Negotiating Urban Form in Mumbai

Urban Design Research Institute,
No 43, V.B. Gandhi Marg,
4th floor, Kalaghoda, Mumbai 400 023
Email: info@udri.org Website: www.udri.org

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Protecting the Urban Environment

Gautam Patel

Lawyer

Good afternoon. It is not often that lawyers get to speak publicly on matters seemingly unrelated to law and I am therefore grateful to the UDRI, Rahul Mehrotra, and Pankaj Joshi for giving me this opportunity to share with you some thoughts about our cities and their environment. I'm not a planner, an architect, an engineer or, strictly speaking, an environmental scientist. What I have done, though, for a very large part of my time as a lawyer is to engage with planning laws in Mumbai and elsewhere and with environmental issues. I will not bore you with the legal dimensions of these issues; I assure you it is extremely dull stuff. I do want to present an argument that I believe is fundamental to our thinking about cities, planning methods and the environment.

'Environment' is a much too generic and increasingly ambiguous word. When we speak of "protecting the environment", what is it that we are talking about? Is it city forests? The coast? Or trees killed to make way for roads? The preservation of public open spaces? What about urban air quality? These are certainly environmental issues. They are also, all of them, urban issues.

Here's a thought experiment. Let's say you have a bunch of newspaper clippings on your computer or in some file. Some of them relate to what anyone would consider urban issues: buildings, constructions, development planning and so on. Another set has to do with, say, permissions granted to cut down trees and the government policy on public open spaces. Now let us say you need to organize them in a folder for later retrieval. How would we do

that? Would we put the environmental clippings in a folder inside the urban issues folder, or would we reverse it?

Clearly, there's no easy answer to this; and I doubt if there's even any answer. Perhaps the parent classification must be the environment, if only because it is much wider in its scope. Or is it the other way around? Either way, urban issues are not distinct from environmental issues, and that is the first mistake we make in talking about city planning. The effect of this mistake is most dramatically seen when we talk about the condition of the urban poor, and their specific problems -- water supply, sanitation, and most importantly, affordable housing. My argument is that poverty is not only, or even primarily, an economic problem, a social problem or an urban problem. It is an environmental problem simply because one of the most immediate impacts of pollution is impoverishment.

If we reject the old definitions, and their corresponding too-neat classifications, we must necessarily also re-examine our methods of interpretation. By this I mean an interpretation of the terms we use, how we use them, and their context. There are far too many buzzwords around -- "balanced development" is an old favourite -- and they have been so overused that in practical terms, applied to a specific project, no one really knows what they mean. For a more accurate and viable interpretation we must accept a wide and expansive definition of the word 'environment' as our starting point. That word, so interpreted, would include everything, from development plans to tree authority permissions.

From this very large and perhaps still somewhat woolly definition, we must then drill down to smaller units.

We need to do this because the entire structure of a city depends on how we treat its smallest unit, and that unit is the citizen. People, not companies; individuals, not collectives; citizens, not politicians. Here again we need to alter our definitions slightly. Words like people, individuals and citizens do not really capture what we are talking about. We should, instead, refer to users of a city because whether or not a person has a legal home, lives in a slum or a shanty or on the footpaths and pavements, he is a user of the city and is equally entitled to certain basic rights.

This is perhaps the most fundamental flaw in our thinking about urban design and environmental protection: we focus on those who are, by some technical definition, "lawful owners" and ignore a vast sweep of humanity that also serves and services the city but is forced to accommodate itself in places considered "unlawful". People who live in slums are not criminals. People are forced into slums because the city's government gives them no home they can afford. Slum dwellers are not social leeches. They provide a range of services and goods without which our lives would be impossible. Still, we tend not to think about them. Where does the lady who sweeps your floors live, and in what conditions? What about the man who delivers eggs and bread to your door, or the flowers for your daily prayers? Does the unlawfulness of their living conditions make their work illegal? If it does not, then punishing them for living in a slum

-- into which they have been forced -- by forced eviction and without providing decent accomodation devalues them as humans, their work, their services and the city itself. The poor and the homeless, along with everyone else, are the users of a city and they are as entitled to a more humane urban environment, and its protection, as everyone else.

We say that slums are pollutants and environmental hazards. Are they? What is a slum and what distinguishes it from an unplanned self-regulated civic area? I find it hard to think of Dharavi as a "slum". The mere want of some planning permission can't take away the character of this self-organized, self-organizing hub of so much human activity. Dharavi is not the environmental hazard. The environmental hazard is the denial of basic human needs to that area. And it is not solved by evicting the poor and substituting them with the rich. By this logic, even the Ginza district of Tokyo is a 'slum' and no one has yet argued that.

Increasingly, many argue that what we need is a single, strong leader with a vision rather than some bureaucrat answerable to many masters, and certainly we don't need a minister in urban development whose constituency isn't the city. They point to Curitiba as an example of how a city can be transformed by such a visionary city head. Forgive me if I find this exceedingly naïve.

Nothing we read in the morning newspapers allows us to be confident that a single, strong leader will be both visionary and honest. Honesty and integrity, once presumed, have now become qualifications. But even

if, by some miracle, we do find such a messiah for the city, he is going to find himself shackled by the law.

For our planning laws are, in a word, completely topsy-turvy. The Maharashtra Regional & Town Planning Act, our principal planning statute for all areas, urban and rural, proceeds on the assumption that some individual sitting in some government office knows exactly what's good for everyone, from the man in the plastic workshop at Dharavi to the billionaire's family of five in a 400,000 square feet tower on Altamont Road. The planner is God and God knows what's good for everyone for the next ten or twenty years.

That this is a faulty assumption is easily demonstrated. No planner, however divine, anticipated the IT industry itself or its demands. It was been planned, and it has very special needs. As a result, IT parks and centres are squashed willy-nilly into the city's crevices, with little regard to whether their needs are met, and even less regard to the impact the provision of those needs have on the surrounding areas.

Conceptually, the planning approach mandated by law is exactly the reverse of what it should be. Our planner-god makes his plan and then invites the public -- the city's users -- to 'object' and make 'suggestions'. This is like an architect and an engineer first building a house and then saying to the client, "tell us what's wrong with it". The law forgets that the city user is the client; the city user's requirements, needs, desires and aspirations should first be ascertained, and a plan then prepared

and a city designed to meet those needs and requirements as closely as possible. There is, in architecture, environmental work and law, a certain arrogance typical of the specialist. It says, look, we know what's good for you; you're not the specialist. You don't understand. In architecture, this invariably results in terrible design even if the structure is monumental and grand; in environmental work, it results in what I call ecological fascism; and in law it results in very large bills for very little result.

What we need is, first, a greater decentralisation as the beginning of the planning process and, second, a recognition that people do themselves want to protect their urban environments. An organized housing colony, with security of property ownership, results in home owners taking great pride in what is theirs and adopting initiatives wholly independent of the government in improving their living conditions -- cleaner streets, bigger common spaces, parks.

Take away this recognition and the result is a constant and widespread civic oppression that works silently but lethally to destroy a city. The previous mayor of London, Ken Livingstone, did something very like this when he started asking for city-user response from very small planning units, trying to determine what it is that each locality wanted and needed. London, as we know, has magnificent public parks. It also has efficient public transport systems, and effective noise control, ambient air quality and traffic restraints. It has a huge number of heritage buildings and its heritage laws balance changing needs with conservation. The latest initiative

is the makeover of the Battersea power station. Across the Atlantic, Manhattan -- possibly the closest parallel to Mumbai -- has for the past many years been steadily adding to its public open space stock.

This is not merely environment protection. This is urban design. This is the maintenance and nurturing of an urban form. The environment and the urban form are inseparable.

Consider the effects on the city of not following this perfectly logical approach. Our law speaks of 'balanced development', and it also mentions requirements like open spaces, environmental considerations etc. Yet what we see is something quite different. Spaces reserved for public purposes -- parks, playgrounds, recreation grounds, infrastructure facilities like public transport terminals and schools -- are continuously being eroded. In their place we find high-end malls and luxury apartments. How can a mall ever be a substitute for a public park? To say this does violence to the language and defeats common sense. What we are witnessing therefore is a systematic dismantling of the environment and a resultant degradation of the city's urban form.

When citizens confront these issues in court, the results are often bizarre. Challenging the removal of ancient trees for the widening of Ganesh Khind road in Pune, the Court was solemnly told that trees cause pollution. Cars are forced to slow down and engines are idling because of trees, the lawyer said. That causes pollution. Therefore trees cause pollution. In another matter, an NGO, Friends of Trees went to court

to protect the two beautiful giant trees on Cadell Road outside the Catering College. This time it was the judges who said that the trees cause accidents. This is like saying that rain causes flooding.

Perhaps my strangest exchange was not very long ago in a public interest litigation filed by Citispace challenging the government's policy of permitting slum rehabilitation on playgrounds and recreational grounds reserved in the development plan. Before we had even properly opened the matter, a High Court judge proclaimed that the Petition was elitist.I suggested a look outside the window. You will not find the elite sitting around on our maidans in the evening. And this is about these public open spaces not just here but throughout the city, in Dadar, Matunga, Chembur and Kandivli. The elite have their private colonial-style clubs with sprawling lawns and golf courses. They also have what they euphemestically call farmhouses, splending bungalows of several thousands, or tens of thousands, of square feet around Alibag or in the mess that was once a pair of quiet hill stations called Lonavala and Khandala.

In this case, the government actually filed an affidavit saying it could not prevent encroachments on government lands. Think about that for a moment. The government says it cannot stop slums. The government does not provide adequate housing. The government then wants to rehabilitate slums -- on public open spaces. What manner of planning is this, and who benefits? The answer suggests itself, and it is not the people of the city, or the city itself, or the city's urban form.

"Where else are the slum dwellers supposed to go?" The senior judge -- now retired -- asked. "The lawns of the High Court," I suggested helpfully, "or perhaps the lawns of the bungalows of the Chief Justice, the Chief Minister, the Mayor, the Municipal Commissioner and the governor of the RBI? If the government can protect those government lands from encroachments, why can it not protect reserved open spaces?"

I was angry then, but the judges' question puts the conflict into sharp perspective. Are we to surrender our public open spaces, our environment, for slum rehabilitation? It's a myth to think that it is only the elite who benefit from these open spaces. They are as necessary for the rehoused slum dwellers as anybody else. And there is simply no reason why we cannot have both affordable housing and sufficient open space. Each is an equity, each is valid, each needs protection.

Environmental protection in the context of urban design and planning is an imperative not just found between the covers of a musty law book. It is a need of every city user. In the public imagination, a city without a decent environment is equated with disorder, chaos, lawlessness and corruption and this is dramatically represented in modern popular culture. Take just two examples. Christopher Nolan is a film director who envisions and reimagines cities. We see a startling example of this in Inception but in two previous movies, he shows us something quite different. The two Batman movies Nolan made -- this is not facetious -- Batman Begins and The Dark Knight both portray a city that is completely denuded

of its natural environment. Its built form is Gothic and intimidating in its enormity and darkness. In this city, we see no evidence of public commons, no green spaces, no vestige of environmental regard. This is a city rife with corruption, anarchy, disorder and, above all, lawlessness. This desolate urban form is directly linked with a collapse of civic and social systems.

In the Matrix trilogy, the contrast is even more stark -- we see a similar vision of a city degraded with no natural environment. The final redemption occurs in a public space, a large park with trees and grass against a wide expanse of sky.

These are not aberrations-- you see variations on the same thing in art, in music videos, in books. The

world of Thomas Pynchon's Gravity's Rainbow is very like this. The city in this post-apocalyptic devastated world is not a metropolis. It is a necropolis, a sprawling cemetery of the dead. The destruction of the urban environment results in the destruction of the urban form and of the city itself.

When, therefore, we are asked to negotiate the urban form, we are really being asked to negotiate the environment. If we continue to degrade our environment, we undermine the future of our cities and of their users. If we are to have habitable, livable cities, we must protect their environments; and no environmental protection is ever possible without protection of the users of the city, especially the city's poor and its homeless.

Doppler officials pray for sunshine

Bella Jaisinghani | TNN

Mumbai: In a twist of irony, the wet spell that is being welcomed by the parched metropolis has interrupted the installation of the crucial monsoon radar. The Colaba weather bureau had nearly finished erecting the long-awaited Doppler radar atop a Navy Nagar highrise when the rains arrived to throw a spanner in its works.

"For so long people had been asking us when it would rain, and here we are, praying for a sunny day so we can complete the installation of the radar," said deputy director general of meteorology, R V Sharma. Giving technical details of the operation, he said, "The radome, which is the outer portion of the radar and appears like a giant white ball in the sky, requires a sealant to be applied in order to avoid leakage. Pouring rain and strong winds make the task difficult because the radar is located atop a tall building in an open area. The process has slowed down a bit but we will resume once we get a dry interval."

"We are hopeful that the radar would be up and functional before the monsoon is over," another officer said. When the operation is completed, it will end Mumbai's five-year wait for an advanced Doppler.

Doppler radar for Colaba packed off

Defence Won't Allow Chinese To Set It Up

Sanjeev Shivadekar | TNN

Mumbai: The mistrust with which India views China has taken a toll on the city's weather prediction mechanism. Not only has the installation of the Doppler radar—imported from China—been put on hold, but the radar itself has been sent back to Delhi.

The China-made radar, lying unused for more than six months at the compound of the weather bureau office in Colaba, was shifted to Delhi in the last week of December. The administration's hand was forced after the defence ministry vetoed a proposal to allow a team of Chinese officials to visit the high-security Navy Nagar to instal the radar.

Officially, the reason was

A Chinese firm won the tender for the radar (seen here lying at the Met office) in 2007

"technical problem". "We have moved the radar to Delhi as there was some technical problem," IMD-Mumbai deputy director-general of meteorology R V Sharma said.