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

Nainan, N.K.B.

Citation for published version (APA):
APPENDIX

SUMMARY THESIS

Although only around a quarter of India’s total population lived in urban areas in 2011, the absolute size of the urban population is already almost 287 million people. Large differences are found among urban areas as well, with mega-cities drawing more attention because of their importance as major contributors to the national economy. The pattern of economic shifts towards large cities fits into the international debates on urban areas as drivers of economic growth. Mumbai is one such city, whose development is not only important to its 12 million residents but also for the entire country. The city is now the financial and commercial capital of the country, housing some of the largest oil, trade, finance companies along with a booming Hindi film industry. Following economic liberalization in the early 1990’s the city is said to have become part of the global economy.

Given its importance in terms of urban development and land development more specifically, Mumbai has also been the scene of contentions and conflicts, where power struggles between various classes are fought. Decisions on how use urban land should be used, developed and who should be the decision-makers are matters of politics, which often result in conflicts. Such conflicts are exacerbated as the city is very small in area size, with half its population living in slums, and a large section of the population working in the informal sector. Disparities in income, amenities, housing and services are glaring.

In this study the issue is taken up of how the state intervenes in urban development and what the effects are on different sections of the urban population. The study covers the strategic period when major shifts in the state’s intervention in urban development occurred, via the process by which Mumbai’s revised Development plan of 1991 emerged. The introduction of market mechanisms to deal with problems of getting private land into the public domain for developing collective public amenities. It specifically looks at the question to what extent and whether engaging non-state actors in urban development could solve the problems of delivering amenities to all residents of Mumbai. It fits into discussions on state interventions in urban land management policies, as well as discussions on new forms of urban governance in which the state interacts with non-state actors in deciding the direction of urban development.

One of the main instruments of land policy is urban and regional planning. In its (urban or regional) Development Plans the state can provide strong or weak directives on how land use should be structured. A direct relationship is said to exist between the extent to which a country’s state wants to control land policy and the degree of urban planning. Realizing urban development plans necessitates getting land under direct control of the state. Public amenities such as schools, hospitals, parks, all need land. Acquisition of land has been one of the means of getting privately owned land under public ownership and use. Under the Town Planning Act, local and state governments have to provide public amenities to urban dwellers. For this, three broad sets of tools have been identified – planning tools, land development tools and legislative and fiscal tools. Urban development is carried out using a combination of these tools where the government plays both a regulatory as well as a developer-provider role for public amenities and housing.

The modern Indian State has used various instruments to realize land policy goals, through direct intervention in land development either by providing infrastructure or through land acquisition for public purposes. Another instrument has been the regulation of land use - by zoning, building control rules and regulations, often executed by local government. A third set of instruments concerns fiscal measures such as taxation and stamp duty. As a provider, the state’s strategy has been to acquire private lands for public use, thereby establishing its eminent domain. The legal instrument has been the Land Acquisition Act enacted by the former British colonizers. The national government in India has also played a regulatory role by controlling size of land holdings, house rents and land use through a number of regulations.
The interventionist role of government has come under much criticism by World Bank officials and the private sector. Their view has been that state intervention in the housing market has failed, because it has frozen land supply in the formal markets. This has resulted in large sections of the city population being forced to seek housing in slums or informal markets. These neighborhoods function outside the planning and regulatory framework of the city with poor or no access to amenities. People living in these informal communities have fewer rights to amenities, depending on the degree of informality. Thus the poor have not benefited from strict planning regulation.

India’s shift from a mixed to a more liberalized economic system in 1991, is also reflected in the government’s urban land policy. Nationally, a shift occurred in the government strategies to reduce direct interventions in urban land development. India’s Fifth Five-Year Plan marked the turning point of the ideological stance held by the state on land. Land was now perceived by the state as a “resource” and income-generating tool, in contrast to earlier socialist ideas of preventing private concentration of land ownership.

In Maharashtra State, a lesson learned from the Navi Mumbai experience was that if compensation to private landowners is made attractive, large areas of land can be acquired. There was a willingness to experiment with new modes of compensation for the private sector in urban areas. Further, use of fiscal measures as a means of controlling land policy decreased. In Mumbai, at the local government level, there was a move towards using innovative measures such as the New Planning Instruments, including the Transfer of Development Rights (TDR) and Accommodation Reservation (AR) as modes of compensation to private landowners whose lands had been reserved for public amenities. New Planning Instruments required a closer working relationship with different non-state actors.

The key questions of the study were: How did the new urban regime in Mumbai emerge in the early 1990s? What regulatory framework did it set up? What were its impacts on urban space and inequalities? As analytical framework Dowding’s approach indicating the necessary characteristics of a regime was adapted and used as starting point for analysis. The adapted model was used as a framework to argue that a new urban regime did emerge in Mumbai. The regime model has eight characteristics; in order to identify a particular local government coalition as a regime, a subset of these characteristics needs to be present. A regime should have (1) a distinct policy agenda, which is (2) relatively long-lived and (3) sustained by coalitions of interests or personnel not formally or fully embedded in institutional structures. This joining often is in the form of a ‘grand coalition’ or a larger-majority coalition of interests, and often crosses (4) cross-sectoral or institutional boundaries. There are also additional characteristics. The policy agenda should also (5) survive personnel and leadership changes, thus reflecting a specific ideology or agreement over fundamental values for members of the coalition, which can provide continuous electoral success. It should also (6) primarily involve the mobilization of external resources, creating a positive-sum game within the polity and the formation of public-private partnerships, which often transcend partisan divisions. It should (7) be associated with strong or exceptional leadership, capable of creating unusual coalitions and providing a distinctive political vision. Also it tends to (8) bridge institutions and community interests by creating forms of ‘partnership’ between the public and private sectors.

In Mumbai, relationships and roles between the main actors have changed as a result of liberalization in urban development. There is a closer and more open alliance between the private actors and state government. The emerging private sector think-tanks and institutions set up for funding SRA (such as the SSPL) straddle the boundaries between these two sectors.

Formal arrangements involving multiple actors beyond the state are novel to India. State-based arrangements are hierarchical and top–down forms of setting rules and exercising power. Nevertheless they are seen as legitimate via socially agreed conventions of representation, delegation, accountability and control. New forms of arrangements beyond the state have been labelled ‘governance’, defined as a mechanism for dealing with a broad range of problems/conflicts in which actors regularly arrive at mutually satisfactory and binding decisions by negotiating with each other and co-operating in their
implementation. ‘Governance beyond the state’ is resolutely put forward as presenting an idealized normative model that promises to fulfil the conditions of good government ‘in which the boundary between organizations and public and private sectors has become permeable’. It implies a common purpose, joint action, a framework of shared values, continuous interaction, and the wish to achieve collective benefits that cannot be gained by acting independently. Under the new regime, urban development in India is making a transition from government-directed and controlled to more diffused and indirect governance arrangement.

Slum redevelopment as a major process created opportunities for medium and small contractors, who re-entered the urban development arena as builders. The new urban developmental regime helped scale up market actors, not only in terms of project size or type of work but also in terms of their power relations with sections of the government. The scaling up of market actors is merely an enhancement of earlier ties and relationships that the actors had with sections of the state (officials or elected representatives).

Another set of actors that joined the coalition included senior state government officers and the section of civil society that agreed to accept partial land reservations for public amenities. Thus, one could conclude that the coalition was able to bridge the interests of the urban development organizations and local communities. Although there is broad consensus on liberalizing urban land regulation, the role of the private sector in delivering public goods was being contested by civil society groups. They asserted that some builders do not follow regulations in delivering public amenities and exclude project residents. As a result, confrontations within the broad coalition culminated in public interest litigations filed in the High Court of Mumbai.

Further, one section of civil society—academic institutions and human rights organizations—chose to stay out of the Liberal coalition and has taken on the role of assessing the impact of the liberal coalition’s policies and projects on the squatter community and on city space as a whole. The Liberal coalition in Mumbai fulfils the eight conditions set by Dowding for the emergence of an urban regime.

Under the new liberal urban development regime a section of shack dwellers has been included in urban development primarily as ‘squatters’, meaning that they can benefit from housing rehabilitation within redevelopment projects. This requires that squatters give their consent to redevelopment and become participants in their own re-housing, be it on-site or off-site. This process of turning squatter residents into housing development actors was accompanied by a process of formalization of existing social formations amongst shack dwellers (through CBOs). Most of the organizations of squatter residents were formed to survive demolitions and access services from the state, and, spurred on by the introduction of redevelopment projects by the liberal regime, have been transformed into development agents of builders.

The analysis of the actors shows that they are more numerous and heterogeneous than the literature suggests. Subcategories are formed on the basis of common resources and interests. So not only are actors more numerous and more heterogeneous than expected, their organizational boundaries are also fuzzy, as they operate from several different roles. Interests differ between subgroups, so that one needs to recognize and differentiate between their organizational forms. There is overlap between economic and political actors engaged in the Growth coalition. The policymaking arena is much more heterogeneous than the literature suggests, and there is a strong need to form networks, associations, coalitions and alliances, in order to exercise influence and to achieve common goals and interests.

Analysis of the policy formulation process showed that two formations appeared at the city level linking actors across sectors: one pushing for the de-regulation of land rules while the other sought to retain zoning and regulations governing private land reserved for public amenities, i.e. a continuation of the earlier land regimes. The pro de-regulation formation can be called an advocacy coalition—it brings together different social sectors and seeks to influence policies and practices from a liberal ideological angle. The coalition was constructed on the mutual recognition of the participants’ status
and entitlements as well as the capacity to reach and implement relatively stable compromises in pursuit of their overlapping interests and joint projects. The predominant strategy used by the pro-deregulation coalition was to snowball the pact process to include all possible landowners and interest groups. The no-growth formation pushed for retaining existing land regulation. It was more of a civil society policy network type: their ties are loose and information was the primarily resource exchanged. This network brought together actors with common expertise in environmental matters. The strategies and interventions made by a group of building entrepreneurs and professionals worked towards securing a broad based consent of all actors towards liberalizing urban development, using the Development Plan of Mumbai as an event. Even environmental groups accommodated the idea of a liberal regime, with the hope that some development of public spaces would take place. The process of governance in Mumbai was a de facto system where earlier practices, experiments and land occupations became legalized rules, changing the predominant planned and rational process of urban development interventions.

However, this de facto type of governance was only found in terms of the macro-level inclusion in the Development Plan of practices previously labelled as irregular under the earlier regime. At the micro-level of projects the study found that urban interventions were bound by land prices (which are location sensitive) and the ability of actors to generate resources from multiple sources. Space for negotiation was limited at the micro-level interface, unless supported by negotiations at the macro-level. In this way, the two interface levels link up, connecting projects and actors of the micro-level interface to policy negotiations and actors at the macro-level interface. The completion and success of individual projects depended on the ability of actors at micro-level to link up and influence the macro-level policy interface, and thus steer resources and rules to facilitate the achievement of their project goals. In this process each (re)development project became commoditized and produced commercially attractive products in the form of TDR or housing units that can be easily marketed. It resulted in further integration into the land market. The higher the expected price of the unit the closer the integration into the land market, and the better the chances that the project would be profitable in the real estate sector.

The governance mode shifted from a predominantly clientelist mode to a corporatist one under the liberal regime. During the process of regime formation, some features of a pluralist mode were visible, with marked dominance of brokering and mediation between competing interests. Once the changes in rules were established, a consensual process has developed within a liberal governance regime, using exclusionary negotiation as its primary method of governing relations amongst actors. The new liberal regime depends on market instruments to raise funds and provides public goods using a cross-subsidy principle. As a result the regime is based on the market mode of order, utilizing land prices as means of controlling the production of public amenities rather than values of equity and principles of planning. Going from predominantly government control or hierarchical mode to market control of the delivery of public amenities is a shift to the other extreme, making the delivery of public amenities vulnerable to market fluctuations. The new liberal regime is based on the concept of consensus building and accommodation of interests of those actors whose entitlements are recognized by the regime. Entitlement is created in the process of negotiations; thus, the framework itself is exclusionary in practice. Such room for negotiations makes the regulatory framework a political process. Poor sections of society continue to depend on the ability of political parties, developers and NGOs to ensure their inclusion. This is a surprising continuation from the earlier state controlled regime, where clientelist forms of relationships were the primary means of inclusion for the squatters.

In terms of tenure security the liberal regime has allowed many more squatter settlements to realize security via the slum rehabilitation and resettlement programme. This came more from development of cheaply acquired lands located on the margins of the city than from In-situ development. The spatial selectivity of the state in the traditional regime appears to continue with the spatial selectivity by the liberal coalition, even though the selected place for development has undergone a change. This strategy of slowly releasing land appears to ensure a continuous supply of opportunities for the building industry.
Land prices and TDR prices are a mechanism of control in the liberal regime; they have not replaced the policymaking responsibility of the state. As a result the land market is controlled and regulated by a combination of factors. However, decision-making on rules in the liberal regime requires a higher level of information on land prices and its spatial impacts, given that TDR is not the only fungible instrument in practice. The regulatory aspect in understanding land markets and fluctuating land prices still suffers from limitations at the level of government bodies, due to absence of a cadastre and clear land titles. TDR, FSI and real estate prices are key instruments for designers and planners of urban development.

New Planning Instruments have been successfully used by the private sector and NGOs in constructing rehabilitation housing for the project affected persons (PAPs) displaced by the city’s infrastructure projects. A comparative performance analysis of the NPIs shows that the TDR instrument performs best in terms of sharing land with the public amenity. AR performs better in actually delivering the public amenity; however, land sharing with the public amenity is average. In-situ redevelopment has a low performance on all counts (percentage of land plots acquired, percentage of private land shared with public amenities and ownership of the public amenities) suggesting a need to review the instrument. Definitely more plots are acquired using New Planning Instruments by state and local government—and at a quicker rate—than with the Traditional Planning Instruments.

However, the use of NPIs needs to be put into perspective by including outcomes and impacts of these NPIs. One outcome of TDR is a spatial preference for developing a certain type of amenity in areas with specific land prices. The majority of the SRA constructed housing using the TDR instrument takes place in the ward with the lowest land prices. Further, this ward has already been identified as a ward with one of the largest squatter settlements as well as high levels of deprivation, as the majority of the squatter population is from the Dalit community. Thus, the TDR mechanism pushes the poor and project displaced people (pavement dwellers, railroad dwellers and others) into one pre-selected section of the city, thus continuing the class and caste-based geographical segregation of the city. Providing large outputs, such as a large number of housing units for PAPs, can be seen as creating equality for a large number of former shack dwellers who now are homeowner. However, it is accompanied by the negative externality of high-density upper class housing in western coastal suburbs of the city. This has resulted in growing protests from the upper middle class who view this building boom as aggressively reshaping their neighbourhood. Key negative externalities of NPIs are:

- Increased land prices, fragmentation and homelessness in the city.
- Competition among landowners and builders causing conflicts.
- NPIs are strongly exclusionary and shape the character of the city
- The new land instruments build on existing land prices, which in combination with political manipulations of rules, creates clusters of PAP housing in low priced areas of the city, with poor basic environmental services.

Undesirable outputs include concentration of ghettoization, social class conflicts, more projects stuck in a stalemate, increased privately sponsored violence in slum communities, and increased competition amongst private builders for development of slum areas, and displacement of shack dwellers. The relative ease of generating NPIs (e.g., providing TDR certificates as compensation to the private sector either for land or construction) has made it possible for the elite of the city to realize their vision of the city as a global city. It provided a fungible instrument without disturbing the capital markets or levying new taxes. Relocating PAPs in newly constructed TDR housing has made relocation and displacement an accepted phenomenon of Mumbai; displacing one community to accommodate another is justified by the vision of the city by the political elite.

This process of including some and excluding other households of low-income communities is responsible for splintering of communities. This splintering of geographies and habitat impacts social cohesion and collective services in such communities. The splintering process is not viewed by the interviewed sections of the community as a positive process.
NGOs and housing rights movements have been able to include those groups of squatters who were not recognized as rightful beneficiaries of the city’s services and amenities, i.e. those living on pavements or railroads. However, as the rules for the resettlement are set by the state (in terms of cut-off dates) and the market (in terms of location of resettlement sites), NGOs have a limited impact. Thus NGOs are able to include a section of those excluded by urban development but still are bound by the rules set by the state and the market. While a section of the homeless did manage to secure land tenure, this study and others show that sections of those resettled continue to be excluded by projects of the liberal regime, and the clearing of squatted lands for construction projects of the liberal regime results in additional homeless on the streets.

NPIs are able to provide housing and land tenure security for a section of the relocated community, but there is an unintended negative consequence of this improvement: a negative impact on employment. Thus, for every gain the households make with regards to housing security, an equal or higher trade-off is made vis-à-vis previous livelihoods activities.

The fragmentation appears in three different sub-groups: (1) those who benefit, (2) those who are in the process or in the transition period of benefiting, and (3) those who have been excluded. These clusters are not completely exclusive or cut off from each other, but retain old identities of being one community. The degree of fragmentation and its impact on social cohesion and coping mechanisms of households in NPI projects needs further study.

The strengths of the author’s original conceptual framework lie in its recognition of sectoral parameters, actors and their resources and the possibility of multiple coalitions that can compete with each other. These aspects brought in sectoral particularities along with the focus on actors and their networks. These aspects lend themselves well to the study of development regimes of Mumbai. The model includes several new features. These include context factors, such as the clear transformational moment needed to frame a new urban regime, as well as the role of political parties. They also include process features, such as the negotiation processes in which brokers hold different positions at different levels and also professionals (such as architects) act as brokers at different levels of government. Multiple interfaces need to be recognized when interventions and practices are being negotiated: at the community level, administrative ward level, city and state level. The locations for these interfaces include courtrooms, assembly halls, and at election time the entire city becomes an interface space. This study also found that policies are earlier practices that already existed informally, sometimes in violation of earlier policies. Policymaking processes formalize these informal practices by formulating new regulations and allocating resources to support them. This emphasizes the necessity of examining informal processes, experiments and practices in the shadow of official organizations.

On the basis of the findings of this study, the author recommends the use of the ACF framework with some additional improvements. The recommended framework for studying urban policy regimes in India ought to include the following features:

5) A time scale as extra dimension in studying policymaking processes, in relation to the institutional opportunities for including the voice of hitherto excluded social groups.
6) Space and institutional scale are necessary for analysing policy outcomes.
7) The study of institutions formed as a result of policy changes needs to be included as a type of policy outcome.
8) The importance of studying outcomes has already been stated; outcomes should be grounded in humanistic goals applicable to all residents irrespective of class, caste, citizenship, age or gender.