

Building Boomers and Fragmentation of Space in Mumbai

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The Maharashtra government has extended the transfer of development rights instrument – a market mechanism originally used to provide public amenities – for constructing houses for project-affected persons. Data indicates that a majority of these townships have come up in a city ward where many of the poor live. In a situation where the real estate market is driven by the profit motive, unregulated use of the TDR has the potential to cause further fragmentation of already socially and economically segregated urban spaces.

Mumbai is aiming at rapidly transforming itself into a “global city”. With Singapore and Shanghai as role models, the city’s elite have placed infrastructure on their priority list [Bombay First 2003]. Almost daily, newspapers carry reports on the proposed metro rail, airport expansion or yet another flyover. In the last decade itself, the city has laid new railway tracks, constructed more than 50 flyovers and laid new roads, under two partly World Bank-financed projects: the Mumbai Urban Transport Project (MUTP) and the Mumbai Urban Infrastructure Project (MUIP). As several stretches of the road and railway corridors were occupied by slums, the implementation of both these projects has led to relocation of slum-dwellers. Successful and timely rehabilitation and resettlement of these slum-dwellers is an important prerequisite for carrying out these expansions. The Mumbai Metropolitan Regional Development Authority (MMRDA) under the leadership of the chief minister of the state has been appointed as the implementing agency. It has successfully constructed some 50,000 housing units each of 225 sq feet area to rehabilitate these project-affected persons (PAPS). If the PAPS from the Mumbai airport expansion project are included, the total figure of such displaced would be 1,30,000 households making this exercise perhaps the largest ever forced relocation in modern times.

Data indicates that a majority of the PAP housing has been constructed with the participation of the private sector using the transfer of development rights (TDR) instrument. The involvement of private sector in delivering public goods has well known problems such as externalities and free riders. However, the situation here is complicated as the state decided

to repay the private sector for constructing housing units not in cash but with TDR. These along with other factors have created a certain geographical bias wherein majority of the PAP housing is being constructed in the M ward. Of the total 50,024 housing units constructed for PAPS, 32,653 units (65.27 per cent) are in M ward. Given this preference of location, I ask the following questions: (1) Which factors contribute to making M ward a rehabilitation ward? (2) Which are the TDR receiving wards and how does the host community react to the building boom in their neighbourhoods?

The data used in this article was collected during 2005-07; secondary sources include the Municipal Corporation of Greater Mumbai’s (MCGM) TDR data base; reports of World Bank; the web page of MMRDA, primary data was collected through field work and group discussions in two of the PAP townships of M ward: Lalu Bhai Compound and Vashi naka as these were the only townships which were relatively fully occupied. Interviews were also conducted with officers of MCGM and MMRDA.

Place and Segregation in Mumbai

Originally a group of seven islands inhabited mainly by the fishing community and palm toddy tappers, Mumbai (area: 445.86 sq km) as we know it today is the result of reclaiming land from the sea and eventually linking it to the mainland. With fishing villages dotting the many beaches and sea fronts, Mumbai still retains traces of its original flavour. Some of these fishing villages and “gauthans” (thickly populated old habitation sites) are homes to local Roman Catholic converts who prefer to call themselves “East Indians”.

Over time, the south-western coast of Mumbai emerged as the space in which the rich and powerful of the city live – particularly wards A, D and G/south. The cotton textile mills and ghettos of mill workers were located in E, G and F wards which now lie in central Mumbai. Many Muslim families are said to have come in from rural India and settled in the E and C wards around 1947, during the bloodshed that accompanied the Partition. These two wards are still quite densely populated and have many old residential buildings

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as well. Together, wards A to G came to be called the “island city”, drawn from the erstwhile seven islands which lie in this part of the city.

During British rule, the port and related services were situated in the south-eastern side of the island. After independence, Trombay in the north eastern M ward attracted large-scale state-owned companies in the fertiliser and petroleum sectors while the other emerging suburbs in the north-eastern part of the city saw the setting up of engineering, chemicals and pharmaceuticals factories, mainly along the suburban route of the central railway and in areas such as Kurla and the eastern part of Andheri.

In the early 1980s the upper classes had begun to reside in the western half of the H ward as it hugged the western seaboard of Mumbai and had the better of the city’s two railway systems. Moreover, this locality was not disturbed by the noise and pollution of factories. D ward was also largely filled up by the rich and powerful for similar reasons [Ramasubban and Crook 1995].

This historical background has led to an uneven development of the city and is reflected in real estate prices, shown in Figure 1. Even today, the southern tip of the island (wards A and B) remains the most expensive part of the city, followed by the western coastal wards (G south, H west, Kwest and east). Next come the new, emerging localities in the north-western suburbs. Some of the lowest real estate prices are to be found in the eastern suburbs particularly in L, M and T wards – all of which have industrial units as well. Real estate prices clearly define social demography of the city [Logan and Molotch 1990].

consisted of cotton textile mills located in the south-central part of the island city, towards the eastern part. By the next decade, industry was a substantial employer in Mumbai, but the nature of industrial activity had by this time widened to include chemicals and engineering sectors. The population of the city had been rapidly growing from the 1950s and reached a figure of 82,27,382 in 1981. Around the 1980s, the objective of the Maharashtra government’s urban policy was to control the growth of the city, decongest it and encourage industry to move out. Thus, decongestion of the island city and shifting industries outside the urban boundaries were two strategies used to cope with the growing urban population [MCGM 1985].

The growth of the services and financial sector in Mumbai from the late 1980s onwards gave birth to a new middle class. Employment in the tertiary sector (finance, insurance, real estate, business services, social and personal services) had doubled between 1980 and 1998 [MMRDA 2003]. The middle class in Mumbai over the last decade has grown to be very active. They have used their voice, formed organisations and have also litigated to influence policies related to relocating street hawkers, tame municipal labour unions, and joined hands with the elite to create a powerful neoliberal lobby which is pushing for a global Mumbai [Baud and Nainan 2007].

Along with the growth of the middle class, from the mid-1980s, a small group of real estate property developers who wanted to restructure the land market to trigger a building boom teamed up with select bureaucrats and politicians and,

the development plan, absence of funds and lengthy procedures as reasons enough to substitute the previous land acquisition method with TDR. This network of actors who push for higher population densities and increased market-led mechanisms to deliver amenities and services to the city, I call the “building boomers”.

The 1991 city development plan aimed at reversing the direction of some of the earlier plans. Moreover, recognising the location benefits of the island city, it was also decided to allow new offices to replace former industrial units. The 1991 development control regulations borrowed some revolutionary ideas from the US, such as TDR and increased floor space index (FSI) in some zones and recycling of industrial land. Together, these policy changes created a potent mix which liberated land from its earlier stringent zoning regime.

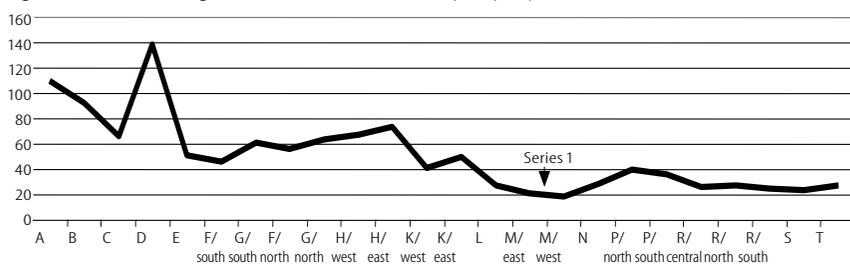
Transferable Development Right

FSI (also known as floor area ratio) is a certain permissible land to construction ratio. FSI¹ is also known as development right, as it prescribes how much construction is permitted on a certain piece of land. TDR is a transferable development right of a particular piece of land which cannot be realised on the same land because the land and the development on it are protected.

In the US, TDR was used to protect agricultural lands and heritage structures, while permitting the land owners to use the development potential of these lands on another piece of land elsewhere in the city or even sell it as TDR. The TDR instrument separates the land from its development rights and makes it transferable to another location. In 1991 when the new development rules were formulated for Mumbai, TDR was introduced formally for the first time in the country.

The 1991 development control regulations of the Bombay Municipal Corporation permitted all types of land plots to generate TDR on condition that it could be used only outside the island city and to the north of the generating plot, in keeping with the strategy of decongesting the island city. Certain areas such as corridors between the railway lines and the arterial roads were declared as ineligible to

Figure 1: Ward-wise Average Land Prices 2005 (Residential land prices per sq mt in '000)



Data source: Jain and Bhatt (2005).

A Changing City

In the 1960s and 1970s, industry was the powerhouse of Mumbai – or Bombay as it was called then. Much of this industry

in 1991, succeeded in pushing through a new set of development regulations for Mumbai. The bureaucrats lamented the poor implementation (only 20 per cent) of

receive TDR. FSI for plots which consumed TDR was increased from 1.00 to 1.4 and TDR plots reserved in residential zones were allowed to be used on residential zones and the same is for commercial zones.

Holders of TDR receive a paper certificate issued by the municipal commissioner of Mumbai giving the details of the land owner, the area and location of the plot which has been surrendered to the municipal corporation, the quantity of TDR and the zone in which it is issued.

The simplicity of the TDR mechanism is perhaps its biggest weakness as it has been conceived and created with a simplistic understanding of Mumbai's land prices and land markets. The only land market knowledge with the planners and bureaucrats who introduced this mechanism seemed to be that land prices fall towards the north of Mumbai. By allowing the use of TDR only to the north of the generating plot they tried to avert further congestion of the island city and pushed growth to the suburbs. Perhaps this incomplete knowledge of land markets was a legacy of the earlier phase of planning with its roots in the command and control economy, where land was understood to be owned, controlled and developed by state. However, 16 years after the formulation of the TDR mechanism, the same excuse holds no ground.

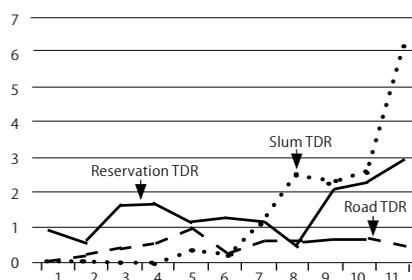
From 1993 to 1997, two types of TDR certificates were being offered by the MCGM, one for those land owners who lost their lands in road building activity and the other to those who lost land to public amenities such as schools, open grounds, hospitals, etc. Road building and construction of public amenities are direct responsibilities of the MCGM [Balchandran 2005]. Its dependency on the TDR mechanism for acquiring lands for amenities and roads has made it one of the key members of the building boomers network. Over and above the TDR offered in exchange of land, TDR was also given to builders/contractors if they would undertake the construction of services and amenities such as roads, schools and hospitals.

In 1997, Maharashtra's Shiv Sena-BJP government further liberalised the TDR instrument and offered it to developers in exchange for carrying out slum redevelopment project for high density slums

such as in Dharavi and for PAP housing. Under slum redevelopment projects, TDR was offered for surrender of lands as well as for construction, so both the land owner and the builders were compensated by giving them TDR certificates equal to the area they had surrendered or constructed upon.

The introduction of slum TDR in lieu of constructing slum/PAP housing has had a negative impact on amenity reservation TDR and road TDR. As slum/PAP TDR is cheaper than amenity reservation and road TDR, builders prefer it as they benefit from higher profits by using the TDR in high income areas. With the advent of slum TDR, the value of reservation TDR decreased (Figure 2). Further, if the value of one type of amenity TDR (road, reservation or slum) falls, then the land owners and developers are likely to be dissuaded from producing that amenity. Thus a delicate balance has to be maintained between the demand and supply of these TDRs to keep the prices attractive so that the private sector keeps constructing amenities. As

Figure 2: Three Types of TDR Generated in the City of Mumbai between 1993 and 2003 (in lakh sq mtrs)



Source: Balchandran (2005).

the planning authority for Mumbai, the MCGM is required to make policies which will ensure that different TDRs are in demand thus perpetuating a high construction growth scenario for the city.

With the advent of slum/PAP housing TDR the new mechanism was partly disassociated as compensation for land acquisition and used as a means to pay back builders for housing constructed by them. Of the total 31 PAP townships constructed only eight were constructed on land owned by MMRDA, while the rest were constructed by offering TDR to private land owners. Of the total Rs 4,526 crore cost of the MUTP, 57.5 per cent was a World Bank loan and the rest is contributed by the state government in carrying out 75

per cent of the resettlement of the PAPS using the TDR mechanism. This huge number of state-sponsored high rise housing construction is unprecedented in modern times.

The World Bank's 'Management Response Report, 2004', congratulates the government of Maharashtra for developing a financial mechanism to offset the cost of construction related to resettlement and says that "this financial mechanism is making the resettlement programme affordable for the government". Thus the state has chosen to raise funds not through taxes but from a share of the development. Development charges and TDR are the new and significant means of capital investments for the MCGM as well as government of Maharashtra. The scale of the MUTP operations is so huge that in 2003, when only a part of the PAP TDR of 85,000 sq mt was released into the market, its price crashed from Rs 850 per sq feet to Rs 500 per sq feet [Singh 2003].

The use of the TDR mechanism enjoys wide consensus across local and state governments. While the local government benefits from TDR by using it to construct amenities such as roads, schools and health posts, the state government is freed from raising its share of grants for large projects such as the MUTP and MUIP. When this sort of a situation develops, the government's interests get entangled with those of the building boomers and the government itself becomes a member of the building boomers coalition. The fungibility of TDR certificate also makes it possible for owners to sell TDR in parts, as per their convenience with the result that TDR can also be hoarded creating scarcity in the market and artificially increasing prices.

M Ward as Rehabilitation Ward

In the 1960s M ward (east and west) was a sleepy village known for its villas and hills. It was also used to relocate displaced poor residents of the island city as lands on which they lived were being taken over in the 1950s for urban development. Lotus Colony is one such community which was displaced to M ward from the western suburb of Bandra. M ward also houses one of Mumbai's two solid waste dumping grounds. In 1972, a large dalit population

migrated to Mumbai – and to the M ward – to escape the drought that hit rural Maharashtra. Large chunks of land in M ward are also occupied by small and large industries. This ward also houses two state-owned petroleum refineries: Bharat Petroleum and Hindustan Petroleum, state-owned fertiliser factory, Rashtriya Chemical and Fertilisers, the government of India's Bhabha Atomic Research Centre and also the Tata Power Station. Each of these large units also have their staff quarters here, making this ward a mix of poor and middle class housing along the main roads and bungalows near the Chembur railway station. Despite this population mix, Mumbai's single largest dalit agglomeration lives in this ward. M ward also happens to be one of Mumbai's poverty hot spots, and has perhaps the largest number of households living in poverty [Baud and others 2007].

A World Bank panel investigating the MUTP found in 2005, that in selecting the Mankhurd resettlement site in M ward, "no consideration was given to the proximity" of the site to Mumbai's largest solid waste dump or, "the implication of this...the environment assessment did not consider the ambient environmental and social conditions when identifying site for resettlement" [World Bank 2005]. This researcher's findings suggest that there was no conscious decision to select M ward for PAP housing. A chance combination of low land prices, TDR market dynamics, and availability of Ulcra lands along with structured activities of politicians to increase FSI has led to PAP housing clusters emerging in the M east ward of the city.

Availability of Land

Six PAP townships in M east ward (two each in Anik, Lalu Bhai Compound and Gautam Nagar) have come up on land which was exempted from land acquisition under the Urban Land Ceiling and Regulation Act of 1976 (Ulcra) for construction of low income housing. According to the Ulcra urban surplus lands (above 500 sq mt) were to be transferred to the government at a nominal compensation to house low-income families. In reality, only a small fraction of surplus lands were transferred to the government and much of it came up for development only in 1985 under the changed policy which permitted a land

sharing mechanism between low income and high income housing. Meanwhile, lands changed hands and the new owner-builders preferred to wait till the FSI of the area was increased and profits under the TDR compensation mechanism would be introduced.

Ironically, the same lands which were to be surrendered to the government at a nominal price for public housing under the Ulcra finally did come to the government as housing for PAPS after 30 years in exchange for TDR. The land owners have been able to reap huge profits from TDR offered in exchange of surrendering their lands and in a way have immensely benefited from speculation. The policy of decongestion and moving industries out of the city has opened up many more areas for residential use. Out of the seven PAP township projects in M ward two were earlier used as parking spaces for ship containers, and three had industries which shut down.

In the decade of the 1990s, the FSI of M ward has been changed twice. In 1991, the FSI was changed from 0.5 to 0.7 and then again in the late 1990s, under chief minister Narayan Rane, of the Shiv Sena the FSI was further liberalised to 1. This coupled with deindustrialisation resulted in entry of many new land plots into the market and drew builders to this otherwise

sleepy, smelly, neighbourhood. A ward-wise analysis of where slum TDR has been granted shows that 64 per cent (21,74,478.41 sq mts) of all the TDR generated in lieu of slum rehabilitation has been granted in M ward.

Dictates of the Market

Another reason for selecting M ward as a TDR supplier was because the TDR generated here could be used towards the city's north-west, in areas where the rich stay. The emergence of a middle class with significant surplus incomes, as a result of liberalisation has created a phenomenal demand for luxury and super luxury housing in Mumbai. Data shows that between 15 per cent and 16 per cent of the TDR generated in M east ward (slum TDR) has been consumed in K west and H west wards respectively while only 3.5 per cent has been consumed within M east. Juhu in K west as well as Bandra and Santacruz of H west are seeing much construction as old buildings and bungalows are expanding vertically or just being broken down to be built anew.

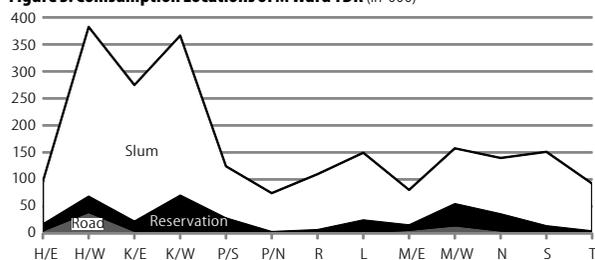
Thus it is the market, that is, the demand for housing from the high-end segment in a particular location and the availability of relatively cheaper industrial lands in predominantly slum-dominated areas

which is dictating where PAP townships will come up.

Host Community's Reaction

Data indicates that H west that includes the neighbourhoods of Juhu and Santacruz and K west wards (Andheri) are receiving the largest percentages of PAP TDR (Figure 3). This new permission to build has led to a frenzied construction boom in these neighbourhoods. The TDR related construction boom is welcomed by a section of the middle income housing societies who see it as an opportunity to increase the area of their present apartments. However, this comes at the cost of higher densities and many more cars parked on the roadsides. In 1998, 120 of the 700 plots of the Juhu

Figure 3: Consumption Locations of M Ward TDR (in '000)



Vile Parle Development Scheme had been redeveloped using TDR [Jan Hit Manch vs State of Maharashtra and others 2003].

One way of ensuring the continuation of the building boom in the western suburbs was to open up the closed corridors – such as land alongside the railway lines and the arterial roads – as TDR receiving areas, which the government did towards early 2000. However, the building boomers were shocked to find that their plans faced opposition from some of the residents of the receiving areas. These boom busters have gone to the courts demanding that TDR not be permitted in already identified high density areas, for instance the western corridor. Protests continue even though the courts have ruled in support of the building boomers. Having failed to get relief from the Mumbai High Court, the boom busters have requested the Supreme Court to intervene and restrict the use of slum TDR in the western corridor. While the Supreme Court's final order is awaited, the state government under pressure from Bombay First, a lobby group of big industrialists, has sought to find new pieces of land for PAP housing.

The Maharashtra government wants to expand Mumbai's airport but this will require resettlement of about 80,000 households. For rehabilitating these future PAPS the state government is anxiously looking at opening up the salt pan lands lying to the north-east of the city almost adjacent to the existing PAP township at Anik.

To ensure that the TDR generated in these areas is attractive to the building boomers on the western side of the city, urban activists (boom busters) are worried that the state government will once again join hands with the building boomers to axe Mumbai's old, historic and traditional gauthans – villages.

A majority of these gauthans have small houses and common open areas used for drying fish and breeding pigs. With increased FSI the gauthans will now be eligible not only to build higher but will also become receiving areas for slum TDR. Perhaps it will take another public interest litigation to deter the building boomers from taking over the gauthans of the city.

TDR as an Easy Route

V K Phatak, a former chief planner of the MMRDA calls TDR a "currency", while J Mehta – the senior architect who first recommended the TDR instrument to city planners writes: "TDR has now become a regularly traded commodity like any other asset and rates are being quoted area-wise" [Mehta 1983]. The Maharashtra government has found in TDR an easily fungible instrument to use in place of taxes. For a cash-strapped Maharashtra government Mumbai's TDR is the manna which it is extensively used to fund projects within and even outside Mumbai. For instance, the state government has sold TDR generated in Mumbai to pay for the construction of a new building for the state's liaison office in New Delhi.

A much-recommended alternative source of revenue for the MCGM is property taxes. Mumbai's property rents are among the lowest in the world, as the Rent Act remains unchanged, freezing rents in the island city. The state government has also not modernised Mumbai's property tax

regime which is still based on rental and not saleable value. Both these mechanisms maintain a notional vote bank of the old settlers in the middle and lower middle class localities of the island city. Residents of old buildings in the island city are tenants who pay rents frozen decades ago to their land owners. Because of these old low rents, the property tax which is calculated on the rental values of these properties too gets deflated. Residents of new buildings in the northern suburbs pay 30 to 40 times what the island city dwellers pay in property tax. The MCGM collects Rs 1,500 crore of property tax annually in the city. Property tax currently contributes an average of 18 per cent of the total revenue and has been observed to have declined between 1995 and 2000 [Karnik 2002]. The state government has before it a proposal to change the property tax regime from a rental value base to the market value base of the property. It is estimated that with this change revenues from property taxes itself would increase up to 200 per cent.

It is important to note that the state government's preference for TDR as a revenue generating tool in place of modernising the property tax regime has benefited old tenants many of whom are multinationals, local business houses and residents who have been occupying large rented properties in the island city for several decades. Several economists have for long suggested changing the norms which govern the taxing of properties in Mumbai and amending the Rent Control Act as a means of generating the much-needed revenues for capital investments required for the city [Karnik 2002]. However, given the general propensity of politicians to pander to powerful vote banks, it is unlikely that the property tax regime or the Rent Control Act will be amended. All state governments have been advised and have chosen to keep away from disturbing this vote bank. Newspaper reports on the issue of amending Mumbai's property tax regime identify a lobby of "influential south Mumbai MLAs" who oppose any change as it would hit large chunks of their voters [Shrinivasan 2007].

Finding a new mechanism to raise funds for capital expenditures in Mumbai without rocking the boat is a singular strategy adopted by the Shiv Sena, BJP and Congress

parties. The introduction of TDR has thus rescued the Maharashtra government from taking politically harsh decisions that would hit tenants/residents of old buildings in the island city. Resistance from island city dwellers to paying higher property taxes amongst other factors has led the state government to depend on a construction boom in Mumbai's northern suburbs as a source of TDR generated amenities. Suburban building boomers are happy to construct high income housing in the north western suburbs and low income housing in the north eastern suburbs. Island city dwellers benefit from more and better infrastructure in their part of the city. This process also pushes up real estate prices in the island city.

Clearly, TDR is a much more attractive mechanism to building boomers than the old-fashioned lengthy low paying system of being compensated by the state for surrendering their land for public purposes. The state government has manipulated TDR to such an extent that it has replaced traditional revenue sources and has emerged as a parallel legal currency without disturbing the existing urban tax structure. As in all commodities that are actively traded, cartels

are said to control the TDR market. Made up of a handful of builders, the TDR cartel has half of its members active in M ward itself. These cartels hold on to the TDR and then let it out in dribbles thereby controlling the price.

The TDR mechanism is also a boon for the Ultra-affected land owners who get a handsome compensation which has high sale value and is linked with real estate markets in the north-western high priced residential areas of the city. Short-sighted officers of the MMRDA find nothing wrong with this as, according to them, "ultimately the land meant for housing the poor has come to the poor". The question really is: When and on whose terms?

NOTE

- 1 The FSI rules are laid down in the development control regulations of the city and can be amended through a process laid down in the Maharashtra Regional and Town Planning Act.

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