SLUM UPGRADING IN MUMBAI

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CONTEXT

The 2011 Census of India estimates that out of Mumbai's 15 million inhabitants, approximately 9 million live in informal settlements or slums. Some reasons for this include the collapse of the formal industrial sector in the 1970s that lead to unemployment and loss of employer-provided housing. Moreover, the continuous retreat of the State of Maharashtra's housing agency MHADA from the affordable housing construction sector led to a rise in slums. Finally, the high price of land rendered most housing unaffordable to most of the population of the city (Bhide, 2009).

For Mumbai, policy towards informal settlements is made by the State of Maharashtra of which Mumbai is the capital. There is no national level policy that guides city-level upgrading efforts. However, the judiciary has traditionally played an active role in determining the State's response to informal settlements. Landmark legal decisions by the Supreme Court of India have repeatedly provided guidelines for the State to respond to informal settlements.

The response to informal settlements in Mumbai has followed a fairly conventional trend (Bhide, 2009): Firstly, the Slum Areas (Improvement and Clearance) Act of 1956 defined the characteristics of informal settlements and slums and allowed the State to demolish these without rehousing. Beginning the early 1970s, the State moved to augment informal settlements with infrastructure and amenities. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act of 1971 barred the State from carrying out demolitions without rehousing/resettlement of residents affected by the demolitions. Residents were usually resettled to another informal settlement on the outskirts of the city, indirectly leading to the growth of a second large informal settlement in Govandi, on the outskirts of the city. A landmark decision in the Supreme Court of India in 1985 (Tellis vs Bombay Municipal Corporation) made resettlement of informal settlements illegal, using the argument that resettlement infringed on the right to life and livelihood by making it difficult to access employment. Since residents could not be evicted and had to be accommodated in-situ, schemes for in-situ redevelopment of informal settlements were initiated.

PROCESS

The post-Tellis policy environment can be divided into roughly three phases, with a trend of increasing reliance on market mechanisms for slum upgrading (Mukhija, 2001):

1) The Prime Minister's Grant Program of 1985: With central government funding, the state government looked to redevelop Dharavi. Owing to the high densities, the state looked to relocate some residents with monetary compensation, while building about 30,000 apartment-housing units on the site. The program was met with resistance from community groups and civil society organizations that had formed alliances in the 1960s (Bhide, 2009) to counter against eviction and demolition. Most protests against the project were based on the top down approach in decision-making that ignored realities on the ground and high levels of corruption in the process. The program managed to augment infrastructure in Dharavi, but generated very little housing.

2) The Slum Redevelopment Scheme (SRD): In 1991, India enacted a series of reforms in an effort to liberalize the economy and subsequent years saw a retreat of the state from many aspects of public good provision. The SRD was prepared in this context, under pressure from political parties that saw the PMGP as being ineffective. The state's role was re-imagined as a facilitator of upgrading, rather than the driving force as before. The high land price—seen as a barrier to affordable housing so far—was leveraged for upgrading. The State provided incentives to developers to redevelop informal settlements. These incentives included an FAR of 2.5 (as opposed to 1 for the rest of the city) and a 'sale component' i.e. property constructed on the same site for sale at market prices that could fund construction of both the redevelopment and the sale component. A profit cap of 25% over construction costs was imposed, and developers had to submit financial statements that established they had not exceeded this cap. The program was considered a failure, mainly due to lack of interest from developers. The 25% cap was considered too little to incentivize their involvement. The regulatory mechanisms to ensure adherence to codes were time consuming. The target communities had no involvement in decision making.

After the Tellis vs. BMC case in 1985, rights for residents in informal settlements have seen some reversals due to other Supreme Court decisions with the exception of the 1990 Shantistar Builders vs. Narayan Khimalal Totmane decision that declared the right to shelter an essential component of the Fundamental Right to Life. The judgment in the Lawyers' Co-operative Union Housing Society vs. Union of India case in 1993 declared informal settlements as illegal and narrowly defined the Tellis ruling as being applicable only for due process in eviction. Almitra Patel vs. Union of India in 2000 considered informal settlements on public land rivalrous to public interests and set a precedent for demolition and eviction without resettlement as long as other public interests are required on that property. In Mumbai, informal settlements are protected to an extent by the 'cutoff' date for legalization of informal settlements. Updated repeatedly since, it was first introduced in 1971, the cutoff date is a state government policy that declares all informal settlements on public land legal as long as the occupant of that tenement can prove residence on or before the cutoff date through valid government identification. The cutoff date currently stands at January 1, 1995. However, other court cases have weakened this policy substantially. In 1995, the Bombay Environmental Action Group filed a petition in the Bombay High Court to force the State to demolish informal settlements on the periphery of a National Park in Mumbai. The court granted the petition using environmental hazards as the reason. In October 2004, using the 2000 Supreme Court decision as a precedent and declaring residents as having occupied tenements after January 1, 1995, the State government carried out a demolition drive that evicted over 80000 households (close to 400,000 people) (Mahadevia, 2008).

<u>CONTENT</u>

The current policy in effect for slum upgrading measures is called the Slum Rehabilitation Scheme (SRS). The scheme is managed by the Slum Rehabilitation Authority (SRA) that operates under the Maharashtra Housing and Area Development Agency (MHADA). The scheme was introduced in 1995, continuing the trend of relying on market mechanisms to upgrade informal settlements started in 1991.

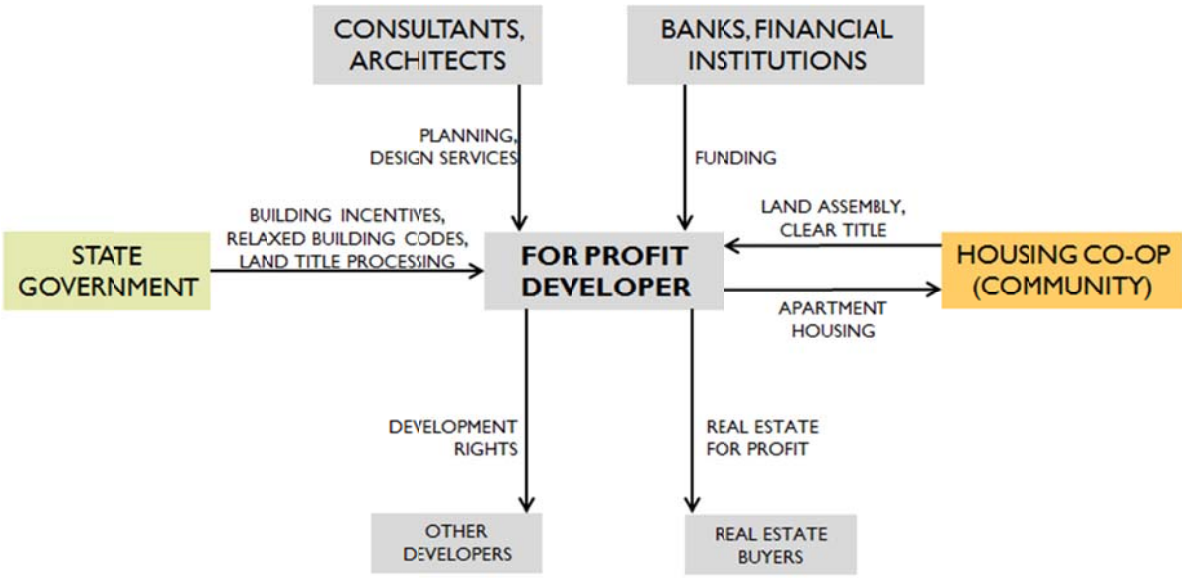


Figure1: ACTORS IN THE UPGRADING PROCESS UNDER SRS POLICY6

Under this policy the state government provides building incentives and offers relaxed building construction codes to interested developers. Moreover, informal settlements that form housing cooperatives are directly approached by developers. Developers negotiate all aspects of the project (sale vs. rehabilitation proportion, apartment design, neighborhood design etc.) with the housing cooperative, subject to a minimum apartment size of 270 sq.ft., in-situ rehousing for those who desire it and a maximum FAR of 2.5. Once 70% approval is obtained, developers submit proposal to SRA. After SRA's approval, construction begins and residents are housed in temporary accommodation organized by the developer. After completion, residents move into their apartments and buildings demarcated for sale are sold for profit. In this process, the developer is the main driver of the upgrading process taking on all risk and keeping all of the profit through sale. The developer is in the role of a service provider to the community (albeit one with the interest of maximizing profit through sale) and the coordinator for financing and seeking approvals from the government (Jan Nijman, 2008).

CHALLENGES

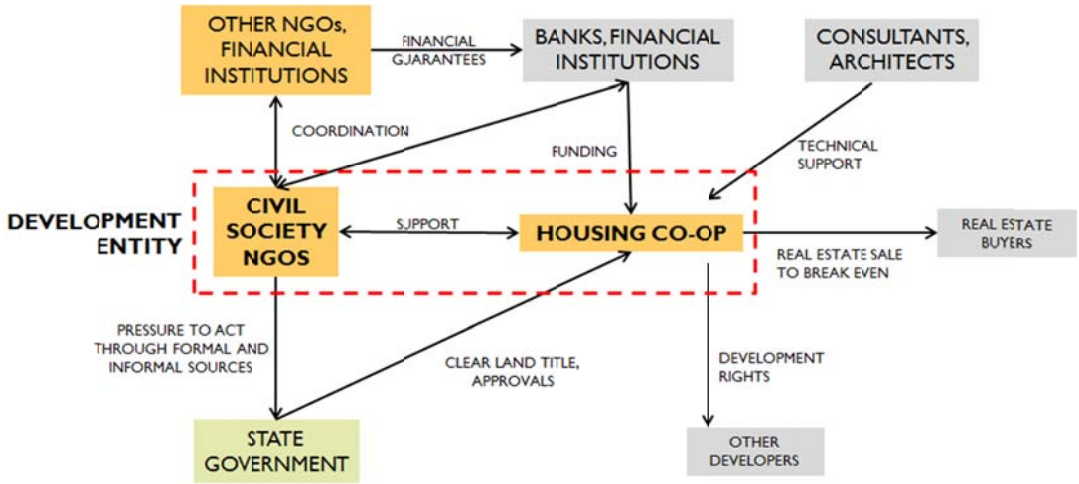
SRA includes little community involvement. Once the developer is selected and the project's outlines are negotiated, the community is not involved in any aspect of the project, including monitoring and supervision. Unlike the SRD scheme where profit was capped at 25% of costs, the incentive to maximize profit under this scheme has led to corruption and violence. Moreover, incentives to rehouse all residents within the same land and reduce cost of construction have led to lower standards of building and urban design codes for all rebuilt housing. Many SRS projects have resulted in residents forced into high-rise apartment buildings with high maintenance costs and sub-optimal amenities, causing residents to move to other informal settlements. Since the

[6] Based on text from www.sra.gov.in

financial feasibility is reliant on real estate sale price, informal settlements in areas with lower sale prices get excluded from the process. Crashes in the real estate market in the late 1990s and again in the late 2000s have caused projects to be abandoned or slowed down. As a result of this policy, until 2002, 26000 households moved into better homes. By 2012, the figure was approximately 125,0007.

In spite of the policy not favoring any community involvement, some community groups and civil society organizations have managed to use the policy to follow a community-driven approach to redevelopment. The adaptations to the conventional process are as follows:

1) The housing cooperative and the civil society NGO take on the role of the developer jointly. The NGO mainly coordinates financial resources and negotiates with SRA for approvals and incentives. The housing cooperative manages land assembly, temporary rehousing, design and construction aspects of the project.
2) Financial feasibility is worked out on the same principle as conventional development but the goal is to break even.
3) Down-filtering is addressed through having only walk up apartments and creating a corpus fund that contributes to the maintenance pool.
4) The housing cooperative is involved in all decision-making, monitoring and supervision of the project.



COMMUNITY-DRIVEN MODEL PROCESS UNDER SRS POLICY8

Concerns with this model include tenant rights, market fluctuation and whether it is truly participatory. Housing cooperatives are mostly composed of owners who are usually residents of tenements within these communities. Tenements also house a large number of tenants who are vulnerable to outright eviction or displacement due to redevelopment. Since the goal is to break even, minor fluctuations in sale prices could render some project financially unfeasible during the

[7] http://www.sra.gov.in/
[8] Based on text from www.sra.gov.in, Mukhija 2003, Jan Nijman 2008.

process of construction itself. The construction loan guarantee plays a big role in alleviating this uncertainty. Finally, housing cooperatives could be dominated by local politicians or criminals. The role of the NGO in facilitating a participatory process comes into question in such cases.

CASE STUDIES

CASE STUDY 1: SURYODAY HOUSING SOCIETY

Approach: Community driven, in-situ slum upgrading project, designed through a participatory approach. Five 5-storey apartments built in three phases for 212 families. 225 square feet apartments with kitchen, living space and toilets.

Suryoday Housing Society (SHS) built two apartment housing complexes - Bharat Janta Society and Rajiv-Indira Cooperative Housing Society - at the edge of Dharavi, reputed to be Asia's largest informal settlements and the focus of many slum upgrading efforts since the PMGP was started in 1985. Within Dharavi, many households in informal settlements had formed housing cooperatives in the late 1980s and 1990s with the support of civil society organizations such as SPARC to take advantage of slum upgrading programs, of which Suryoday Housing Society was one. Started in 1998, the project was undertaken under the Slum Rehabilitation Scheme (SRS) in three phases, and uses the high difference between construction costs and sale price of real estate to achieve financial viability. Unlike the SRS which depends on conventional developers to initiate and construct the project, the SHS acted as the 'developer' for the site along with 'Nirman', a development entity started by SPARC to facilitate such projects. Funding for construction was obtained through bank loans provided by Citibank, with the international organization 'Homeless International' as the guarantor. The loan was paid back through funds acquired by selling apartments and shops in the buildings. Apart from repayment of the construction loan, the sale component of the project accounted for a corpus fund, the interest on which could be pooled towards maintenance costs. The first phase contained more apartments than the households it displaced to reduce temporary housing costs for subsequent phases.

Salient Features:
1) Community participation at all levels - mobilizing and forming housing cooperatives, vetting and approving plans and design of apartments.
2) Financial plan involved setting aside funds for maintenance of rebuilt houses. Reduces possibility of distress sale of apartments.
3) Involvement of residents in design resulted in creative solutions for maximizing utility in 225 sq.ft. apartments - 14 feet ceilings to incorporate mezzanine level, widened lobbies and common spaces along corridors for small scale production work etc.
4) Possibility of incorporation into larger redevelopment plans for Dharavi.

CASE STUDY 2: GND

Ganesh Nagar D (GND) is a slum in the G-ward of southern Mumbai, pinned between another slum and 6 story buildings. The GND Housing Cooperative was formed after a fire swept through the slum in 1988 and residents sought help from the Slum Rehabilitation Society, a respected NGO which had supported slum dwellers groups since 1975. Through

the GND Housing Cooperative an approach was developed for an in situ building project, in which the 390 households of the slum would relocated to 3, seven story adjacent apartments. The apartments included 225 square foot flats equipped with a kitchen, living space, toilet and balcony. 6,000 square feet of the space was reserved for sale as transfer of development rights (TDR) for other, future developers, consistent with the Slum Rehabilitation Scheme's (SRS) model of private sector incentivization and integration in development projects. During each phase of the project, one-third of households would be relocated to new apartments to ensure minimal displacement. 390 units would be built in total, in addition to 5 shops for commercial activities. Residents would be allowed to sell their units at the completion of the project, given approval by GND Housing Co-op.

Through the SRS, the prevailing mechanism of land provision to slum dwellers, the GND community would be granted ownership of the land if 70% of GND residents agreed to the project. The land is administered directly to slums dwellers through legal titles allocated by the municipal government. The project had gained full community support, and 100% of residents showed their demand for its implementation. The SRS NGO functioned as the mediator and negotiator in the development, bringing in Cordaid, a Swedish International aid agency, to guarantee a loan made by the Home Development Finance Corporation (HDFC) of $325,000. Though the SRS mandates that a private developer implement the project, GND could not procure a developer, due to the low prospects of the sales component. Instead, the community used its cooperative status through the GND Housing Cooperative and assumed the role of developer. Construction began in 2004 and 108 units were completed in the initial phase.

The impacts of the GND project are considered successful for several reasons. First, new housing construction tapped into India's growing neoliberal real estate market. At the same time the neoliberal nature of the market was a challenge for the community, in that a developer willing to accept such a low profit undertaking could not be found. The second key strength is that municipal government offered the public land to the community as part of the SRS scheme. This shows that although the central government is not removed from direct slum upgrading efforts and market forces are dominant, structural interventions such as land distribution are legalized and formalized through government actions. Thirdly, GND acquired private financing through and HDFC loan, guarenteed by an international agency, Cordaid. Next, the project was largely "self-help", as it was initiated and developed directly by a community based organization. Lastly, the support of the NGO, Slum Rehabilitation Society was crucial in facilitating cooperation between actors in addition to financing. The project was expected for completion in 2008, however, it has been stalled since 2005 due to alleged corruption by the SRS (Jan Nijman, 2008).

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