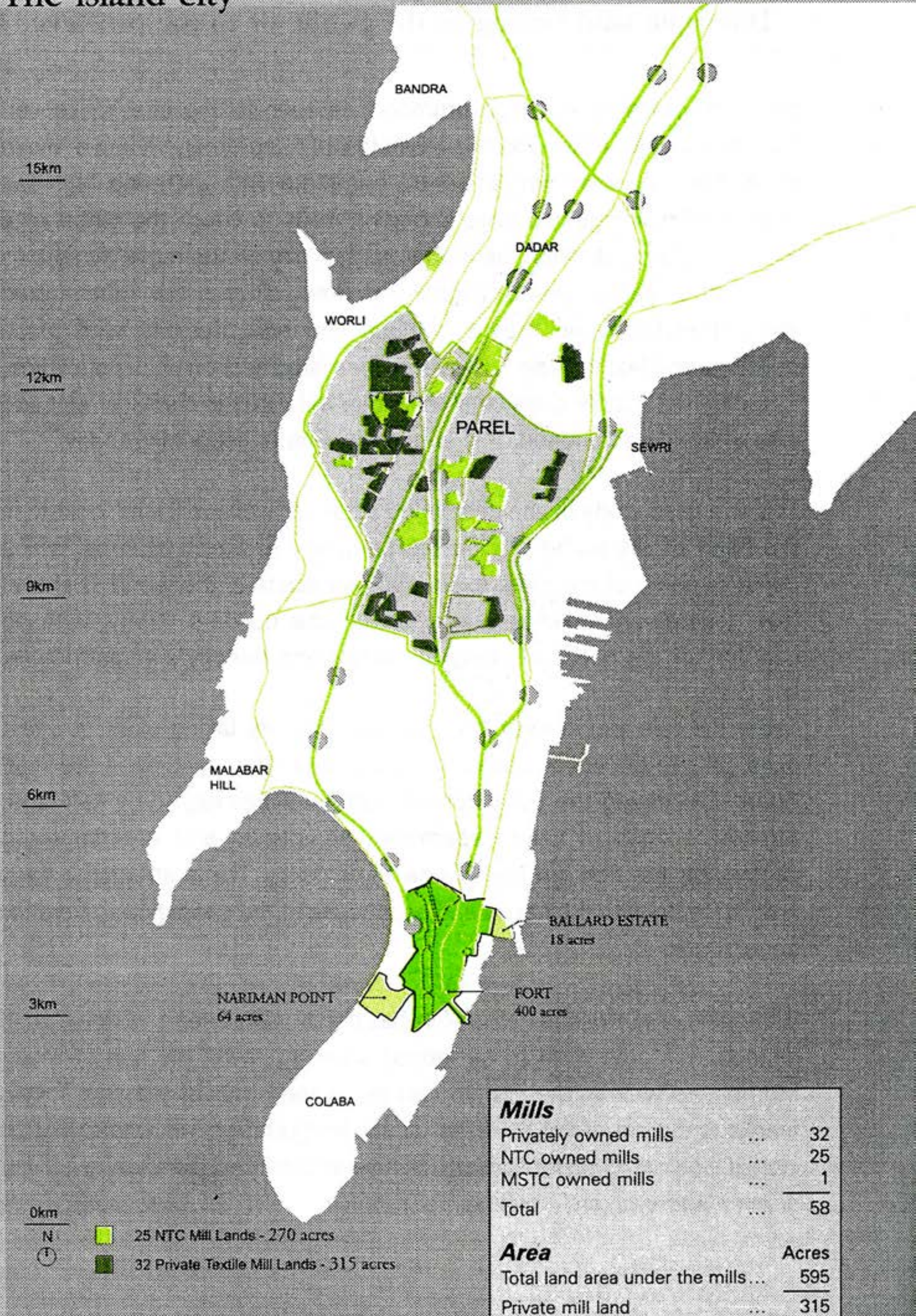
600 ACRES

OF MILL LAND: FOR THE PUBLIC OR THE PRIVILEGED

The island city



Mills		
Privately owned mills	...	32
NTC owned mills	...	25
MSTC owned mills	...	1
Total	...	58
Area		Acres
Total land area under the mills	...	595
Private mill land	...	315
NTC / MSTC mill land	...	280

Source: Urban Design Research Institute (UDRI) presentation

Background of the mill land

The first textile mill in Mumbai was established in 1854. By the end of the century 80 more textile mills had been set up in the city as part of the British rulers' policy to develop the textile industry. They leased the land to mill owners at very low prices. They also provided housing for industrial workers to encourage people to settle in the city. In 1931, about two-thirds of the adult working population in the city worked in textile mills. Revenue from the mills was instrumental in building the city of Mumbai as we know it. Peasants were drawn from poverty-stricken rural areas by the prospect of steady work. They settled in what came to be known as Girangaon. This included the areas of Lalbaug, Parel, Naigaum and Sewri. Girangaon developed into a closely knit neighbourhood with various social and cultural institutions. By 1961, the mills employed 2.5 lakh workers and covered nearly 600 acres of land.

There are 58 textile mills in the city of Mumbai today. 32 are privately owned. 25 mills which became 'sick' were nationalised in 1971 and since then have been run by the National Textile Corporation (NTC), formed under the provisions of the Sick Textile Undertakings Ordinance. One is run by the Maharashtra State Textile Corporation (MSTC). However, some 45 of these 58 mills are closed today.

Decline of the textile industry

There are many reasons for the decline of this industry which was once the backbone of the city's economy. Contrary to popular perception, the textile strike of 1982, led by Dr Datta Samant, was not the main cause. Some of the reasons are as follows:

- Mill owners diverted their profits to start other industries instead of ploughing them back into the textile industry, **so there was no modernisation of the mills.**
- In the 1980s mill owners started to outsource production in smaller towns like Bhivandi where they could exploit workers who were not unionised.

- The government did not develop a comprehensive textile policy.
- In the 1980s textile mill owners realised the real estate potential of the vast land under their control and began declaring the mills 'sick' or unprofitable in order to be able to sell the land.

In order to close the mills and force workers to accept voluntary retirement, mill owners regularly stopped workers' wages for months on end, starving them into submission. They did not pay other dues. Ultimately, workers were compelled to agree to unjust settlements, and accepted inadequate VRS packages.

Nor did owners pay back borrowed institutional finance. Though the land was leased to them for industrial use alone – and not for commercial and residential use – owners started carrying out unauthorised construction and renting out premises for non-industrial purposes.

Development Control Regulations, 1991

In 1991, the Maharashtra government opened the door to the sale and development of mill lands under certain conditions. For the first time mill lands came under the purview of the Development Control Regulations of Greater Mumbai (DCR), as framed in Section 58 of the DCR (1991).

The mill land had been leased out to entrepreneurs at rock bottom rates in order to start textile mills. It was leased on condition that it could not be sold or developed for other purposes. The DC regulations of 1991 permitted the sale and development of mill lands, "for revival / rehabilitation of potentially viable sick and/ or closed mills"(DCR 58, 1991). However, not a single textile mill was revived as a result of this regulation.

Section 58 gave two major benefits to mill owners:

- It allowed a 'change in user' of the land, from industrial use to commercial and residential use.

- It granted a general increase in the Floor Space Index (FSI) or the ratio of the area of the plot to the area allowed for construction on that plot. FSI on industrial land is only 0.5. But the FSI on the mill land was increased to 1.33, permitting nearly three times the construction allowed before 1991.

In return for these concessions, the mill land was to be shared in more or less equal thirds between 1. the mill owners, 2. the Municipal Corporation of Greater Mumbai (MCGM) for public open spaces and civic amenities, and 3. the Maharashtra Housing Area Development Authority (MHADA) for public housing.

Mill owners did not lose out because of this sharing. They were given the benefit of the FSI for the total plot. In lieu of the two thirds of the land given back to the city for public spaces and public housing, they were given 'Transfer of Development Rights' (TDR) or permission to use this FSI on other property in the city. TDR can be bought and sold.

For mill owners who did not want to follow this rule, there was a convenient loop-hole in the DCR (58) stipulation of this division. Mill owners were exempted from handing over any land to the municipal corporation or MHADA if they were developing only 15 per cent of the land for the mill's revival. Naturally a willing municipality showed most development plans as being under the 15 per cent limit.

However, the mill owners wanted to eat their cake and have it too. They wanted the higher FSI and the Change of User, but resented the condition that land was to be shared with the city for the public good.

In 2001, the state government obliged them by modifying DC Rule 58.

The modified DC Rule 58 of 2001

The chief minister assured mill workers that the modifications were only for their benefit. However, the modifications altered the scenario drastically.

The changes did meet some long-standing workers' demands. They gave protection to tenants of mill land tenements. A monitoring committee was set up to oversee the payment of compensation to workers. Fifty per cent of MHADA land was reserved for workers' housing. If the land was developed commercially or for another industrial purpose, a member of each of the workers' families was also entitled to a job.

However, it was discovered later that the modification, which was termed 'minor', amounted to a major sabotage of workers' benefits. Given the magnitude of the economic and social impact of these modifications, there should have been a public debate before they were made. But only a formal notice appeared in a local newspaper.

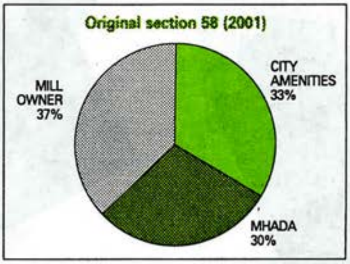
A 'minor' modification?

Under the 1991 DCR, all mill land was to be divided into three parts and shared between the owner, MHADA (for public housing) and the municipal corporation (for public amenities). However under the 2001 amendment, only vacant open space on mill land is to be shared between the municipal corporation, MHADA, and the owner. Since vacant land is a very small portion of the total mill land, mill owners have to surrender almost nothing for public amenities or public housing.

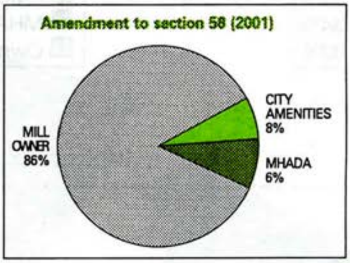
Under the 2001 modification, mill owners retain the benefits of the 1991 regulation — in return for surrendering some land, they are entitled to use the (upgraded) FSI (1.33) potential of the entire plot, either on the site or as TDR. Further, mill owners' share of the land has gone up by almost three times. On the other hand the land available to the BMC and MHADA has been reduced from almost 60 per cent to a fraction of the original area. In some cases, like Phoenix Mills, there is just no land at all for the public.

Public land was leased to mill owners to develop the textile industry. Now, when the mills are closed, the land is being handed over for private construction. Almost nothing is kept for public use.

Under the original Rule 58 of DCR, 1991, the owner would get about 37 per cent of the mill land for development, 33 per cent would be handed over to the municipal corporation for public amenities and 30 per cent would be given to MHADA for public housing.



According to modified DCR of 2001, owners would get more than 85 per cent of the land for private development.



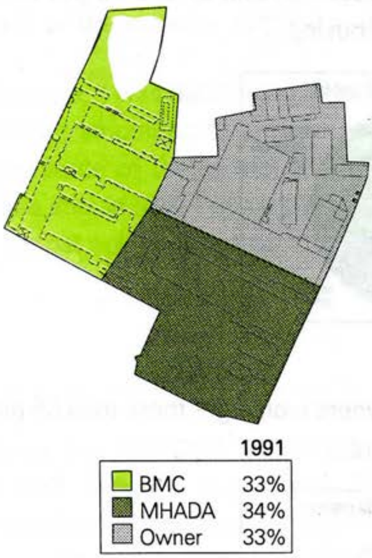
Proposals submitted to the municipal corporation (as per 2004)

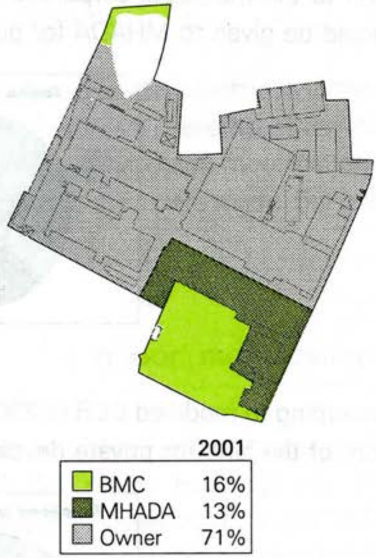
	Total area in sq metres	Allotted to MCGB	Allotted to MHADA
Non-NTC mills	657,621	19,982	16,376
NTC mills	293,247	22,595	26,056
Total area	950,868	42,577	42,432
% of total area		4.47%	4.46%

Actual mill wise land distribution as per 1991 and 2001

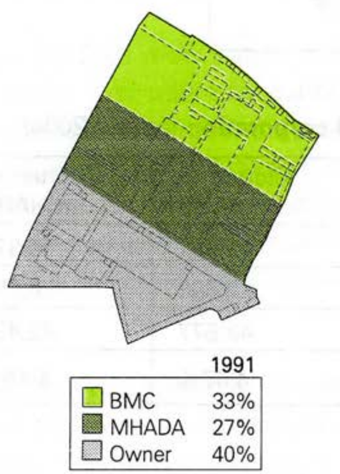
Source:UDRI

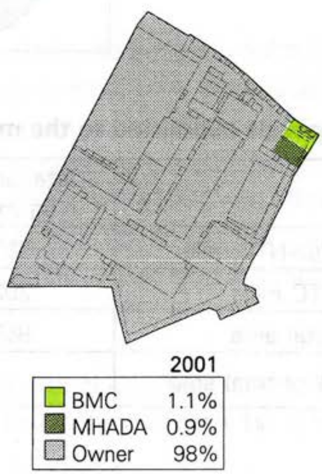
Mumbai Textile Mills (NTC) 67,293 sq mts



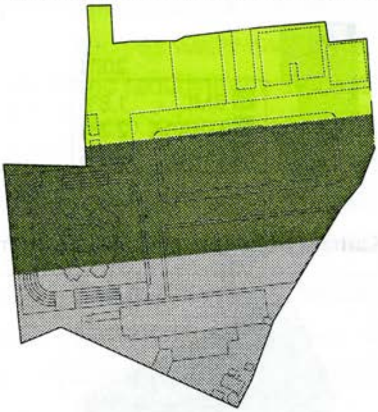


Jupiter Mills (NTC) 45,058 sq mts



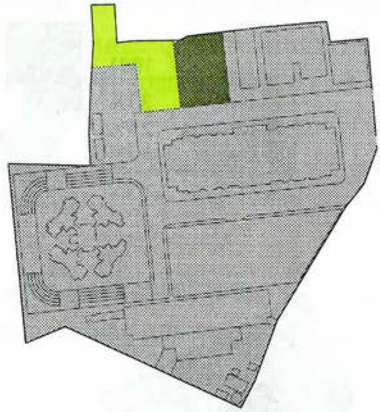


Piramal Mills (private) 35,500 sq mts



1991

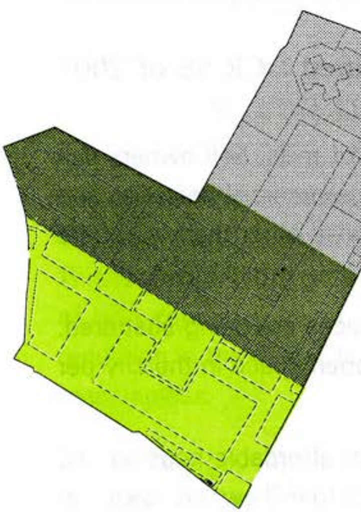
BMC	33%
MHADA	27%
Owner	40%



2001

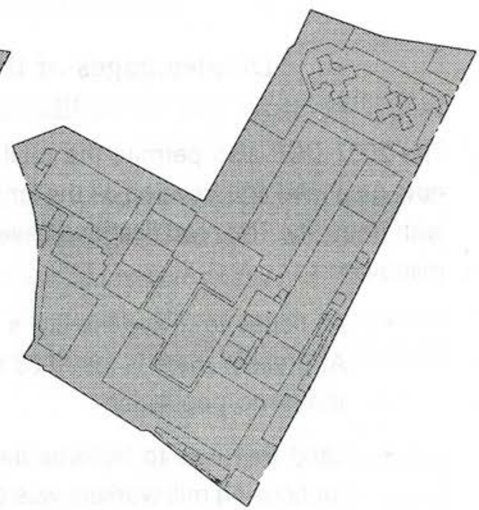
BMC	4.3%
MHADA	3.7%
Owner	92%

Phoenix Mills (private) 69,413 sq mts



1991

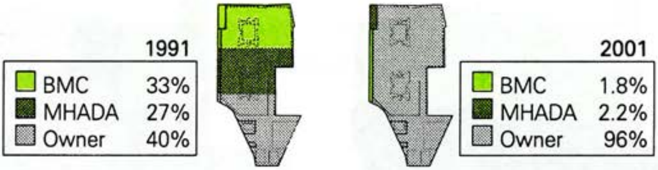
BMC	33%
MHADA	34%
Owner	33%



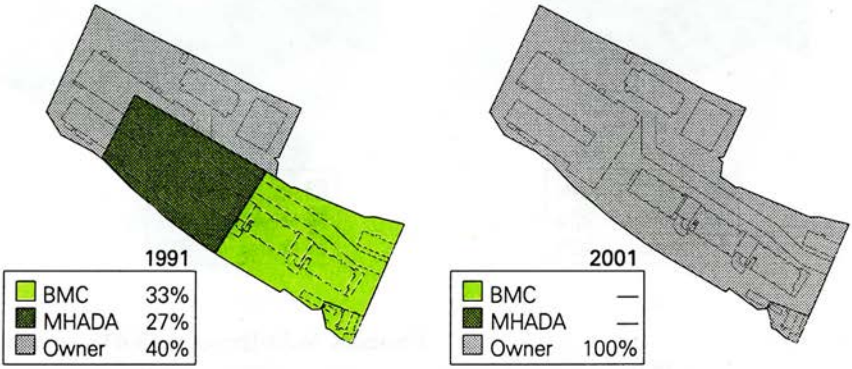
2001

BMC	—
MHADA	—
Owner	100%

Matulya Mills (private) 21,374 sq mts



Kamala Mills (private) 38,327 sq mts



Disadvantages of the modified DCR 58 of 2001

The 2001 DCR also permits the total closure of mills. Mill owners can now go ahead and develop all the land for its commercial potential, and with impunity. The modifications have no purpose other than to benefit mill owners.

- All hopes to revive the city's open spaces are being shattered. At present there is just 0.03 acre of open space in the city per thousand population.
- Land that was to become available for affordable housing and for housing mill workers was given back to mill owners. Sixty per cent of Mumbai's population continues to live in slums.
- The owner's benefits have been retained in the 2001 DCR. The benefits to the city and the workers have been withdrawn.

- Massive construction projects are coming up without environmental clearance. They will strain the city's resources such as water and power, besides increasing traffic congesting and reducing the amount of public open spaces. Such concerns seem to have been ignored and building permissions have been given and continue to be given in gross disregard of the law requiring environmental clearance from the Ministry of Environment and Forests.
- The mill lands are the historic industrial core of today's Mumbai Metropolitan Region. By demolishing these monumental examples of industrial architecture, the city will lose an important historical link.

The Municipal Commissioner justified the recent large-scale demolition of slums in Mumbai by arguing that the space vacated was needed for gardens and parks. The same municipal corporation has been a mute observer to the virtual surrender of nearly 200 acres of mill lands reserved for open spaces, for the private use of mill owners. This shows that state policies are not guided by the people's interests.

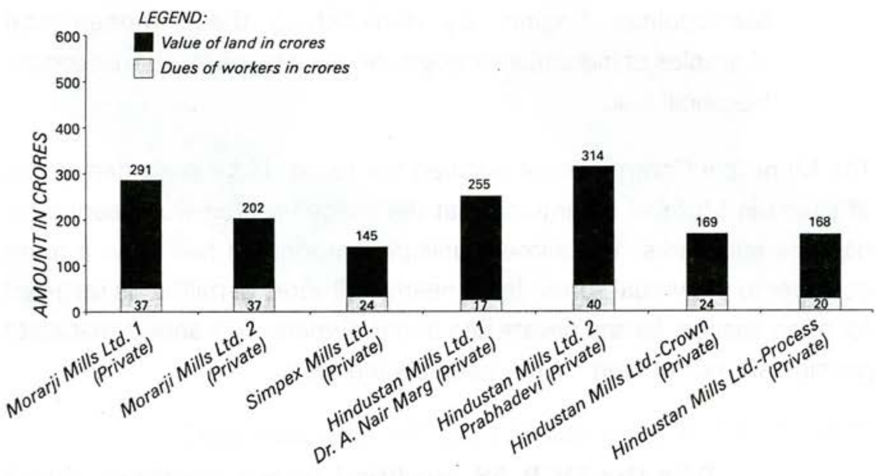
Was the DCR 58 modified to pay workers' dues?

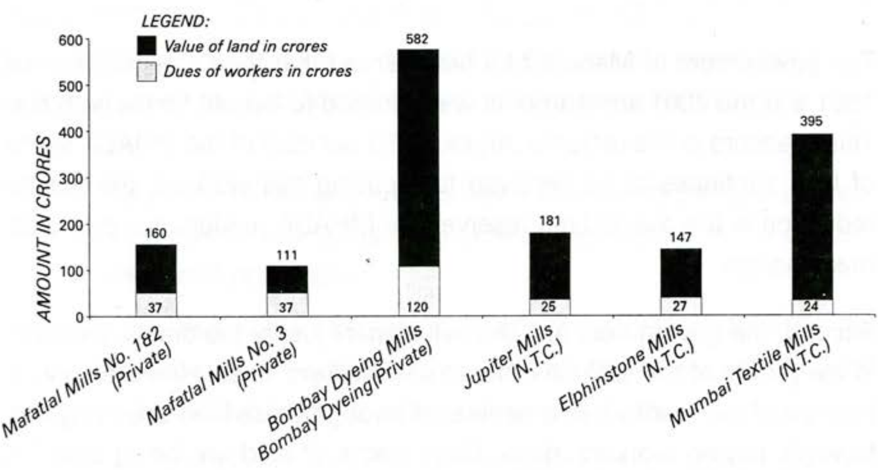
The government of Maharashtra has claimed that the DC regulations of 1991 and the 2001 amendments were drafted to benefit textile workers. This is absurd in the extreme. Although 50 per cent of the MHADA share of land continues to be reserved for housing mill workers, the drastic reduction in the overall land reserved for MHADA renders this provision meaningless.

Second, the government and the mill owners justify the drastic increase in the profits of the latter in order to pay workers' dues. However, only a fraction of the money being generated through these land sales is going towards paying workers' dues. Huge tracts of land are being sold for astronomical profits.

Mill owners lobbied for the modified DC 58 arguing that they would have to develop more than their allotted one-third of the mill land in order to raise money for workers' dues. This is not the case. The chart below presents land values for the mill owner's share in 16 mills (according the 1991 formula) compared to the workers' dues pending at the time. Land development according to the 1991 DCR would more than pay for workers' dues.

Land sale earnings and workers' compensation as of 1991





(Land value based on sale of Mumbai Textile Mill in 2005.)

Leasehold land

Large parts of the land on which the mills are situated are leasehold land. The original title deeds are not necessarily in the name of the mill owners. In some cases, the lease deeds have expired — but the municipal corporation has granted permission to the mill owners to develop the land.

Raghuvanshi Mills, Shree Ram Mills, Phoenix Mills, Morarjee Mills, Simplex Mills and Khatau Mills are among the private mills situated on leasehold land. In the case of Phoenix Mills, a large part of the land constitutes a leased plot. Moreover, the lease deeds of Phoenix Mills and Gokuldas Morarjee Mills have expired and have not been renewed.

Further, most of the mills pay unbelievably low lease rents to the municipal corporation. Simplex Mills at Saat Rasta reportedly pays just Rs 48 annually for an area of 7,836 square metres. Shree Shakti Mills in Lower Parel pays Rs 1,873 for an area of 25, 067 square metres. Raghuvanshi Mills is one of many mills that pay just one rupee per year! The property is worth thousands of crores of rupees. Crores are lost to the exchequer.

Important developments after the 2001 modifications in DCR 58

Opposition to the 2001 modifications is growing. Municipal corporators objected to modifications by passing a notice of motion in a general meeting. Girni Kamgar Sangharsh Samiti (the union of the textile workers actively involved in restarting the mills) registered a protest with the municipal commissioner. It pointed out that the modifications were not only anti-worker, affecting workers' housing, they were also "anti all citizens" as they have deprived them of open spaces and amenities like schools, playgrounds and hospitals by reducing the municipal corporation's share to almost nothing. This has been publicised in the print and other media. Workers' organisations and other citizens' groups came together on a joint platform, the Mumbai People's Action Committee, to demand a comprehensive and just policy on the mill lands. Senior architects, planners and other professionals registered their protest with the state and central governments.

The Chief Minister's 'study group'

In January 2005, the Chief Minister formulated a 'study group' to look into the 2001 modifications from the point of view of the need for open spaces without sacrificing workers' interests. However the study group's composition exposed the government's intentions which were obviously to safeguard the interest of the mill owners. The group was headed by Deepak Parekh of the HDFC Bank which has lent huge amounts of money for mill land development. It also included people such as Nusli Wadia, head of the Bombay Dyeing Group which is one of the largest private owners of mill land in the city, and Keshub Mahindra who is on Bombay Dyeing's board of directors. Mahindra was dropped from the study group only after widespread protest. There was no representative from workers' organisations. Subsequently Sachin Ahir, president, Rashtriya Mill Mazdoor Sangh (RMMS), the Nationalist Congress Party-affiliated union known for its pro-mill owner stand, was appointed as a representative of workers. There were only three voices against the DCR 2001 – Charles Correa and Vidyadhar Phatak, both architect-planners, and Sharada Dwivedi, city historian. This highly publicised group was given three months, but no serious decisions were taken for over a month. During this time the Bombay Environmental Action Group (BEAG) filed a Public Interest Litigation in the Mumbai High Court against the DCR (58) 2001. At this juncture the government-constituted study group apparently lost its will to function.

Action on the legal front

In May 2005 the Bombay Environmental Action Group (BEAG) filed a PIL in the Bombay High Court to stop all construction on mill lands pending investigation of issues such as ownership and the validity of the 2001

DCR. (The Girni Kamgar Sangarsh Samiti has intervened in the case in support of the BEAG.) The High Court granted a stay on all construction. However, the mill owners filed an appeal in the Supreme Court. On May 11 the Supreme Court of India, while sending the main case back to the Bombay High Court, gave the following directions:

- It removed the stay on the sale of state-owned National Textile Corporation land that had already obtained approval for sale.
- It directed that if the BEAG writ petition succeeded, the NTC would offer vacant land from other mills to meet any conditions set by the court.
- It directed the authorities not to sanction applications to develop land whose ownership was disputed.
- It directed the authorities to comply with the provisions of the Maharashtra Regional and Town Planning Act.
- It directed mill owners to place advertisements announcing any proposed sales or development in widely-circulated English and Marathi newspapers.
- It indicated that any agreement regarding mill land development would be subject to further orders that might be passed by the Bombay High Court
- It permitted developers to make new applications for grant of approval of layouts, etc, but did not permit the actual commencement of construction on the land pending the final decision of the High Court.
- It directed the State of Maharashtra and the Municipal Corporation of Greater Mumbai to place all relevant documents before the Bombay High Court. (The High Court had directed them to produce a list of 14 documents regarding the sales.)
- It observed that the Bombay High Court would take adverse inference and pass appropriate orders if the authorities suppressed any relevant documents.

Since then, two more writ petitions have been filed on the mill land.

Update: open season for builders?

In the meantime, in the last month (June 2005), a number of mill premises have been sold to builders, at record prices. In mid-June, the 18-acre Mumbai Textile Mill was sold to a Delhi-based group for Rs 702 crore. Apollo Mills was sold for Rs 180 crore to a company controlled by BJP MLA Mangal Prabhat Lodha who had earlier purchased Shreenivas Mills. On July 21, the five-acre Kohinoor mill, near Shivaji Park fetched Rs 421 crore.

Kohinoor's buyers are a consortium of companies owned by the Shiv Sena's Manohar Joshi and Raj Thackeray. They have paid nearly Rs 14,000 per square foot for the land. At the existing FSI, they will have to sell constructions built on this property at a minimum of Rs 20,000 per square foot just to break even. This suggests that Mangal Prabhat Lodha and Manohar Joshi are expecting further concessions in the Development Rules, permitting further increases in the FSI in the near future.

This will eventually displace the middle class of Dadar in the same way as the working class of Girangaon are being displaced today.

These deals are proceeding despite a pending High Court case challenging the mill land development, and despite the Supreme Court's decision that the NTC will have to abide by the High Court's order.

Conclusion: more on the builder-politician nexus

A close scrutiny of those opposing the BEAG petition in the Bombay High Court makes interesting reading.

The National Textile Corporation is a central government corporation and the central government is at present run by the Congress. The Rashtriya Mill Mazdoor Sangh, the recognised trade union which supports the mill land sale, is controlled by the Sharad Pawar-led Nationalist Congress Party. The state government is a Congress-Nationalist Congress Party coalition and the municipal corporation is controlled by the Shiv Sena. Further, the latest buyers of mill land are from the BJP and the Shiv Sena.

In other words, political parties of all hues support the builders' lobby at the cost of the common people of Mumbai.

The Times of India, Mumbai **
Wednesday, August 10, 2005

TIMES CITY

THE STORY SO FAR

1991
DC Regulation 58 introduced, tripartite division of mill land development allowed

1991-2000
Only a handful of private mill owners encashed on the new provision

2001
DC Rule 58 amended to exclude "existing structures" from tripartite division

Feb. 2005
PIL challenging the legality of the 2001 amendment to DC Regulation 58 filed in the Bombay high court.

Mar. 2005
First NTC mill, Jupiter Mills, goes up for sale

April 1, 2005
Bombay high court stays mill land development

April 20, 2005
NTC and 5 private mills file an appeal in the supreme court

May 11, 2005
Supreme court grants permission to 7 NTC and 5 private mills to go ahead with redevelopment plans

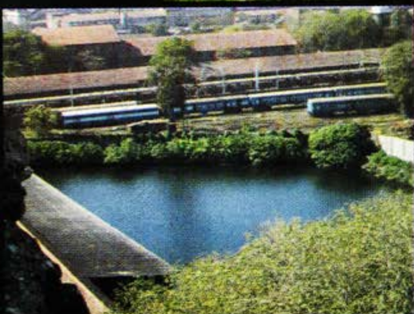
June 20, 2005
Sale of NTC's Mumbai Textile Mills and Apollo Mill

July 21, 2005
Sale of NTC's Kohinoor Mill no 3 and Elphinstone Mill

Aug, 16, 2005
Bombay HC to begin hearing on PIL and pass final verdict

The original rules strangely allowed the mill owners to use these ancient mill buildings for commercial purposes. Hence, the Phoenix and Kamala Mills at Lower [illegible] took full adv[illegible]

ing to the city that the government decided to modify Rule 58 in [illegible] modification was



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Text: Neera Adarkar / Sandhya Srinivasan / Alka Pradhan
Graphics: Ritesh Jadhav / Mahesh Kalambate / UDRI / Sonal Shah
Photographs: Adarkar Associates
Book design & layout: Mohor