

Supreme Court Judgement
December 9, 2003

Relevant Excerpts

The 5th July, 2000 Judgement of the Bombay High Court listed 187 roads as Hawking Zones. The Supreme Court Judgement of December 9, 2003 has approved these 187 roads as hawking Zones.

Several Hawker Unions in their various Special Leave Petitions in the Supreme Court had asked for the inclusion of 280 additional roads of which the BMC approved 105. However as..... of these did not meet the requisite guidelines they were deleted. Thus there remained 51 roads on the BMC's approved list. Of these the Supreme Court has approved 49 stating that:

"The approval of these 49 roads is subject to approval/NOC from the traffic police.".... "The roads we have excluded are Pandey Road in A Ward and Deodhar Road in F/N Ward as they appear to be residential areas with no shopping line. We further clarify that amongst the 49 roads there are some roads e. g. Mahatma Gandhi Marg in A Ward which are already included in the hawking zones but on which BMC now proposes to accommodate additional hawkers. Whilst doing so BMC will ensure that there is no impediment or hindrance to vehicular traffic pedestrians"

Restrictions & Conditions for Hawkers

"It must also be clarified that even though a road may be within a hawking zone the restrictions, set out hereunder, regarding distances from railway stations, hospitals, educational institutions, places of worship etc. on that road, if any, would continue to apply.

"The restrictions/conditions on which the hawkers shall do the business are:

- 1) An area of 1 mtr x 1 mtr on one side of the footpath wherever they exist or on an extreme side of the carriage way, in such a manner that the vehicular and pedestrian traffic is not obstructed and access to shops and residences is not blocked. We further clarify that even where hawking is permitted, it can only be on one side of the footpath or road and under no circumstances on both sides of the footpaths or roads. We however clarify that Aarey/Sarita stalls and sugarcane vendors would require and may be permitted an area of more than 2 MT. X Mt.;
- 2) Hawkers must not put up stalls or place any tables, stand or such other thing or erect any structure. They should also not use handcars. However they may protect their goods from the sun, rain or wind. Obviously this condition would not apply to Aarey/Sarita stalls;
- 3) There should be no hawking within 100 meters from any place of worship, holy shrine, educational institutions and hospitals or within 150 meters from any municipal or

other markets or from any railway station. There should be no hawking on foot-bridges and over-bridges. Further certain areas may be required to be kept free of hawkers for security reasons. However outside places of worship hawkers can be permitted to sell items required by the devotees for offering to the deity or for placing in the place of worship e.g. flowers, sandalwood, candles, agarbattis, coconuts etc.

- 4) The hawkers must not create any noise or play any instrument or music for attracting the public or the customers;
- 5) They can only sell cooked foods, cut fruits juices and the like. We are unable to accept submission that cooking should be permitted. We direct that no cooking of any nature whatsoever shall be permitted. Even where cooked food or cut fruits or the like are sold, the food must not be adulterated or unhygienic. All municipal licensing regulations and the provisions of the Prevention of Food Adulteration Act must be complied with;

- 6) Hawking must be only between 7.00 am and 10.00 pm;
- 7) Hawking will be on the basis of payment of a prescribed fee to be fixed by the BMC. However the payment of prescribed fee shall not be deemed to authorize the hawker to do his business beyond prescribed hours and would not confer on the hawker the right to do business at any particular place;
- 8) The hawkers must extend full cooperation to the municipal conservancy staff for cleaning the streets and footpaths and also to the streets and footpaths and also to the other municipal staff for carrying on any municipal work. They must also cooperate with the other government and public agencies such as BEST undertaking, Bombay Telephones, BSES Ltd. etc. if they require to lay any cables or any development work;

- 9) No Hawking would be permitted on any street which is less than 8 meters in width. Further the hawkers also have to comply with Development Control Rules thus there can be no hawking in areas which are exclusively residential and where trading and commercial activity is prohibited. Thus hawking cannot be permitted on roads and pavements which do not have a shopping line;
- 10) BMC shall grant licences which will have photos of the hawker on them. The licence must be displayed, at all times, by the hawkers on their person by clipping it on to their shirt or coat;
- 11) Not more than one member of a family must be given a licence to hawk. For this purpose BMC will have to computerize its records;

- 12) Vending of costly items e.g. electrical appliances, video and audio tapes, cameras, phones etc. are to be prohibited. In the event of any hawker licence found to be selling such items his licence must be cancelled forthwith;

- 13) In areas other than Non-Hawking Zones, licences must be granted to the hawkers to do their business on payment of the prescribed fee. The licences must be for a period of 1 year. That will be without prejudice to the right of the Committee to extend the limits of the Non-Hawking Zones in the interests of public health, sanitation, safety, public convenience and the like. Hawking licences should not be refused in the Hawking Zones except for good reasons. The discretion not to grant a hawking licence in the Hawking Zone should be exercised reasonably and in public interest;
- 14) In future, before making any alteration in the scheme, the Commissioner should place the matter before the Committee who shall take a decision after considering views of all concerned including the hawkers, the Commissioner of Police and members of the public or an association representing the public;
- 15) It is expected that citizens and shopkeepers shall participate in keeping non-hawking zones/areas free of hawkers. They shall do so by bringing to the notice of the concerned ward officer the presence of a hawker in a non-

hawking zone/area. The concerned ward officer shall take immediate steps to remove such a hawker. In case the ward officer takes no action a written complaint may be filed by the citizen/shopkeeper to the Committee. The Committee shall look into the complaint and if found correct the Committee will with the help of police remove the hawker. The officer in charge of the concerned police station is directed to give prompt and immediate assistance to the Committee. In the event of the committee finding the complaint to be correct, the so record. On the Committee so recording an adverse remark re failure to perform his duty will be entered in the confidential record of the concerned ward officer. If more than three such offences are recorded against an officer, it would be a ground for withholding promotion. If more than 6 such entries are found in the record of an officer it shall be a ground for his removal from service. If every citizen group looks after its immediate surroundings, the BMC shall pay to the Chairman a fixed honorarium of Rs. 3000/- per month. The scheme framed by us will have a binding effect on all concerned. Thus apart from those to whom licences will now be issued, no person or other business on the roads/streets carry on any hawking or other business on the roads/streets. We direct that the matters are now pending. We are quite sure that the concerned authorities will take necessary steps to ensure its injunction. The principle is that all major, trunk and arterial roads should automatically be excluded from hawking zones. The committee will also be entitled to examine, on receipt of a complaint, any road or street which is a hawking road. If it is found that such a road is a hawking road, it will be declared as a hawking road and pedestrian traffic hawking can be permitted. For example we see no reason why the old road in A Ward, of course hawking cannot be permitted. The Committee will consider whether some parts of these roads can be declared as a hawking zone."

1. Communicate in writing with your Assistant Municipal Commissioners in your Ward office and complain about persistent illegal hawkers
2. Play the role of a "watch dog" by being very vigilant
3. Disseminate information, widely
4. Convince your Society/Collective action is a must to keep the area hawker free
5. Buy only from licensed hawkers in Non-Hawking zones

6. Be informed and inspired
7. When the Court appointed Committee is set up exercise your right to keep your Non-Hawking Zone free of hawkers
8. To keep your Hawking Zone limited and within the Supreme Court guidelines

"We appoint a Committee consisting of a retired Judge of the Bombay City Civil Court at Bombay (to be nominated by the Chief Justice of Bombay High Court) and a senior officer of BMC (who shall be nominated by the Commissioner) and a senior police officer from the traffic department. For the present the Officers will be deputed full time to the Committee and the Committee all facilities like office space, secretarial staff etc. BMC shall also make available a chauffeur driven car which is to be used for this work only. Any person or organization who feels, that roads/streets apart from those designated as non hawking zones are suitable for hawking, may apply to this committee, for having that road/street designated as a hawking zone. Similarly any person or organisation who feels that any road/street designated as hawking zone should be a non hawking zone may apply to the Committee for having that road/street designated as a non hawking zone. The person or organization so applying must deposit along with the application a sum of Rs. 1500/- per road/street in respect of which they want a decision. BMC shall add to that sum of Rs. 1500/- per road/street. The sum of Rs. 3000/- per road/street shall be

handed over to the Chairman of the Committee as his honorarium. The Committee shall then cause a notice to be placed in the concerned ward office and in prominent places on that road/street inviting objections/suggestions in respect of that proposal. Undoubtedly the Committee shall visit the road/street and also hear all concerned parties including residents associations, shop owners in that road/street. The Committee shall then decide whether or not the committee will also decide how many hawkers can be accommodated on that road/street if it is to be a hawking zone. We clarify that merely because in the scheme, as most important aspect of all zones or a non hawking zone, will not preclude the committee from considering whether hawking can be permitted on that road/street. The committee shall ensure that the above mentioned criteria are fulfilled if the criteria are met then that road/street is not kept out of a hawking zone. In the event of any differences between the members of the Committee or of Chairman of the Committee shall prevail. The decision of the Committee shall be final. We direct that the matters are now pending. We are quite sure that the concerned authorities will take necessary steps to ensure its injunction. The principle is that all major, trunk and arterial roads should automatically be excluded from hawking zones. The committee will also be entitled to examine, on receipt of a complaint, any road or street which is a hawking road. If it is found that such a road is a hawking road, it will be declared as a hawking road and pedestrian traffic hawking can be permitted. For example we see no reason why the old road in A Ward, of course hawking cannot be permitted. The Committee will consider whether some parts of these roads can be declared as a hawking zone."

"We clarify that the scheme framed above and the guidelines are not applicable to hawkers who do not sit in any place but who travel from place to place carrying their wares with them. However, even such hawkers shall require to obtain a licence for their shirt/casuals. Such hawkers will be allowed to sell in residential areas and areas where there are no shops. The committee will only vend articles of immediate requirement i.e. The following guidelines will not hawk within 100 meters of any place of worship, holy shrine, educational institutions or hospital or within 150 meters of any municipal or other markets or from any railway station."

Cobbler's Shopkeepers have been accepted by the Bombay High Court. We confirm that finding of the Bombay High Court, but clarify that the finding of the Bombay High Court regarding hawking zones can be applied to the hawking zones. We direct that the matters are now pending. We are quite sure that the concerned authorities will take necessary steps to ensure its injunction. The principle is that all major, trunk and arterial roads should automatically be excluded from hawking zones."

Method of Issuing Licences. All State Holders in the city of Mumbai and invite applications for allocation of licences. Each application must state the area where a pitch is sought and give a choice of not more than 3 locations indicating 1st, 2nd and 3rd choice. All applications will then be considered and the number of applicants, for a road/street, do not exceed the number of hawkers who can be accommodated on that road/street. If the number of applicants, are more than the number of places available, the Committee will place before the Committee. The Chairman of the Committee shall then allot licences on basis of a draw of lots by him. Those who do not get a licence will be placed on a waiting list. As and when any other road/street gets declared as a Hawking Zone, lots will be drawn from the waiting list and places allotted."

Time Frame for Implementation "We realize that it will take some time for the above exercise to be completed. We hope that the above exercise shall be completed within 6 months from today. In the meantime licences may be issued and hawkers may be located in zones already approved by us by a draw of lots as indicated above. We now adjourn these matters to 23rd July 2004. On that date BMC will inform us, on affidavit, how many more roads/streets have been declared as hawking zones and how many licences have already been issued and how many more hawkers are likely to be accommodated."

THE NEIGHBOURHOOD PROJECT

The Neighbourhood Project is a simple pedagogical device modelled on methods that many teachers in Indian schools and colleges are familiar with. The famous Eklavya project has been an important inspiration. That initiative was among the pioneers in considering local spaces as dense learning devices, as the best texts and contexts to make connections and learn more about local, regional, national and global worlds simultaneously.

The Neighbourhood Project gets students to document, visually and textually, the history and ethnography of their own buildings, houses and localities, integrate their own family histories into this narrative and then locate themselves within larger questions of identity and belonging, either as city-dwellers, national citizens or in any other way. This process gets them to link their own lives to the cultural politics of the cities and towns they live in and also raise pertinent questions about ways of belonging in all sorts of ways.

In my own experience of this project at Wilson College, done as part of my 'associate-ship' with PUKAR (Partners for Urban Knowledge Action and Research, Mumbai, a research collective based in the city), I found that the one concept which was discussed, stretched and pulled in various directions was that of "heritage".

Heritage was initially a rather fixed, architecturally contoured and hard-as-concrete concept in the way it was used by us. Wilson College is a heritage building, the college is 168 years old and most students live in areas which are either classified as, or should be classified as, heritage districts – Fort, Kalbadevi, Girgaum, Mohammedali Road, Dongri. Students photographed these spaces, wrote histories and looked at their own dwellings in a little more confident way, during the initial phase of the project.

But the concept melted the moment it was de-linked from the buildings and made to flow into biographies and histories of individuals, families, buildings and localities. Heritage immediately came to imply the special way of living within urban spaces in a manner that is acutely conscious of its history. One where factories, chawls, high-rises, shops, offices, docks, all get to be included in its purview and the students' own lives become central to understanding ways of belonging to the city. The project began to believe more firmly that urban spaces are constituted as much by its physical components, like buildings, streets and homes as they are by the subjective experience of living in them, made vivid by memories, imagined histories and cultural symbols.

Source: Pankaj Joshi



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Since the concept of heritage was central to this particular project, the question of what constitutes heritage in non-material terms became very pertinent. Heritage as part of a national, cultural and symbolic world came to be scrutinised very minutely.

Important questions began to be raised. How did the city of Mumbai come to privilege a certain kind of symbolic heritage in terms of Marathi language and then Hindu religion? What did this do to those who were neither? And how could their organic links to the city's history be understood in terms of the present politics of the city? How could they be such an intrinsic part of the city's heritage in both narrow and in the broadest possible terms, be part of its history so intimately and yet be seen as cultural misfits in its present form?

In recent times our understanding of urban spaces has faced many challenges, mainly in the form of ethnic conflict in cities. While one can explain them in the context of social inequalities, lack of urban planning and, most pertinently, deliberate political manipulation of citizens, it is still unclear how and why some 'ordinary' urban dwellers participate in these pogroms and change the face of these places from familiar spaces, (even if not always comfortable and adequate) into battle-zones and sites of misery.

While these questions continue to puzzle and stimulate discussion and require complex theorising and study, the Neighbourhood Project, through its experience of narrating the city in different ways, came to offer a humble thesis that energised the politics of its practise and also made us look at the concept of heritage in sharper ways.

Based on conversations with students for almost five years, regarding the urban riots which ruptured the city in 1991-92, one came to understand that urban spaces are deceptively familiar zones and this false sense of familiarity can convert people into victims of propaganda and rumour, both of which played powerful roles in the riots.

The students were anything between the ages eight and thirteen years when the riots had broken out and had vivid memories of the incidents. Most of them came from areas that were perceived as particularly volatile – the old city areas of Girgaum, Mohammed Ali Road, etc. Some had been involved in rioting as well. They believed that most of them knew their own localities fairly well but had rarely ventured into areas that were considered to be alien worlds. This was particularly true for girls who faced greater restrictions over their movements. They felt that their imagined sense of the city's sociology and history

was quite distant from their actual experience or what they perceived to be the real stories.

These conversations culminated in a series of exercises that involved exchanging neighbourhood stories across localities and even inviting each other to seemingly alien localities. What emerged was a sense of acute excitement at re-discovering their urban identities. This also led to questions about other cities, curiosity of urban histories of other countries as well as a desire to understand the frontiers of their own city the rural-urban worlds which lie on the fringes. It was not just an objective understanding of their worlds which was emerging but a process of constructing their own relationship with Mumbai in conjunction with exploring other identities and other experiences of living in the city.

Thus, the Neighbourhood Project emerged as a method to organise these stories and experiences in a particular context. Not with the intention of writing any objective history or ethnography of the city, but with an aim of getting more and more people to write their own versions of it. Delving into family anecdotes, inscribing the experiences of grandparents and great grandparents, looking at their own buildings, housing societies and streets and then, very importantly, exchanging these stories with each other.

At a theoretical level, important commentaries have pointed out how local spaces cannot be taken for granted and that they are as fragile and need to be worked upon as are national boundaries. (Arjun Appadurai's essay, The production of locality has been a vital reference for this project). And since it is often only the latter that are acknowledged as being fragile, what follows is an acceptable vigilance at maintaining boundaries and manufacturing matching emotional sentiments in its citizens. Unlike local spaces, which tend to be taken for granted, and in the context of sharp inequalities and poverty, combined with politically volatile narratives (regional, national or any other) become periodically, victims of horrendous pogroms. The fact that local spaces also need a conscious attempt at maintaining peace, forging a sense of belonging which is autonomous from nationalist pride and making sense, in very definite ways of everybody who shares urban space, is something which needs to be underlined again. Finding out and exchanging histories and life-stories and making a conscious attempt at overcoming alienation which becomes so easy in the taken-for-granted, everyday world of locality is an important way of avoiding a repeat of the horrifying ethnic violence which we have seen in recent times.

Urban environments are constituted, as we stated in the



start of this note, of a judicious combination of physical and imaginative worlds.

And the concept of heritage, infused by biography, family history and locality rather than as a broad one-dimensional concept becomes important to give people a sense of belonging in all sorts of complex ways. The Neighbourhood Project attempts at understanding these imaginative worlds, with a conscious political agenda that all heritage is ultimately about the people who constitute the way it is visualised, written about and built. And it should, as consciously as possible, be visualised, written about and built keeping in mind the people and their stories.

Most of Wilson College students who live in the old city of Mumbai, and who were part of the project, definitely began to relate to both, the college as well as their neighbourhoods differently, after taking part in the project.

From being seen as “vernies” who were never accepted as part of the modern Bombay experience and being embarrassed at revealing their addresses, (there used to be a long pause before they would say, “...Dongri” or “...Girgaum”), many of them became more involved in discovering the histories of their localities and were proud to write and share this history.

Wilson College, with its Scottish patronage during British rule, had always welcomed students from lower middle class backgrounds, non-English speaking families, children of freedom fighters and so on. It allowed for some breathing space for being critical of colonialism and spawned many generations of freedom fighters. Its students were largely from the same neighbourhoods then, as many of them come from today. It was not very long before students today began seeing connections between the radicalism of the college's history and their own special place in the city's history (the principal, during Gandhi's salt satyagraha, actually provided a safe haven within the college to the satyagrahis, and shut its gates to the lathi-wielding policemen, a wonderful gesture of embracing the neighbourhood and its politics into the otherwise more insular world of education).

If these histories are made more explicit, then buildings, localities, towns that are classified as heritage structures, like Wilson College, will allow its spaces to fill with the voices of people who have lived there in the past and who have shaped the way the present generation occupies it today. This would also allow for a special way to forge bonds with the city, a way in which it would be impossible for anyone to manipulate its story. A way in which no one would be allowed to transform it into a battle-zone ever again.