

Dharavi: Makeover or Takeover?

SHIRISH B PATEL

Dharavi in Mumbai exemplifies what is most ugly and what is most inspiring about slum life in a city. How should it be redeveloped to remove the ugliness and yet retain its community spirit, enterprise, ambitions and hope? Current plans are focused on profit-making, by developers and government, with the welfare of the residents an incidental nuisance. This article examines the many attendant constraints in developing viable solutions. One is the promise of free pucca housing for slum-dwellers, which seems to have become a given for all slum redevelopment schemes in Mumbai. Another is the fact that Dharavi already has the highest living densities in the world, and redevelopment of the kind that is proposed will triple these densities, making living there unviable. The result could be that the present residents will sell out and flee, leaving Dharavi in the hands of high-income occupants living at more comfortable densities. An alternative would be to provide the essential infrastructure of water supply and sanitation, frame rules for redevelopment, and leave it to organisations of the residents themselves to take up reconstruction as and when they wish, in consonance with an overall plan.

Dharavi is an extraordinary conundrum: a happy, thriving, prosperous place with the most insanitary, inhuman and degrading working and living conditions imaginable. No one will contest that its most disgusting aspects need to be improved. And no one will deny that in many ways it is an inspiring place, with a strong sense of community, negligible crime, and a great deal of cheerfulness and vigorous hope. It is obvious that the abominable aspects are a consequence of official denial – no sewerage or safe water supply, drains open, insanitary, and chemically contaminated – and the admirable aspects have been brought about by the people themselves, who live and work there and have built, without subsidy or support, whatever it is they have. How can Dharavi's ugly aspects be changed?

There is enormous pressure for the redevelopment of Dharavi from forces whose primary interest is not the welfare of Dharavi's people, but the hunt for profits, where the government of Maharashtra is a declared partner. This has to be consistent with a peaceful transition – that is, not too much blood on the streets. Residents must somehow be enticed to accept redevelopment that will generate huge profits for developers (of the order of tens of thousands of crores – the state government alone expects Rs 9,000 crore as its premium). Essentially this means that the residents, already living at densities among the highest in the world, must be persuaded to move into part of the land area they currently occupy, in high-rise buildings packed closely together. The remaining land area, rather more than half, will be freed for construction of high-value apartments, offices and malls. Some of the profit will finance the re-housing of existing residents, free of cost to themselves. They must be persuaded that they are completely illegal trespassers, and that their homes can be bulldozed without compensation. But if they agree to the new arrangements they will own spanking new apartments, much larger than their present homes, in high-rise buildings, something they highly prize as a symbol of middle class respectability, far above the indignity of living in a shack. The resulting crowding and loss of community spirit are not easily understood.

No one is asking whether the final densities, several times anything seen so far anywhere in the world, will be liveable. By the time it is discovered that such crowding is in fact not viable, the original promoters will have made their money and vanished.

Alternatively, if we start with the welfare of the residents as our primary concern, a completely different set of possibilities emerges. If one wants to undertake "redevelopment", for whatever reason, there is much in Dharavi that is precious and at risk of being lost if the intervention is clumsy or insensitive. So one should hesitate to endorse any particular approach, however carefully thought through, without first testing it on a pilot scale.

Abbreviated from a chapter in a forthcoming book on Dharavi edited by Joseph Campana.

Shirish B Patel (shirish@spacpl.com) is a civil engineer and urban planner based in Mumbai.

The urgency of intervention, much touted by the profit-seekers, thus seems a consideration that is adverse to the uncovering of those solutions that offer the best long-term advantages for the residents of Dharavi.

Before searching for solutions let us first understand Dharavi's many complexities and the attendant limitations and constraints that these impose.

Geography

In relation to Mumbai, Dharavi is remarkably well located, at the heart of the city, a triangle of land served by railway lines on two sides and bounded by the Mahim Creek and its mangroves on the third. It is just south of the important new business district, the Bandra-Kurla Complex (BKC), an emerging alternative to the old central business district (CBD) in south Mumbai. The BKC is just south of the airport, so in many ways it is more convenient to reach than the CBD. Any location adjoining BKC would naturally be highly prized. That Dharavi rubs shoulders with BKC, and that it is exceptionally well served by mass transport, makes it of huge interest to real estate promoters and developers.

Supreme Court

A Supreme Court lawyer has reviewed judgments that have come from the Court both recently and in the past (Bhushan 2009). He shows that the recent spurt in economic growth, far from being inclusive, has been achieved at the expense of the poor and marginalised sections of society.

Thirty years ago, an activist Supreme Court created the PIL or "public interest litigation". Article 21 of the Constitution of India guarantees the right to life and liberty. The then Supreme Court's creative interpretation of this was that the right to life did not merely mean an animal existence, and protection from physical harm by the State. It meant the right to a life of dignity, and a right to food, water, shelter, education and health, and the right to live in a clean and decent environment. The Court could direct the government to provide these amenities to citizens deprived of them. And on the question of locus standi for a PIL the Court declared that any citizen could approach it pro bono on behalf of those affected, since they might not have the resources to do this themselves. In the 1980s there were several path-breaking judgments that kept the hope alive that India would move to being a genuinely "socialist, secular, democratic republic".

However, from the 1990s there has been a change in the attitude of the Supreme Court. First, many civil liberties have been sacrificed on the grounds of "state security". Judgments increasingly reflect an authoritarian and fascist mindset that give the authorities the power to incarcerate whosoever they choose, with no recourse to the Courts. Second, with regard to environmental activism, when environmental protection comes into conflict with the socio-economic rights of the poor, the poor are given short shrift, but when the conflict is with powerful commercial and vested interests it is environmental protection that is given short shrift.

The government has also increasingly started using the Supreme Court as a protective shield when taking unpopular action.

The clearing of poor settlements to make way for malls or temples is best done using the authority of the Courts. The government, answerable to the people and looking to the next election, is thus absolved of all responsibility in the matter. The Supreme Court is of course answerable to no one, because in India judges have made themselves a self-appointing and self-perpetuating oligarchy. With this elitist attitude in the Supreme Court, inequality is first pushed to even greater extremes by the engines of justice, and then this inequality is shrouded with the cloak of law.

Our Supreme Court, far from promoting the advancement of society, and far from being the haven of last resort against the excesses of government, has turned itself into something to be avoided at all costs for anyone seeking natural justice.

Inequality of Man

Indians have an ancient belief extending over millennia that all men are fundamentally unequal; that each is born to a particular station in life which carries its own label of caste and sub-caste and sub-sub-caste. Converting to another religion like Islam or Christianity or Buddhism has only marginal impact on this belief: a person's original caste status carries over and remains with him and his descendants forever, any change of religion notwithstanding. Some people are inferior to us, and some are much inferior. This acceptance of inequality runs through all levels of society. It is sustained not only by those who believe themselves superior but equally by those who believe they are inferior and deserve their lot. So the ruling classes have no difficulty in treating some people as worse than animals, and the poor are not too unready to accept it. No pricks of conscience on the one hand, and no deep resentments on the other. And the groups the ruling elite choose to treat badly can change with time. The easiest ones to rubbish are the poorest. In our cities, they can be denied water supply, sanitation and organised garbage collection. This helps to further underline the view that they are basically unsanitary. It masks the truth, which is that it is the ruling elite who are basically inhuman. The foul living conditions of the poor in cities are a consequence of the fact that it is the upper classes who want them thus. Not only are the poor to be denied decent living conditions, they are to be denied the right to be where they are at all. Their presence in the city must always be illegal, so that they can be pushed out whenever the upper classes want back the land on which they have been encouraged to settle.

Flying in the teeth of this fundamental belief in the inequality of man, we now have the unlikely and astonishing phenomenon of democracy surviving in the country, to the point where it can probably no longer be uprooted. Democracy's companion, the delivery of justice, is far from perfect. It is too slow, because slowness enriches lawyers. But it is also, in practice, unequal, and aligned with our earlier traditions. The powerful and well-to-do by and large go unpunished, regardless of the gravity of their offences. And the rest of us are too easily incarcerated. An occasional high-visibility offender is sometimes strung up, to "prove" that the justice delivery system is fair, and to mask the reality that it is not.

Cities grow because of rising prosperity. They create both formal and informal jobs. More jobs has to mean more population to

service those jobs, and more population has to mean more housing. You do not want to force employers who create new jobs to provide the corresponding housing for their new employees, because that will add unacceptably to their business costs. The State will not provide the housing because it has set “minimum” standards for a “decent” house which it cannot afford to build except for a tiny fraction of the demand. The firm belief is that if such a “minimum”, “decent” house cannot be provided it is better to provide nothing at all, not even water supply, sanitation or garbage collection. People are given jobs in the city, but must then house themselves by illegally occupying any vacant land they can find. One of the worst examples of this is that in Mumbai in May 2006 we had 4,426 police constables (13 more than there were a year earlier) and 81 police inspectors living in slums: officers of the law who are illegal residents of the city. The crowning insult is when the Supreme Court calls them “pickpockets”,¹ because of the failure of the State to provide them with a legal place on which to pitch a tent when giving them a job in the police force. Now of course more than half of Mumbai city’s population is pickpockets if we are to follow the nomenclature deemed appropriate by the Supreme Court.

Migration

There is an erroneous but widely accepted and persistent notion that city growth occurs largely because of migration, and if only we could control this we would eradicate slums in our cities. No attention is paid to the freely permitted growth of jobs in the city, as if that were neither here nor there. In fact, many jobs locate in urban areas to take advantage of a cheap labour pool – made cheaper still because workers compete among themselves by accepting lower and lower wages, while not demanding housing, however miserable. A policeman offered a job in Mumbai will grab it, never mind that he has nowhere to stay. And one of the most totalitarian of regimes, in China, has not succeeded in stemming migration to urban areas despite the most draconian laws.

China’s system of constraining population movement has been in place since 1958 – the *hukou* system, whereby individuals are assigned place of residence, either urban or rural (Cheng 2008). The authorities’ permission is needed for a rural person to move to the city. Without that permission, he loses all social benefits such as education, housing, and healthcare. And despite that, 130 million people in China have moved unauthorisedly to urban areas: the draw of employment, however poorly paid and however severe the competition, seems to override.

We should try and understand how and why jobs continue to concentrate and grow in cities.² Let us distinguish between two kinds of jobs: what we might call *exogenous* jobs, that have a clientele that is not local but widely dispersed, either across the country or even internationally. Typical exogenous jobs would be in automobile manufacturing, or in a call centre. Customers are not local: they are all over the country, or even elsewhere in the world. Most employees holding such jobs will have families living with them in the city where the exogenous job is located, and these families will require local services of various kinds – restaurants, dhobis, vegetable sellers. These activities also generate jobs, which we might call *endogenous* jobs, entirely dependent on

a local clientele and servicing a local area. These job holders also have families which also need the same services, so in a sense the number of endogenous jobs is directly linked to the size of the city’s population, and the two will grow together.

What is interesting is that exogenous jobs are footloose. They can locate anywhere in the country, and will go to whichever place offers them the best economic or operational advantages. By contrast, endogenous jobs are firmly tied to place since they provide services where the customers are the surrounding local population. We should note that with rising prosperity the demand for local services increases. Beauty parlours that hardly existed 50 years ago are now everywhere. New service activities also emerge: chopped vegetables ready to cook, sold in clear plastic bags in trains in Mumbai is a recent invention. So we can expect the ratio of endogenous to exogenous jobs to increase with rising prosperity. And we have precious little control over the growth of endogenous jobs. Exogenous jobs, by contrast, and especially because they are footloose, respond to policy measures that influence choice of location. And in the long run it is the location of new exogenous jobs that will induce greater growth in one area rather than another.

Law of Adverse Possession

Many people do not know that our laws are not just the explicitly written laws, legislated by Parliament or a state assembly into existence. There are also unwritten, uncodified laws that override, because they are inherent in and derived from the written Constitution of India. We could call them judge-made laws. They are based on judges’ interpretations of the fundamental guiding principles set out in the Constitution. That these override is seen in the fact that parliamentary or assembly legislation can be struck down as “ultra vires” if it can be shown to be contrary to the Constitution’s guiding principles. And “...even in the absence of specific enactments dealing with a particular situation, certain fundamental rules, basic principles and minimum requirements of law are well settled and all authorities are bound to observe them” (Takwani 2008).

Besides this, there is something called the doctrine of “legitimate expectations”. “A person may have a legitimate expectation of being treated in a certain way by an administrative authority even though he has no legal right in private law to receive such treatment (ibid: 327).

Another doctrine, particularly interesting from the point of view of Dharavi, is the Law of Adverse Possession. This is where someone claims his own title to a property to which the title of another is not disputed: what is alleged is only its extinction (Agarwal 1988). In regard to property, we note that the law distinguishes between ownership and possession. They are not the same. Ownership is pre-eminently a right. Possession is good title against all but the true owner. Possession is prima facie evidence of ownership, and the prima facie evidence becomes absolute if the right of the real owner is extinguished under Section 27 of the Limitation Act, 1963 (ibid: 9). Under this Act, the period for adverse possession to become a right is 12 years. If for 12 years, reckoned from the time adverse possession first occurred, the owner has not taken legal steps to recover possession, then the

occupier can claim title to the property. In the case of government lands the period is 30 years, not 12. It is interesting that many residents in Dharavi have been there for more than 30 years.

Urban Land Is a Commons

Could we say that land is different from other kinds of personal property such as, say, footwear? That land is a kind of commons, to be shared by all – like our forests, lakes, rivers, barren hills and arable land? From this commons, individuals are assigned parcels for a specified use. This could be agriculture, or it could be for building a house, or for setting up an industry. There is normally a fee payable for this assignment of land for personal use, either annually or upfront, and the assignment is for a particular duration, which may be 30 years or 99 years or 999 years. At the end of that period the land in question reverts to the commons.

Suppose someone who has been assigned a parcel of land does not put it to any use, for many years at a stretch. The land should then revert to the commons, even though the original period of assignment is not over; and should be available again for reassignment.

At the heart of the issue is the question: when land appreciates in value, to whom does the appreciation belong? To the commons or to the private landholder? The private landholder may or may not have done much to contribute to the appreciation in its value. Appreciation is just as likely to have arisen from a range of external factors, such as growth in the city, or improved amenities in the area, or the construction of a nearby mass transit station, or the introduction of new, high-profile activities that elevate the tone of the district. If someone has acquired property in the district much earlier, but done nothing with it except wait for land values to appreciate, surely we can say the appreciation should not go entirely to him? We need more sophisticated ways of apportioning appreciation between the commons and individual landowners.

Mixed-income Housing

In large and dense urban agglomerations, there is a definite value in having high-income communities intermixed with middle- and low-income communities, as compared with a pattern of high-income residents at the centre diminishing to lower and lower incomes as one moves towards the periphery.³ Among the many advantages, one is that transport demands reduce. High-income residences will almost invariably have high value employment locations close by. Both the residential and the business areas will require services from the middle- and low-income groups. Having them close by, and not far-flung, will reduce both the cost and the time of travel for everyone. Another advantage is more qualitative, hard to quantify: it comes from the mixing of people from different income groups in activities of common interest. This may be walking in a park, haggling for vegetables, eating at moderately priced places, or watching street theatre. There is more to be learnt from variety in the people you encounter than you could learn from interaction with people “just like us”. A widened awareness of others can only be beneficial for society as a whole. There is thus a sociological gain from the intermingling which is lost when you divide communities into gated enclaves of the rich and

ghettos of the poor. It is equally lost when you divide communities along religious lines, or along linguistic lines. In fact much of the value of living in an urban area is lost when you divide the area into communities segregated in this, or in any other way – you might as well return to your village for all the difference the urban area is making to the widening of your mental horizons.

One additional reason for not segregating low-income groups is that their localities, when isolated, become black holes from which everyone wants to escape. They become derelict, if not abandoned. No worthwhile activity will move there – no shops, no gyms, no other decent facilities. Such areas, and the families that live in them, are consigned to a world of hopelessness. They cannot wait to get out and move to a more upmarket locality.

Community Land Trusts

Regenerating urban areas is a worldwide problem. As a recent report says (Bevington 2007), “If one of the aims of regenerating an area...is an uplift in values, and...replacement of low value housing with higher value housing, how will...residents...afford the new housing?...how is it possible to achieve the regeneration of an area without displacing its existing community?” The report discusses the Lower East Side, sandwiched between Wall Street and midtown Manhattan, and thus pregnant with development potential. It is “highly convenient for rich people but inconveniently occupied by poor people”. (Does Dharavi spring to mind?) The Lower East Side was described to the visiting team from England as “the opposite of a ghetto”. Unlike Harlem, “...the Lower East Side has never had a dominant ethnicity or culture, but has instead been a community of many cultures and a jumping-off point for people moving on to new lives elsewhere.” The parallel with Dharavi is striking, so it may be useful to look at what was done in Manhattan.⁴

The plan prepared for the Lower East Side incorporated three key principles: that local residents must be the beneficiaries, not the victims, of urban renewal; that the phasing plan must deliver new housing first, at the front end of the process; and that all residents could remain in their old homes until their new ones were ready for occupation.

The proposal that emerges is the concept of Community Land Trusts (CLTs). These are organisations of the residents living in the locality where the land underfoot is owned by the organisation, not by the residents. The appreciation in land values over time thus accrues to the community and not to the individual. The immediate purpose of the CLT is to provide affordable housing, that is, at below market value (whether ownership or rental). The larger purpose is to keep communities where they are in the geography of the urban area, thus retaining the value of mixed income development.

There are four essential features for a successful CLT:

- (a) There is a legal entity which can own an asset that belongs to the community. In India this could be a Trust, or a Society, or a Section 25 Company (that is, a Company which is prohibited from distributing profits to its shareholders, thus making it a “non-profit” organisation).
- (b) The land is held by the CLT. On this, individual members (shareholders) are assigned individual parcels, on which they are

allowed to build their homes, observing any restrictions the CLT may impose. Alternatively, individuals may hold apartments within buildings on the CLT's land.

(c) There is a resale formula for the sharing of capital gains accruing on resale of any individual property. The capital gains are shared between the CLT and the owner of the particular property being sold.

(d) There is a clear definition of the respective roles of the owner and the CLT in regard to maintenance.

When a property within the CLT is sold, it could be at less than market rates – this is what keeps the prices in this locality affordable; or the CLT could sell the property at market rates to a new, higher-income resident and use the funds to benefit the community in some other way. The latter course would allow for a slow gentrification of the area. This may not always be undesirable, particularly if it elevates the tone of the locality without destroying the modesty of its character. What is probably wanted in practice is a judicious combination of these two alternatives.

Bawana

When the poor are displaced, great care is taken to see that they have no rights in the location to which they are forced to move – even if they pay to occupy the new location. A classic recent example of this is the shift to Bawana, 40 km from the centre of Delhi, of a number of families who were occupying bustees in locations closer to central Delhi which over the last few decades had gradually become more and more valuable as real estate prices kept rising. The families shifted to Bawana are assigned “pitches” of either 18 sqm or 12.5 sqm, depending on each family's “entitlement”, derived from how long it has lived in Delhi. For this they pay upfront Rs 7,000 and 5,000 respectively, for the right to occupy their pitch for ten and five years. After these periods their shanties can be bulldozed and they can be forced to move yet again.

Discounting at 10%, a Rs 7,000 upfront down payment for a 10-year period works out to Rs 57.50 per sqm per annum for an 18 sqm plot. Similarly, Rs 5,000 paid upfront for a five-year licence is the equivalent of Rs 96 per sqm per annum for a 12.5 sqm plot.

Now if we compare these numbers with localities in central Delhi we find in Class A colonies the property tax rate is Rs 56.70/sqm, for Class B Rs 45/sqm, and so on till Class G colonies where the rate is Rs 18/sqm.

So residents in Bawana, 40 km away, are paying more than the residents of Class A colonies per square metre per year for being where they are, and between three and five times as much per year as the occupants of Class F and G colonies in Delhi. More to the point is that at the end of five or ten years the Bawana residents can be dispossessed entirely, unlike those in colonies which have legal title and can continue where they are forever.

Janata Colony

An older example underlines the fact that basically nothing has changed in 50 years. Bawana is no different from what happened in Janata Colony in Chembur, Mumbai. Set up from the late 1940s

onwards, the 54 acres of Janata Colony were very far from the city, on the way to the nuclear reactor in Trombay. There was no bus service. Occupants were removed from various footpaths in the Island city (south of Mahim-Sion) and relocated in Janata Colony on pitches of 300 sq ft (15' x 20') per family. A rudimentary road network was laid out, and water supply provided through community standpipes. There was no piped sewerage system, but at one end common toilets were provided, eventually about 200 seats – hopelessly inadequate, but even so, a recognition of the legality of the settlement. The residents were given monthly rent receipts and assured security of tenure, on the basis of which they built their homes to varying degrees of structural durability. Their sense of permanence was such that by the early 1970s, about 20 years since its inception, Janata Colony had five mosques, six temples and two churches. There was a municipal office, a police station and two municipal markets, and the population was about 72,000.

Meanwhile the Bhabha Atomic Research Centre (BARC)'s residential buildings had come up on three sides of Janata Colony – the fourth side was the main road to Trombay. BARC found the settlement an eyesore and wanted it removed. No matter that 1,200 of BARC's own low-grade employees lived there. So a process for evicting the residents of Janata Colony was begun. They had no legal land title anyway. All they could produce was a recollection of verbal assurances, and a clutch of monthly rent receipts.

The enquiry officer conceded that Janata Colony's land had been acquired for resettlement of pavement dwellers. But the fact that land had originally been acquired for a public purpose (resettlement) did not mean that the same land could not later be re-acquired 25 years later for a superior public purpose (BARC housing, a club house and swimming pool). He could not go into the question of whether alternative sites were available to BARC. He could not concern himself with the reasonableness of the demand of BARC. So Janata Colony was simply bulldozed premonsoon 1976. The residents were moved a mile and a half away into Cheetah Camp into pitches half the size of what they had had in Janata Colony (150 sq ft instead of 300 sq ft), with no compensation paid for what they had spent on construction. Cheetah Camp was low-lying and flooded with each high tide. The first monsoon was spent with people stepping on brick stacks to reach their charpoys which had their legs in the water, their strings a few inches above the water line.

Today, a third of a century later, one is astounded at the humming prosperity of Cheetah Camp: shops and activities of various kinds on the ground floor, homes on the floor above. The residents are confident they will never be moved again. But of course they do not have any kind of title – the land still belongs to the BMC. We need to remind ourselves that Janata Colony too was a humming, thriving place, where the residents were just as confident that they would never be moved. So let us not forget what finally happened. And let us also not forget that the legal groundwork has been firmly laid for removing Cheetah Camp whenever the ruling elite want this.

The moral is that provided you take good care to see that the poor never have title, you can probably push them around,

years or decades later, without compensation, to wherever you like. Bawana is a perfect example of the implementation of this policy as recently as three years ago. Decades from now the residents will probably be evicted, exactly as Janata Colony was 50 years earlier, with the added difference that in the meantime Bawana residents are paying through the nose for being where they are.

De Soto and Capitalism

Hernando de Soto, the distinguished Peruvian economist, asks why capitalism works in the west and fails everywhere else (de Soto 2000).

He thinks the key is the documentation of property rights. Staking property rights as collateral produces the capital that entrepreneurs need to set up and build their businesses. Note that the system of recording property rights did not arise originally with any objective of raising such capital in mind. It is an accidental by-product of property documentation, which was needed to resolve property disputes and protect property ownership. Note also that the generation of capital through mortgages works only because of the real possibility of forfeiture.

Translating this to Indian conditions, we should note that it would take only a few acts of merciful kindness of not forcing repossession to destroy the market for lending against property as collateral. A few shreds of misplaced humanity would be enough to bring about the collapse of a financing system that could otherwise hugely benefit society as a whole. In India, with misplaced humanity abounding, especially because it is linked to the wooing of voters, a financing system based solely on collateral cannot even begin to be set up. Not that the ruling elite mind this. Keeping the poor without access to finance is as effective a way as any of keeping them in their place.

According to de Soto, if we count how much the poorest sectors of society have saved, the quantity is enormous. It has come from the arduous achievements of those small entrepreneurs who have triumphed over every imaginable obstacle to create the greater part of the wealth of their society. They are creating enterprises where nobody imagined they could be built.

Dharavi is a huge and shining example that exactly illustrates what de Soto is saying.

Here is what de Soto had to say about Dharavi in a recent interview (Interview 2010)

...if you go to somebody that I have seen in Dharavi and you say I am going to give you security over your home, he will say thank you, but he won't say much. He'll take that piece of paper and he will slip it in the desk and not recirculate it again.

Why? Because from what I have seen in Dharavi, he not only has a home, he has an industry. So his question will be, you are telling me that it's okay to have my home, but you're not telling me if my industry is okay and you're not telling me what you're going to do with taxes. So, you cannot title homes in developing countries. You've got to title everything.

Today, in the west you can say that, because you live in one place and you work in the other. But in the 19th century, Americans had industries in their home too. And they didn't go around just titling homes. They did the whole thing. The first thing, no titling process of homes is

going to work unless you include all other aspects of life – commercial, business, identity, credit and you wrap it up.

Free Housing

Until the mid-1990s in Maharashtra a group of slum-dwellers could come together, get government's permission for reconstruction, and then organise this themselves, usually with help from a non-governmental organisation. The reconstruction permission was for a built-up area sufficient to accommodate all the slum-dwellers, with a small surplus left over which they could sell to subsidise the cost of reconstruction. Several such schemes were successfully built, and bank loans properly repaid. In mid-1995 Balasaheb Thackeray, running the Shiv Sena government by what he called "remote control", set up the Slum Redevelopment Authority (SRA) to implement what he believed was a brilliant scheme for rehabilitation of slum-dwellers in situ. Schemes along the old lines were stopped, since the new scheme was felt to be so vastly superior.

The new scheme, unlike the old ones, called on builder-developers as the driving force for reconstruction. Provided they resettled all existing slum-dwellers free of cost in *pucca* housing on the site where the slum stood, they could build additional "for-sale" apartments on the same site to recoup the cost and make their profits. The stroke of genius in the scheme was that builders made their profits (no doubt shared with the politicians) and the slum-dwellers got their housing totally free of cost. The vote-drawing force of free housing should not be underestimated.

The best thing the new scheme did was to recognise that the poor, extra-legal occupants of urban land were important contributors to the city's economy. That they needed to be given housing, and in the meantime at least water and sanitation. The worst thing was that it raised expectations for slum-dwellers – now half the city's population – beyond all possibility of these being met. While the cost of free housing of slum-dwellers might be viable in those slum pockets which are on high-value land where the free-sale component generates large profits, it becomes unworkable over most of the city.

The one thing the proponents of the scheme ignored entirely was whether there would indeed be a market for the volume of for-sale construction that free housing of the poor would generate. Such a large market for middle- and higher-income housing as can sustain free housing for all the rest simply does not exist. Free housing for the poor is thus doomed, if not to total failure, at least to such trivial success as to do more harm than good – more harm because the little success that there is raises everyone's hopes, which can never be realised. Meanwhile of course it is hope that garners the votes, and disillusion lies well below the horizon, beyond the mirage.

The worst of it is that everyone then comes to expect free housing, and this makes all other schemes, however good they may be, unacceptable. Because free housing for all those who live in slums is simply not economically feasible, it brings all other possible action on this front to a complete halt. We are back to square one, that is, doing absolutely nothing for slum-dwellers, who meanwhile also want to do nothing for themselves while they wait for their free housing.

Densities

Dharavi fits squarely in the SRA model of the in situ redevelopment of slums by adding, in the same location, new for-sale areas to generate profits as well as finance free pucca housing for all Dharavi's residents. This will unquestionably crowd Dharavi more than it is crowded already. Can such further crowding work?

Let us compare the densities proposed in Dharavi with existing settlements elsewhere in the world.

Barring a small number of even more crowded localities, the population density in the most crowded areas of Hong Kong hovers around 2,500 persons/hectare. These are localities covering an area of between three and eight hectares, all served by an underground transport system, something that contributes significantly to making the area workable. The densities in the most crowded parts of Mumbai are slightly lower.

To understand densities in Dharavi we really need to look at larger sizes of concentrated urban development. Dharavi is about 214 hectares in size, so comparing it with localities of three to eight hectares when looking at densities makes no sense – when you look at the smaller areas you are leaving out the relatively low-density spaces such as recreation grounds, schools, hospitals and other public facilities, even access roads, that are essential to the larger development. These less crowded areas bring down the overall density figures significantly. If we look at some of the most crowded areas in the world, of a size comparable to Dharavi's, we find that nowhere in the world, except in some of the wards in Mumbai, do we have densities larger than 1,000 persons per hectare – and let us not forget that every one of these locations, other than in Mumbai, has an underground railway system which is a dramatic aid to mobility.

Now let us look at what is proposed for Dharavi. The total area is 214 hectares. Scattered throughout the area are plots where developments have already occurred. These areas cover 70 hectares and are not part of the redevelopment project. There is no exact count of the population residing in the 70 hectares, but a rough estimate is 10,000 families. That means 50,000 people, at an average density of $50,000/70 = 714$ persons per hectare, a perfectly reasonable number.

On the remaining 144 hectares, to be taken up for redevelopment, we have 57,000 families, a number obtained by a detailed survey where each dwelling has been uniquely identified and its occupants given identity cards. Significantly, occupants on upper floors have been deliberately ignored: they are not to be rehabilitated at all. The logic for this is not clear, and is probably open to a successful challenge in the high court (what the Supreme Court will say however, as we have seen, is unpredictable and another matter altogether). We can only guess at the numbers of families living on upper floors, but they must number at least 10,000. That gives us a total of 67,000 families. At five persons per family that means a population of 3,35,000 occupying 144 hectares. The density works out to 2,326 per hectare. This is already far above anything that exists anywhere else in the world, including elsewhere in Mumbai.

The proposal prepared for the Dharavi redevelopment is that the existing population be re-housed on 43% of their existing

land area, with the remaining 57% area turned over for commercial or other development. The new development will attract additional population, and even if it is no more than half the existing population it will take densities to three times what exists anywhere else in the world. The scheme is, on the face of it, unworkable. Neither transport capacities nor the quality of life within the settlement will allow such packed living to be sustainable. The most likely outcome is that most of the present 67,000 resident families will be bought out, will move elsewhere, and Dharavi will become a high-value, high-class area at reasonable densities. It behoves us to see through the chicanery and recognise the true intentions of the scheme for what they are. Our loss will include a thriving, prosperous, mixed-income area and its sociocultural values; a valuable hub of enterprise and economic activity; and a portal for new migrants whose aspirations and energy can contribute to the city.

Redeveloping Dharavi

We need to agree on our objectives before we start any work of preparing physical layouts or drawing up rules that will govern the redevelopment. Suggested objectives are the following:

- (1) Do not densify Dharavi any further; that is, do nothing that will add more occupants to the area.
- (2) Improve infrastructure, in particular sanitation and water supply. Improve powered transport if possible but never at the cost of the free and easy movement of pedestrians throughout the area.
- (3) Let the residents of Dharavi determine when and how redevelopment should take place. They have done an outstanding job in bringing the settlement up to the conditions in which it finds itself today, despite the most adverse conditions of infrastructure supply. We should seek mechanisms by which they can continue this kind of contribution in future.
- (4) Profit-making has no place in the redevelopment plans for Dharavi.
- (5) To the extent possible, encourage low-rise redevelopment that retains the community character of the locality.

How do we justify these objectives? In particular, what do we do about the fact that the underlying land is owned by other agencies, some governmental, some private, but definitely not by the people of Dharavi? The simplest is to invoke the Law of Adverse Possession and say that the ownership rights of the original owners have been extinguished, with time, and now vest in the present occupants. Do we give the current occupants title, and if so, in what size lots?

One way to proceed would be to subdivide Dharavi into plots of a size that can be managed by a cooperative society. The number of families in a single society should be limited by considerations of good management. The boundaries of the plot should preferably be existing natural boundaries, such as roads or pathways or nallahs. These families should form either a cooperative society, or better still, something in the nature of a CLT where profits arising from sale are shared between the individual property owner and the CLT (the Cooperative Societies Act as it stands does not currently envisage any such sharing). Questions that

immediately arise are, first, who will be the members of the cooperative society, owners or tenants or both? And second, what safeguards are there that the entity does not rapidly fall into the hands of a commercial developer?

These are not easy questions to address. On the matter of who owns a hutment, the simplest is not to disturb the current pattern of ownership: owners remain owners and tenants remain tenants, with the original owner (who may not be a current occupant) retaining ownership. This hands-off approach at least has the merit of peaceful acceptance by all, since it does not interfere with any existing rights. As to whether developers will succeed in taking over properties or not, once again this is probably best left to the hutment owners to decide. The best one could do would be to build in safeguards regarding transfer of Trusteeship of the CLT to ensure that the rights of the residents are not snatched away, and whichever way the project moves forward it does so with their genuine and uncoerced consent. In any case the implementation of this or any other process should be phased, so that a few early projects are first tried out, and the results observed, before implementation is extended to a grander scale.

Water supply and sanitation lines are not hard to lay down, even in an area as densely built up as Dharavi. There are access lanes everywhere, and the drainage and water supply lines can follow existing alignments without, as far as possible, cutting through any of the CLT plots. This is a matter of careful layout and planning.

Improved access is more intractable. Movement, especially with powered transport, whether public or private, requires space and that is one commodity that is in desperately short supply in a densely crowded settlement. The logical response is layering: add a layer of transport which is distinct from the layer on which life goes on. In Hong Kong or Shanghai or other crowded cities the extra transport layer is an underground railway network, used only for travel. In Dharavi, where an underground railway would be too expensive to afford easily, layering could be achieved by insisting that all redevelopment takes place with a podium at about second-floor height above the ground. The ground area would then be laid out to manage transport; and the podium level would be an extensive pedestrian-only area, extensive enough to enable walking on it from one end of Dharavi to the other. Above the podium would be the living units; below it, and with access to motorised transport from the ground level, could be the industrial and warehousing activities that are today so much an integral part of the functioning of Dharavi. To enable this kind of layering of transport and living activities it would be necessary to draw up a set of building regulations that govern the way each CLT can redevelop, if it chooses to go in for pucca reconstruction. But it should be equally open to the CLT to choose not to rebuild in this way: to retain instead the current character of its area, but now with improved and functioning water supply and sanitation systems in place.

NOTES

- 1 *Almitra H Patel and Anr vs Union of India (2000)* 2 SCC 166, Justice B N Kirpal in the context of giving alternate land to slum-dwellers said "Rewarding an encroacher in public land with free alternate site is like giving a reward to a pickpocket".
- 2 D T Lakdawala of what was then University of Bombay first attempted this kind of analysis half a century ago. He concluded that for every job added in what he called an "export" based activity (what we are calling an exogenous job), the population of the city would increase by 7.5. See Lakdawala et al (1963).
- 3 Or, as in the case of Mumbai, with high-income residents at two points, south Mumbai for the island city and Bandra for the "suburbs", with diminishing incomes as one moves further away.
- 4 Peter Bevington points out that just as the Lower East Side is a point of entry for poor migrants to the city, so also Dharavi probably serves the same useful function for Mumbai.

REFERENCES

- Agarwal, R D, ed. (1988): *N Krishnaswami's Law of Adverse Possession*, The Law Book Company (P) Ltd, Allahabad, 11th edition.
- Bevington, Peter (2007): "Community Land Trusts – Learning from the USA: An Account of the KTP/Arena Housing Group Research Visit to the United States to Learn about the Community Land Trust Model and Its Potential Transferability to Anfield and Breckfield, Liverpool, 9-18 October 2007", <http://anfield-and-breckfield.arena-housing.com/download.aspx?Path=resources&FileID=353>
- Bhushan, Prashant (2009): "Misplaced Priorities and Class Bias of the Judiciary", *Economic & Political Weekly*, Vol XLIV, No 14, 4 April.
- Cheng, Edmund W (2008): "City Slums as a Recognition of Migrants' Rights", *Current Affairs*, 2008/4, pp 84-89.

De Soto, Hernando (2000): *The Mystery of Capital*, Basic Books.

Interview (2010): "Property Titling Has to Extend to Everything", Hernando de Soto interview by Anil Padmanabhan and Rahul Chandran, *Mint*, 16 February.

Lakdawala, D T, J C Sandesara, V N Kothari and P A Nair (1963): *Work, Wages and Well Being in an Indian Metropolis: Economic Survey of Bombay City (Bombay)*, p 75.

Takwani, C K (2008): *Lectures on Administrative Law*, 4th edition.

PII - ICRC AWARDS

Press Institute of India (PII), Chennai, in association with the International Committee of the Red Cross (ICRC) New Delhi, is instituting awards for the best articles in Indian Media on humanitarian issues/values in print on the thematic.

"Reporting on the fate of victims in situations of armed violence (humanitarian related stories)"

FIRST PRIZE	-	Rs. 50,000/-
SECOND PRIZE	-	Rs. 30,000/-
THIRD PRIZE	-	Rs. 20,000/-

Journalists, who have written and published an article on humanitarian issues linked to a situation of armed violence, please mail a copy with complete details of name, organisation, address, contact number and email id to editor.pii@gmail.com or post to Press Institute of India, RIND Premises, Second Main Road, Taramani CPT Campus, Chennai - 600 113.

Rules for sending Entries:

Entries should reach **before 15th July 2010** and results will be announced in October 2010. Article should have been published in an Indian national or regional newspaper or magazine in any Indian language or in English between January 2009 and April 2010. The Indian language article must have its exact English translation. Proof of the published article is a must. The decision of the Jury will be final. Relatives of Jury are not allowed to participate. Only one entry per journalist.

For enquiries call: 044 2254 2344