-growth coalition, which started with the de-reservation pressure built by private landowners at the municipal level and became synonymous with Sharad Pawar (the Chief Minister at the time). He not only de-reserved 285 very large plots in Bombay—an action that kicked up a storm in the media as well as in the legislative assembly—but soon approved large-scale de-reservations also in the Vasai-Virar Region.  

**Strategies and arenas of the pro-growth coalition**

The pro-growth coalition started timidly, with private actors influencing the BMC in drafting the Development Plan. With the formation of the planning committee, the coalition expanded to include councillors, builders and landowners. Initially, negotiations took place by individual owners who lobbied for rezoning of their land. Commenting on the reservations made by the planning committee, Joseph says, 'In many of the reservations in the suburbs, the planning authority had stated that if the owner would give some part of the land free of cost, and without encumbrances, then it would delete half or some portion of the land from the reservation (David 1996, 289). In his opinion this was a kind of negotiation.  

As the draft plan reached the state government, the advisory committee for the Development Plan further strengthened the argument for growth (D’Souza 1987). Growth as a policy direction received a final boost when the High Court overruled the PILs of the environmental groups in 1989. According to a then Congress Party MLA, Chandrashkehar Prabhu, who was the whistle blower on the de-reservation of 285 plots in Mumbai, the process was initiated in 1985 by de-reserving plots for important central government dignitaries, followed by de-reservations for IAS officers as well as for state and local level politicians. When all these constituencies were satisfied and co-opted, Sharad Pawar moved on to give favours to landowners/developers of Bombay, Vasai-Virar and Nala Sopara (see figure 7.1).

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57 Vasai and Virar are rural areas located to the north of Bombay along the western coast.

58 The report of the D’Souza Committee called this kind of conditional sharing of land a ‘bargain’ as the percentage of land shared kept changing from case to case.
Figure 7.1: Members and network of the pro-growth coalition

Sharing the benefits

The coalition appears to have coalesced as the members reached out to the different decision-making bodies and attracted supporters, who saw personal benefit in promoting the growth policy. Multiple strategies were used by the pro-growth coalition, such as giving benefits to strong actors and using violence against weak actors. Changing laws to deal with court cases (e.g. introduction of new terms such as ‘minor changes in the development control rules and ‘major changes’ in the related rules which require changes in the development control regulation to receive public suggestions) and marketing a liberal vision of the city, to build support for growth, were two other strategies used by the pro-growth coalition. Private sector actors, landowners and builders were the largest beneficiaries of the de-reservations (as shown in chapter 6). In the sections below the strategies used by pro-growth coalition are elaborated.

Potentially strong actors that could have blocked the process of liberalizing land zoning included IAS officers and the opposition political parties. A section of these actors benefited from the de-reservation and, instead of blocking this irregularity, they joined the growth coalition. Other major beneficiaries of the de-reservation of Vasai-Virar and Nalasopara regions were a small group of builders from Bombay that bought up large tracks of land just as its value changed with up-zoning from green to urbanizable. Amongst the builders who reaped huge benefits from the de-zoning of the Vasai-Virar Region, mentioned on the floor of the assembly by Manohar Joshi of Shiv Sena, were Hirandani, Diwan, Lodha, Pereira builders, Raheja, Roshan Agarwal and Shriprastha. Other large buyers reportedly included Bhai Thakur, a lieutenant of a Dubai-based don, Dawood Ibrahim, the man who ran a parallel government in this area (this brought India’s most wanted mafia boss together with the coalition of Sharad Pawar (Banerjie and Tellis 1989).
Also members of political parties benefited from de-reservations, amongst them a large number of state ministers in Maharashtra as well as state-level senior leaders of the Congress Party. In 1990, the Sharad Pawar-led state government rezoned 8,500 hectares of land from green to urbanizable in Vasai-Virar and Nalasopara (well-known as ports used by smugglers to bring gold to India). A number of political leaders and activists blamed Sharad Pawar for leaking his plans beforehand to a small group of builders and party members; in turn several prominent developers from Bombay bought large tracts of land in these areas at throwaway prices from different owners.59

The process of de-reservation of this region went in two phases: 8,500 hectares were released in August 1988 and 2,000 hectares in May 1990. The second batch of 2,000 hectares was mostly saltpans and as all saltpans are under the direct jurisdiction of the Salt Commissioner (under the Ministry of Commerce and Industry of the Government of India), thus requiring clearance from the Government of India for the development of this land. Newspaper articles indicated that a ‘No Objection Certificate’ was sought by Sharad Pawar from the Minister of Commerce and Industry, Ajit Singh. In the second phase of de-reservations of the Vasai–Virar Region, a number of ministers and legislators bought tracks of land through ‘benami’ deals. Some of the prominent names mentioned in the press include cabinet ministers of the state government Vilas Sawant, Ramro Adik and the Minister for Urban Development, Sushil Kumar Shinde. Pawar’s relationship with Vasai-based builders came to the fore during his helicopter ride to inaugurate a 350 building complex built by Shriprastha builders. Political workers of all parties including Congress (I), Shiv Sena and the BJP were reported to function as middlemen, executing land deals and helping builders to obtain Non-Agricultural (NA) permission from the collector’s office. Activists accuse the officers of the local gram panchayats of misdeeds and accuse them of acting as agents of the builders, identifying plots for acquisition and assisting them in making changes in the land records. The state government earned an estimated one billion rupees in transaction fees during this period.

The growth coalition successfully galvanized support among different political parties for de-reservations. Both the Shiv Sena and Sharad Pawar received de-reserved plots, and this move muted Shiv Sena’s opposition to Sharad Pawar’s Vasai-Virar de-reservation. Shiv Sena Chief, Bal Thackeray, reportedly gave a clean sheet to Sharad Pawar in 1991 at a public meeting in Thane where he said that the corruption charges against Sharad Pawar over the Vasai-Virar de-reservation were not backed by any proofs. The media commentaries saw this apparent somersault by Shiv Sena on the Vasai-Virar issue to be the result of a secret pact between Pawar and Thackeray to postpone the MCGM elections (Mahesh 1990b).

The Shiv Sena (the ruling party of the Bombay Municipal Corporation) was already a part of the de-reservation process with 1,380 plots, providing both financial gain as well as a growing constituency of squatters. Newspapers as well as the D’Souza Committee alleged that the planning committee, which had representatives of all represented political parties at the municipal corporation level, had benefited by recommending de-reservations. The Janata Dal was the other political opposition, which was also co-opted by de-reserving the 65 acres of land for their mass housing project called Nagrik Niwara, situated in the north-western suburbs of Bombay.

In 1981, the socialist-oriented Janata Dal formed a large broad-based organization called Nagrik Nivara (Citizens Shelter). Their aim was to demand land from the government to construct housing for low-income slum residents. Although the protests and organizing started in 1981, it was only during Sharad Pawar’s reign that 65 acres of land was allotted and de-reserved in 1990. This land belonged to the F. E. Dinshaw Trust and was acquired by the state government under the ULCRA. However,

59 Information obtained in interviews with different activists and political leaders (Chandrashekhar Prabhu, Manual Tuskana etc.). According to the Janata Dal leader, the late Nashikrao Tirpude, ‘Obviously, about Rs.1,500 crore to Rs.2,000 crore has changed hands before the decision to release the land was taken’ The Indian Express, “Pawar in another Land Scam: Tirpude,” Express News Services June 13, 1990.
acquiring the land was only the first step; it was originally reserved under ‘green area’ and the designation had to be changed to public housing before it could be used by Nagrik Nivara.

Many actors benefited from de-reservation or changes in the zoning of plots. Such beneficiaries became de-facto members of the coalition, which created a very broad-based pro-growth coalition. The arena used for this strategy was the passing of government orders to de-reserve plots of land in Bombay and the Vasai-Virar Region. This de-reservation was done in the form of a promissory letter to the landowners, promising them one third of their reserved (public amenity) land for development. This increased the landowners’ share of the land, and in return led them to informally agree to hand over the rest of the land to the government for public amenities. This pact was essentially the driving force behind the growth coalition.

While the pact started off by including only a small section of the landowners represented via PEATA, it was soon expanded to include more and more landowners. Primarily driven by private interests, it also attracted civic and political actors who saw the pact as a viable means to achieve public benefits (e.g., the housing rights movements floated by Janta Dal of Nagrik Nivara).

The question that emerges is why did those actors that did not agree with the government’s policy of land de-regulation choose to benefit from it? It appears that the socialist groups or groups that sought housing for shack dwellers and the lower middle class were not aware of the larger plan of the Pawar coalition. They saw it as an opportunity to prove to the state that implementing the ULCRA can create public housing and improve living conditions for citizens. Or perhaps they were well aware of Pawar’s power and knew that it was either something or nothing and the socialists group went for something small in the face of completely losing out.

So while the Janata Dal continued protesting against the de-reservation in Vasai-Virar, it demanded that 65 acres of land in Mumbai be de-reserved for Nagrik Nivara’s project. Was the protest just a staged performance while the real deals were made behind the scenes? The answer to this question is that perhaps this has to do with the nature of this political party and its culture. Janta Dal is made up of social activists who see themselves first and foremost as defenders of democracy and equality—instead of loyal party members who readily toe the party line—and the Vasai-Virar Janta Dal had a mind of its own and did not follow actions of Janta Dal Bombay. However, their double-speak undermined their protests against the state government, making them part of Sharad Pawar’s growth coalition.

In political science literature there is a strong critical stream of criticism of such associations, seeing them as private governments using illegitimate power. Generally, the literature assumes that an association refers to one a single group having such power (in most cases it would be either the upper class or an exclusive club of elite professionals). However, evidence from the Mumbai case of de-regulation of land regimes shows that actually there are two associations that together negotiate for a larger share of the de-reserved land: the association of professionals and the class-based network.

Using violence as a tool

The pro-growth coalition in Vasai spawned a whole generation of land agents and builders, and the birth of a new political era in the Vasai-Virar Region. One of the prime beneficiaries of the Vasai-Virar de-reservation was the Thakur family. In 1990, the two Thakur brothers, Jayendra and Hitendra,60 floated a political party called Vasai Vikas Mandal (VVM) or ‘Organization for the

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60 Jayendra Thakur also known as Bhai a.k.a. ‘brother’, was a young gold smuggler who started his political career in the Congress Party but stepped out and was elected MLA in 2004. With the support of the two Congress parties and VVM, they have been ruling Vasai-Virar for the past 18 years. At the local level, it is difficult to distinguish between the Congress-I and the VVM which openly supported the Congress-I in the 2001 national general elections to dislodge BJP MLA Ram Naik. Today, VVM is the ultimate authority in the region, controlling the local economy and businesses, particularly the tankers that supply water to buildings and construction companies (D. Bunsha, "Dons in a New Role," *Frontline*, 2004, 54). Bhai
Development of Vasai’. The Dawood-Thakur tie is old, dating to the early 1970s when gold smuggling was at its peak. After the government liberalized gold import rules, smuggling waned and the organized crime groups searched for new sectors. Dealing in land (i.e. buying land cheap from the tribal owners and selling it at high rates to developers) turned out to be a promising new venture. But land dealings require a close relationship with politicians who play perhaps the most important role of deciding land policies and settling land disputes. Overnight, huge transfers of money from the Dubai-based Dawood went into land transactions, as huge chunks of land were bought by the Thakur gang and other mafia and political agents under false identities or non-names (the so-called *benami*).

Human rights activists have initiated several cases protesting incomplete payment for the land procured from the tribal owners, and as a result are being terrorized to deter them from continuing their mission. Violence and terror distinguish the Thakur gang, which is also been held responsible for the murder of Ms. Navleen Kumar, an activist working for tribal land rights. Kumar testified in court against Bhai Thakur and was killed the next day. Based on her testimony, Bhai Thakur was charged under TADA in 2002.

This movement of money—from gold smuggling to land development and into politics—has concentrated power in a few individuals in the Vasai-Virar Region. To maintain this power, they have used violence along with providing patron gifts of water supply and jobs. The process of transferring funds from gold smuggling into land transactions and finally transferring the profits from land deals into political power is the transformation of a band of smugglers into land mafia and ultimately into elected political leaders.

Exploring the role of the MMRDA (then called BMRDA), one can see that politicians emerged victorious over the bureaucracy in the de-zoning of the Vasai-Virar Region. The then Commissioner of MMRDA, responsible for the planning of the Mumbai urban region, refused to align with Sharad Pawar and sought a transfer elsewhere. The planning role for this region went to CIDCO, probably because the Chief Minister found that BMRDA was more difficult to manage in comparison. Despite various legal challenges and public protests by environmental groups in Vasai-Virar, there was no turning back from the commercialization of these prime lands, which not only gave rise to unplanned growth but also to a violent mafia-controlled political economy.

**Building a consensus on the goal of growth: Vision Singapore**

In the 1980s and 1990s, Singapore was hailed as an ideal model for Bombay. The government slogan was to make Bombay into Singapore, the idea was originally floated by Sharad Pawar and developed and implemented by the Shiv Sena. Segbers et al. have criticized the paucity of self-discipline of the political class in giving little attention to the ways in which resources, spaces, and technologies would be distributed amongst the classes in realizing the vision (Segbers 2007). Criticizing the vision, they point to the contradictions that prevailed in the urban beautification rhetoric of ‘Clean Bombay, Green...”

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61 From the late 1700s to 1830s, Vasai, Dahanu and Bombay have been important ports for the opium trade to China, and contributed to the growth of organized crime in Bombay and its suburbs. At different times, the Organized Crime Groups (OCGs) have focused on smuggling different goods: gold, drugs, diamonds, etc. After Independence these OCGs underwent substantial changes. In the 1950s a few small timers were able to grow using their business acumen and ruthlessness; they employed a combination of bureaucratic and patron models of management. In the 1960s, the ‘Dadas’ was an organized structure which engaged in various activities and also held ‘courts’ during the day. Intergroup rivalries and consolidation marked the 1980s, which led to a shift of the base of the OCG outside the country, with their assistants or network partners taking care of day-to-day activities. M. Charles, “The Growth and Activities of Organized Crime in Bombay,” *International Social Science Journal* 53, no. 169 (2001), 359-367. Bhai Thakur is one such partner of the mafia boss Dawood Ibrahim.
Bombay. The vision was expanded by the Shiv Sena government as they took on to implement various flyovers and further liberalized higher FSI for slums and old-building renewal projects. However, the idea of a global city vision did more than just provide a dream. It cemented the splintered elite groups within a common vision of the city, under which the liberalization of land policy, large-scale involuntary relocations and mega-projects with substantial private sector participation could be justified under the banner of implementing the collective vision of transforming Bombay into a global city.62

Legislature as an arena

The growth coalition exercised their strategies in various arenas. While some of the arenas were selected in reaction to their opponents, the no-growth coalition (e.g., the courts, the assembly or the print media), other arenas were selected based on the coalition’s inherent strength: amending the rules, which govern participation and information-sharing with public-spirited civil society groups (e.g. when minor changes are made to the Development Control Regulations, the changes in rules do not require the state to undertake a process by which suggestions and comments are sought from the public, thereby limiting public participation and influence on the development rules). When the environmental groups reached the court for the second time they were shocked to find that the law itself had been changed. The MRTP Act, which defined that all major and minor changes in zoning needed to follow a process by which the public is given an opportunity to submit their objections and recommendations, was changed by the state government to include only major changes, thereby restricting the inclusion of the public in the planning process of ‘minor changes’ (Adarkar 2008).

Snowballing of the growth coalition

The growth coalition, which started off as a small but powerful cabal of engineers and PEATA63 members in the early 1970s, had slowly and steadily grown to include a larger number of actors. The process appears to have snowballed, whereby all actors involved in the policymaking process became direct beneficiaries and were co-opted into the growth coalition. Councillors as representatives of civil society groups of the land occupiers/slum dwellers joined the coalition by de-reserving land plots during the hearing of objections and recommendations from the public. Simultaneously, the planning committee also de-reserved a portion of the land plots for agricultural tenants.

The large landowners approached the state government, because of their existing network with the state government and the fact that the ultimate authority of sanctioning of the Development Plan did lie with the state government. In 1989, the Chief Minister via the 285 de-reservations brought in a number of groups (e.g., charity groups, central government MPs as well as large landowners) into the growth coalition. Also protesters, prominently the Janata Dal, were co-opted (see figure 7.2).

Different actors played the bridging role between the actor subsystems, thus also becoming part of the coalition. At the local level it was the planning committee that served as bridge between the officials and landowners; at the state level it was the Chief Minister and his council of ministers. The difficulty was to gather the support of the no-growth coalition actors (this is where the policy brokers became useful, as shown in the last section).

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62 In the early 2000 a new global city model was promoted by a lobby group representing the interests of the new commercial sector of the city proposing Shanghai as a model to be followed for Mumbai.

63 Information based on interviews with various former and current engineers of the MCGM.
7.2 THE ‘NO-GROWTH’ COALITION

Policy beliefs and resources

The no-growth coalition was primarily led by environmentalist groups, with the Save Bombay Committee, BEAG and the Bombay Civic Trust at the forefront. The coalition included some members of the legislature, such as Chandrashekhar Prabhu, an architect by profession and then Congress MLA from the Island City (Opera house), with close ties to the Nehru-Gandhi family. He was involved in the agitation against the de-reservation of plots in Bombay and also took up the issue of the de-reservations in the Vasai-Virar Region.

These groups wanted to ensure that the environment (green and open spaces within the city) was not compromised and that public amenities remained in the Development Plan. They were the initiators of the Coastal Regulation Zone policy and their key concerns were to retain existing green areas as non-buildable areas, provide for decongestion of the city, keep the FSI low, protect the costal zones and reserve large land areas as no-development zones for future use. Municipal planners who opted for low population growth and decongestion of the city also belong to this no-growth coalition. These planners and the environmentalists supported the TDR mechanism.
Key objections and criticism raised by these three environmental groups on the new development rules included the sale of surplus mill lands, the pro-builder slant of the rules (which led to a spurt in building activity in already congested areas), using vacant land in industrial zoned areas for commercial or residential purposes (Sharma 1990). They also objected to section 31 of the rules, which gave the MCGM Commissioner discretionary powers to increase FSI in certain cases, thus easing the controls that govern NDZ areas.

The key beneficiaries of NDZ and non-buildable reservation or coastal reservations are large landowners: Godrej, Jeejeebhoy Byramjee and Amir Amusements. These groups are also part of the no-growth coalition, as they benefited by keeping their lands out of government acquisition via ULCRA. The ‘no-urbanization’ movement, which developed in response to the de-reservation of plots in the Vasai-Virar Region, also joined the no-growth coalition. Various organizations came under the banner of the Harit Vasai Surakshan Samiti (Green Vasai Protection Organization) and undertook mass-mobilization and filed public interest litigations against the pro-growth groups (state government, politicians, builders and local mafia). On 1 October 1989, about 100,000 inhabitants of Vasai (including middle class residents and tribal) marched against the re-zoning of the area from green to urbanizable. This march was violently broken up by the police, with several activists and citizens beaten up and arrested. Despite this incident, protests continued against CIDCO’s Development Plan, which according to environmental groups would spell doom for Vasai if implemented in full.

Contrary to what took place in Bombay proper, in the tribal dominated north-western suburbs, the strategy of mobilization and litigation went hand in hand. The pro-environmental coalition included tribal communities and middle class residents, and brought together village panchayats, Roman Catholic Church organizations and human rights groups. Together they initiated a non-violent mass movement against the pro-growth coalition.

A distinct difference exists between two regions in their mechanisms of protests, which appear to have led to different outcomes. In Bombay, the protest space was limited to the High Court, and the Writ Petition was the single mechanism used by activist groups, which were seen as associated with Congress (I). In the Vasai-Virar Region, environmentalist groups submitted PILs, while the tribal groups chose street mobilization and worked through the panchayats. The former were more comfortable with courts, whereas the latter chose public spaces to protest. It appears that the choice of space to influence urban policies is largely dependent on the inherent strengths of the group.

The formation that was pushing for preserving land regulation seems more like a civil society policy network; they are loosely tied together and they primarily exchange information within this network. Other common features include their joint concern for the environment and the membership structure, dominated by elite professionals living in the Island City of Mumbai. Their strategies for influencing the policy process were either to take up the issue in the assembly and through the media (especially print media).

**Strategies and arenas of the no-growth coalition**

As discussed earlier in chapter 6, there were two factions within the no-growth coalition: the Island City and the Vasai-Virar. The no-growth coalition found that they were confronting an ever-growing growth coalition. Their major strategy was to confront the government and to bring to book the irregularities in the planning process (used in both regions). They used different arenas to play out this strategy, such as the High Court, the Legislative Assembly. Participating in panchayat elections and the street as arenas to confront the growth coalition were strategies used only by the Vasai-Virar process. The key actors of the no-growth coalition were,

- Civic Groups—such as BEAG and Save Bombay Committee and the Bombay Civic Trust from the Island City of Mumbai,
- Congress MLA—prominently Chandrashekhar Prabhu from the Opera house constituency of Mumbai,
Both the BEAG and the Save Bombay Committee were keenly involved in submitting their objections and recommendations on the draft Development Plan prepared by the MCGB. In this way, they were in dialogue with the policymakers in the initial stages of the policy process. The confrontation process started with the publishing of the draft plan. Goenka recollects, 'When the Development Plan was published it was some 400 pages, priced at 10,000 rupees. BEAG went to the court protesting against its high prices and later the BMC made it affordable.'

The de-reservation of 285 plots by the Chief Minister in 1989 and the simultaneous passing of the interim Development Plan triggered a reaction from civil society groups, which decided to confront the government once again. However this time the litigations were against the state government. Their first objections against the state government challenged the excessive powers of the state government to sanction changes in the designated use of the plots (ranging from 285-600). Their contention was that these changes amounted to ‘major change’ and as per law major changes should invite objections and suggestions from the public. Following due process, this required that the information be published in the gazette or local newspaper. In a direct attack on the network of private and public actors, the second objection of civil society groups (BEAG) was that the de-reservation was actuated by intention of the government to permit landholders and builders to profit at the expense of the general public.

Courts as an arena

By the late 1980s and early 1990s, Public Interest litigation was a well-established practice in India’s courts, and produced some progressive rulings; however, these pertained primarily to human rights violations not urban development. In Bombay this was the third instance of using a PIL for urban development issues. Both in the auctioning of public land during the Back Bay reclamation (1973-76) and in the case of demolitions of slums during the 1980 monsoon (when a newspaper report by journalist Olga Telis was turned into PIL), the PIL strategy had positive results by protecting the squatters from the strong interventions of the state government. In the Vasai-Virar, civil society actors used the courts as one of their arenas to confront the violation of rules by the state government and associated actors, also utilizing social protest actions and participation in local elections.

In Bombay, the BEAG and the Save Bombay Committee chose to approach the courts as their singular strategy to oppose changes sought by the pro-growth coalition in the draft Development Plan. Two public interest litigations were filed by BEAG in the Bombay High Court. The first petition demanded that the changes in plot use be treated as major changes to the Development Plan, which could be undertaken without calling for comments from general public. The objective of the petition was to get the state to bring the de-reservations open to public scrutiny and debate. BEAG’s second petition challenged, under Article 226 of the Constitution of India, the legality and constitutionality of the state government’s de-reservation of a large number of plots in Greater Bombay. Pending consideration of the draft Development Plan, the state government had directed the MCGB to permit variation in the uses of plots 285 to 600. BEAG said that such large-scale de-reservation would nullify the very objective of planned development, as the direction would deprive the public of their statutory right to participate in the planning process. Taking a sample of ten such plots, BEAG tried to show that de-reservation was driven by intention to permit landholders and builders to profit at the expense of the general public. (The Bombay High Court asked them to withdraw this statement till proven.)

64 Information obtained during interview with Debi Goenka of BEAG, 17 May 2006.
65 Public Interest Litigation, 1989, Bombay Environmental Action Group vs. the State of Maharashtra and another.
The Bombay High Court held that unless there has been a change of substantial nature affecting the totality of the plan for the whole area or even a significant part thereof, no notice is required to be given. On the first issue, concerning publicity about proposals for modification of a substantial nature, the court pointed out that it is not necessary to publish every proposal for modification: ‘Wherever it be shown that a direction of the government to change land user involves a departure of substantial nature vis-à-vis the draft Development Plan and that the requirement of publicity had not been followed, courts can and will interdict the direction. The figure of 285 or even 600 for that matter furnishes no answer to the applicability or otherwise of the second proviso’ (The High Court of Bombay 1989).  

BEAG described as false the argument that de-reservations were being carried out because the MCGB did not have adequate resources. Bombay, said BEAG, ‘was overcrowded and present public amenities like playgrounds, hospitals and schools were inadequate to meet needs of existing residents and any further release of plots would gravely affect the life and comfort of millions. The de-reservations were arbitrary and in violation of Article 14 of the Constitution of India’. BEAG also sought information on the list of plots de-reserved with the names and addresses of the owners. The court rejected the petition as it found the grounds untenable, as the state government had complete powers to carry out changes in the draft Development Plan. However, the state was instructed by the Bombay High Court to disclose the list of de-reserved plots with names and addresses of the owners. According to the Times of India, ‘the judge rejected almost every contention raised by the petitioner’ (The Times of India 1989).

A number of factors contributed to the failure of the environmental groups to achieve their goals by using the court as an arena. One was the power of the pro-growth coalition, which represented itself as a collective in the courts with eminent lawyers, not just representing the state but also those private entrepreneurs who benefited from de-reservations. Kisan Mehta of the Save Bombay Committee recollects, ‘We were not fighting against the state government alone; we were fighting against all the big builders and the big lawyers who stood with the state government in the High Court. How could we win?’

There were clear limitations in using the court as an arena and PILs as a strategy. Kisan Mehta identifies the hurdles faced in pursuing the case at the High Court’s decision, ‘The information on the plots was so skimpy (it gave only the City Survey Number and the promoter’s name) that it was almost impossible for activists groups to identify these plots of land. This incomplete information blocked the activists groups from taking the matter up in the Supreme Court.’

The High Court said that the state government had powers to amend the proposed Development Plan of the city and termed the modifications as ‘minor’ and thus not requiring the soliciting of objections and suggestions from the public. Commenting on the selection of ten plots for the petitions, Debi Goenka of BEAG explains,

Another thing that happened was that the lawyers actually suggested you will face a major problem if you take all the plots; take ten and highlight these in the petition. Shyam (Chenani) spoke to J. B. D’Souza and a list of ten was made. Unfortunately it was a bad choice. ...The 285 was a series of accidents. ...The BMC gets many responses for each plot and somewhere it decides that this is the tipping point

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68 Also lawyers seem to be part of the pro-growth coalition; however, this is an area which needs further study (Interview conducted by researcher).

69 The lawyers for the state government included Mr. Ashok Desai, Mr. R. A. Dada, Mr. Aspi Chinoy and Mr. R. A. Gaonkar. Dr. Ishaq Jamkhanwala, Minister for Urban Development and D. M. Trivedi, the Secretary of the Urban Development Department secretary appeared as witnesses for BMC and its commissioner.

70 Kisan Mehta, interviewed by author in November 2006
and probably the highest bidder who also has access to the ultimate decision maker wins. The task is huge and complicated, negotiations go on for months. No attempt is made to look at the locality or to analyze and examine its carrying capacity/ecological foothold. No attempt to see what the neighbourhood is like and whether changing the use would invite more residents and users and whether the area has the required infrastructure for these changes.\textsuperscript{71}

D. T. Joseph wrote extensively about the protests and court cases against the decision-making process of the Development Plan. Explaining the role of the Srinivasan Committee—a panel headed by the then Additional Chief Secretary and including five senior secretaries to the Government of Maharashtra—Joseph writes that the committee had 194 meetings in three years, carried out site inspections and gave ward by ward recommendations by 31 December 1992. Joseph further writes, ‘During the period the Srinivasan Committee was in session, a few notices of motion were taken out on existing appeals arising out of the writ petitions and were referred by the High Court to this committee, and the High Court was pleased to agree \textit{in toto} with the reports of the Committee in such cases’ (David 1996).

\textbf{Assembly as an arena}

Mumbai’s Development Plan and de-reservation of plots were taken up in the Maharashtra Legislative Assembly twice by MLAs from the no-growth coalition: on 11 April 1989 and on 21 July 1989. During the first discussion the focus was on the process and corruption in the planning committee of MCGM, the second discussion was in response to a point of order raised by an MLA who wanted to know the number of plots de-reserved by the state government. However the Housing Minister refused to answer, with the justification that the case was pending in court. A number of MLAs participated in the discussion, which subsequently raised the issue as to whether the assembly or the court had more powers. Members of the assembly demanded a complete debate on the de-reservation issue; however, they were informed by the officers that it was not permitted as it could be considered \textit{sub judice}, and relevant information was withheld from them. This discussion caused an upheaval in the assembly, interrupting its sessions six times. The session ended with slogan shouting on 21 July 1989, without a discussion as ministers of the state refused to give into demands made by MLAs, citing the excuse of \textit{sub judice}. The state government reacted to these protests in the assembly by setting up of the J. B. D’Souza Committee to examine the de-reservation of the 285 plots.

On 4 April 1990, almost a year after the issue was first raised, the then Minister for Urban Development, Sushil Kumar Shinde, submitted to the assembly a voluminous document giving details of the de-reservations recommended by the state government, the planning committee of the BMC and the report of the J. B. D’Souza Committee. Describing the response of the opposition members in the assembly, the Times of India reports (The Times of India 1990), ‘The opposition members, who had been demanding details about the 285 plots, were not satisfied with the mere tabling of the document. They staged a walkout when the government did not respond favourably to their persistent demand for a discussion on the report. They demanded the names of the owners of the plots and the political heavyweights who recommended the de-reservation to the government’.

Repercussions of what took place in the assembly were also felt in the MCGB general body. On 23 March 1990, a point of order was raised by BJP councillor Sardar Tara Singh, who contended that the list of plots de-reserved by the planning committee should be tabled first in the MCGB and then in the assembly because, ‘the plots are in Bombay and it is the prerogative of the BMC to see the document before anybody else’. He was supported by Ramesh Joshi of Janata Dal (The Times of India 1990). Taking in consideration that the court had dismissed the cases filed by the environmental groups and that the D’Souza Committee report had recommended inclusion of de-reserved plots under newer market mechanisms of TDR and AR, all that was left was the sanctioning of the Development Plan itself by the state government. The Shrinvasan Committee was formed by the state government to undertake this task.

\textsuperscript{71} Debi Goenka, interviewed by author in May 2006
The street as an arena

On 1 October 1989, about 100,000 middle class and tribal residents of Vasai marched in protest against changing the zoning of the area from green to urbanizable. The police used violence to break up the march; scores of marchers were beaten up and arrested. Despite this repression, the protests continued against this Development Plan prepared by CIDCO, which according to the environmental groups would spell the doom of Vasai if implemented *in toto*.

Contrary to the Island City, in the tribal dominated north-western suburban region the strategy of mobilization and litigation went hand in hand. The pro-environmental coalition reached out to the tribal communities, joining them with middle class residents, village panchayats, church organizations and human rights groups in a non-violent mass movement against the pro-growth coalition.

On 17 July 1990, the Janata Dal, Harit Vasai Sangarsh Samiti and Hind Mazdoor Kisan Parishad (Indian Workers and Farmers Platform—affiliated with Janata Dal) organized a march from Azad Maidan (opposite the BMC head office) to Chowpatty. The march was meant as a protest against the de-reservation of plots in Mumbai and Vasai, and demanded the Governor of Maharashtra to intervene.

The marchers handed over a memorandum to the Governor of Maharashtra demanding that the 1,400 and 285 plots de-reserved by the Shiv Sena and Congress (I) be restored to their original status and a commission of enquiry be instituted to probe the affair. The march, compounded with the MLA protests in the assembly, was a key stimulus behind the state government’s decision to establish the D’Souza Committee to investigate the 285 de-reservations.

Print media as an arena

From the extensive newspaper coverage of the de-reservation issue, it is clear that it generated substantial interest. Newspapers and magazines regularly followed up on the Development Plan process. A review of the various published articles shows that the media helped the protesting groups voice their opinions. IAS officers—such as D. T. Joseph, the Urban Secretary during that period, J. B. D’Souza, who led the committee on inquiry into de-reservations, and S. S. Tinaikar, the Municipal Commissioner during that period—also wrote articles in the press focusing on the political, economic and administrative angles to the de-reservation debate. The advantage of using this arena was that it helped bring official information into the public realm, rising questions and allowing for clarifications by different actors. The limitation of this arena was that it did not provide for an in-depth policy analysis of why de-reservations were being carried out despite public protest. Analysis in the print media stopped at the financial interests of actors and did not provide insights into the structural problems of implementing the Development Plan or for that matter in identifying the conflicting values of actors.

Structure of the no-growth coalition

As shown in figure 7.1, the coalition spanned different sectors, including a few political party representatives, who took up the issue in the assembly and on the streets. It covered civil society groups from the Island City of Mumbai and the Vasai-Virar Region. It also included ex-municipal commissioners, such as J. B. D’Souza, who guided the civil society groups in the choice of plots for study. While some members contributed sporadically, others—most prominently the MLA architect Chandrashekhar Prabhu—provided consistent leadership and networking assistance throughout the

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72 The march was led by Mrinal Gore, Ranjit Bhanu, Baburao Samant, and Sharad Rao (the leaders of Janta Dal, a national level political party with expressed professed socialist ideology).
entire period. Certain individuals and organizations played the bridging role amongst the various subsystems of the coalitions. Chandrashkehar Prabhu not only played a role in the assembly but also worked closely with civil society groups. He shared information with the network and supported street action. Similarly, BEAG was also involved in guiding the protest movement in the Vasai-Virar Region.

Other actors, such as large landowners, were active more behind the scenes. However, their financial support to BEAG is known and often questioned by government officers and other housing rights groups. Therefore, a section of large landowners who would benefit from retaining their lands as No Development Lands and thereby escape acquisition under ULCRA appears to have shared a common interest with the environmental civil society groups (see figure 7.3).

**Figure 7.3: Members and Network of the No-Growth Coalition**

The coalition does take up substantial joint actions. Even within the Bombay Island City groups there is little co-ordination as each one files PILs separately. Thus, it appears that it would be incorrect to call this multi-actor formation a coalition. Even though the multi-actor formation does share common beliefs and they do benefit from actions (even if taken independently), they do not find it necessary to appear as one formation. As a result they are unable to generate sufficient joint benefits from working together through collective co-operations. Further, powerful allies (Mrinal Gore of Janta Dal) had joined the growth coalition covertly to benefit from the de-reservation for their mass-housing project at Goregaon East. Debi Goenka of the BEAG recalls. ‘There was no conscious effort to build a network. There were serious limitations to communication. Mrinal [Gore] and Sharad Pawar were friends and they were constantly in touch discussing about their own plot. We sat down with Chandrashekar Prabhu a few times.’

Thus, it would be fair to conclude that the no-growth multi-actor formation was not only short on resources and allies, but was also not able to build sufficient motivation for coordinated action, thus functioning as a fragmented entity. The formation over time lost its allies to the pro-growth coalition,

73 Chandrashekar Prabhu, interviewed by author in November 2006

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losing out to the coalition’s co-option tactics. The strategies used by the pro-growth coalition were much more effective in dismantling the no-growth formation. Impact of the efforts by 1990, indicated that the formation (what was till then primarily a coalition for environmental protection) had been successful in bringing to public view the builder-politician-mafia nexus and practices of rent seeking that were well entrenched in the land management system, including politicians and IAS officers. They had also successfully raised a demand vis-à-vis the government—the ‘right to know’. It later crystallized into a demand for legislation on the people’s right to information. Some of the issues raised by the no-growth formation were universal; for example, some members of the growth coalition (such as J. B. D’Souza) joined the ‘right to know’ struggle. In 1990, D’Souza teamed up with the Save Bombay Committee and BEAG to file a petition in the High Court demanding information on the de-reserved plots. The closed decision-making process was being questioned by both the civil society groups as well as a section of IAS officers. This is seen as giving rise to what came to be known as the Right to Information Act, adopted by the Government of India in 2005.

7.3 POLICY BROKERS AND THEIR ROLE

Policy brokers have been defined as mediators of disagreements between coalition and formations, especially when issues escalate into political problems. Conflicts are mediated by policy brokers who seek to find an acceptable compromise (Sabatier and Jenkins-Smith 1999).

As fallout of the litigations and active environmental and action groups, a broader debate was initiated by the state government in 1990-91 to discuss the framing of the development control rules for Mumbai, under the leadership of D. T. Joseph, the Urban Development Department Secretary at the time. Joseph performed the role of policy broker and engaged in discussion on the Development Plan not only with the environmentalists but was also a key policy broker on Coastal Regulation Zones (CRZ), which were being discussed with the Government of India. D. T. Joseph used various spaces to perform his task as broker for the state government growth coalition. He wrote a lengthy article in the Times of India titled (misleadingly) ‘Land reservation norms arbitrary’, in October 1990. He spoke at conferences organized by the Indian Merchants Chambers. He presented papers in academic conferences on the growth of Mumbai, and also was the state representative to the Supreme Court on litigation on the CRZ norms.

The late 1980s and early 1990s were a period of intensive policy reform in India. For Bombay itself three important urban development policies—the Development Plan of Mumbai, the CRZ Act74 and the formation of a Heritage Committee and Heritage List—were being discussed with the same set of actors.75 They were being discussed simultaneously; often advancing in one policy area required conceding something in other policies.

D. T. Joseph was against the CRZ norms and did not see the value of applying them to Bombay (Joseph 1996, 299): ‘It is a pity that we don’t see anywhere any objective clearly stated for these coastal zone regulations. We seem to be almost exercising control for the sake of control!’ A section of the pro-environmental coalition saw D. T. Joseph as a government official representing the interests of the builders lobby, i.e. a wolf in sheep’s clothing.76

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74 In the early 1990s, the Ministry of Environment (Government of India) issued a notification under the Environmental Protection Act of 1986, restricting reclamation and other activities in coastal areas. It also restricted the permitted height of buildings in coastal areas. These norms had to be included into the development control rules of Bombay.

75 The government published a draft list of 624 buildings in the Mumbai municipal area in 1991; it also formulated guidelines for classification/grading of heritage buildings.

76 Debi Goenka, interviewed by author in May 2006.
Most of the protesters, activists and architects were included in the discussions hosted by D. T. Joseph over framing the new rules for development of the city. One of the direct outcomes of these debates was the promotion of an idea of Accommodation Reservation (AR), for the creation of public amenities, and Transfer of Development Rights (TDR), for those amenities where in situ land sharing was not possible. The idea was promoted by government officers as an incentive to attract private landowners to offer their lands for the creation of public amenities on their own initiative. In reality, as the landowners had already paid large sums of money to politicians, it was difficult for them to go back on their decision of part de-reservation. TDR and AR instruments kept the promise where a part of the plot could be up-zoned and used for private benefit, while a section remained for public use. These new instruments were acceptable to small- and medium-size landowners and builders as they had been pressing for de-reservation of amenity plots.

The environmental groups of Bombay, too, saw this as a good compromise as it reduced the strong influence of politicians and landowners/developers in decision-making processes. The outcome of these compromises and the new land management policies of AR are examined in the next chapter. It is important to mention that the new AR policy institutionalized the policies promoted by the pro-growth coalition and was the first step towards formation of a Liberal Land Regime for Mumbai—a regime that allowed the private sector to play a bigger role in decision-making regarding the construction of public amenities. The environmentalists supported this change and they too (albeit feeling somewhat defeated) came into the fold of the pro-growth coalition (see figure 7.4).

According to Debi Goenka, 'Everyone bought into the idea. In the court the state government said that they were setting up a new committee to study the 285 plots, which was to examine every single plot de-reservation. D. T. Joseph was the secretary then, he was a very honest person and a straight forward officer but he was all for the private sector...amongst us too, there were differences...some of us were of the opinion that half a loaf of bread is better than none.' Chandrashekhar Prabhu recalls the negotiations between the policy broker and the no-growth coalition, 'Mr. D. T. Joseph, the Secretary

77 Debi Goenka, interviewed by author in May 2006.
Urban Development (a yes minister somewhat honest) called for meetings with civil society groups and said let’s turn the policy on its head and make it interesting for landowners to come forward with their lands instead of avoiding transfers of land to government for public purpose. Earlier landowners were not satisfied with the compensation which was given as per market rate as per Land Acquisition Act now they are satisfied as the compensation in the forms of construction rights and TDR is acceptable to them.78

The civil society groups of the Vasai-Virar Region were not a part of the negotiations process and remained outside of the growth coalition. There were several major differences between land issues in Bombay and Vasai-Virar. First, the demand of the tribal and other residents of the region was to completely reverse the land zoning to its original green zone; they refused to dilute their position in any manner. Second, the price of land was much lower than in Bombay, making TDR and AR not financially viable options in this region. Third, the Vasai-Virar Region is far from Bombay and received much less media coverage than the 285 de-reserved plots. Fourth, the movements there did not have the support of large industrial landowners—a very powerful lobby at the national level. As a result of these factors the anti-growth movement of the Vasai-Virar Region did not merge with the growth coalition and their struggle against the builder-politician-mafia coalition continues to this day.

7.4 FINDINGS AND CONCLUSIONS

Compared to the first plan, the drafting of the second (revised) Development Plan was a long drawn-out process, plagued by conflicting interests between the two coalitions (anti-growth and pro-growth) and resulting in court cases, followed by negotiations. The delay was caused by the contentions over the land use of the plan.

It appears that adopting a new Development Plan requires a very broad based mandate, because power is fragmented amongst landowners, land holders and land occupiers. The capacity of the elected officers of the local and state government is diluted by their accommodative concessions. This is necessary for political survival, given the political economic realities of election costs and maintaining constituencies (slum dwellers who vote and private entrepreneurs who fund parties) in today’s Indian democracy. Thus the Development Plan and the rules that govern it are formulated only by including all direct or indirect beneficiaries in the policymaking process. This consensus is built through exchange of direct benefits, either in the form of exemptions to rules, accommodation of private interests in rule making or by joint pact making to implement projects, which benefit powerful actors.

The ‘dominance’ of the pro-growth coalition is due to the collective strength of the two associations (one based on class: squatters and one on profession: PEATA) and the actors. This coalition of various actors: political representatives and parties, the legislature, the private sector, the landowners, and the squatters who occupy the land in question. The two associations that form the pro-growth coalition have a long history of working together. They are held together by the frequent transactions carried out between them. Habitation on one plot for a long period is yet another factor that binds association of squatters to each other. The new regime was based on the two associations, which recognized each other’s status and entitlements and were capable of reaching and implementing relatively stable compromises (pacts) in the pursuit of their collective interests.

This network of middle class groups was successful in voicing the interest of the citizen (they do not see squatters as citizens) This was sufficient to attract attention and attain a negotiating position as an interest group, but the state did not provide this group with sufficient opportunity to bring about big policy changes (neither through their interventions in the courts nor through the assembly).

The no-growth multi-actor formation of Bombay (made up of environmentalists and middle class citizens) had its power source in planning law and regulations; however, without a favourable court judgment it was only able to gain entry into—not wield power over—the policy negotiation process.

78 Chandrashekar Prabhu, interviewed by author in November 2006.
Growth protesters saw the NPIs as a good compromise; they felt that they accommodated their interests, and, simultaneously, decreased the complete takeover of the decision-making process by politicians and landowners/developers (‘half a loaf is better than none’).

Observers criticized the accommodation process as a bargain: one policy alternative clashed with another, and a deal was made between state government and the environmental groups. Some of the policies championed by the environmental groups were accepted, but they had to concede and accept the joint project of the state government and the two associations to usher a neo-liberal urban land regulation regime, justified as necessary means by the state to achieve the goals of the Development Plan and provide more public amenities.