TDR and Bangalore Metro

Position Paper 1

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The Larger Context – Introduction to the Transfer of Development Rights (TDR) and Bangalore Metro Rail

In 1995, India signed the General Agreement on Trade and Tariffs (GATT) treaty to open up its markets for entry of foreign capital, what is termed as liberalization. This facilitated the entry of World Bank (WB), other Multilateral Development Banks (MDBs) and International Financial Institutions (IFIs) into various sectors in rural and urban areas. When WB and other MDBs give loans to state governments and local bodies, they place conditionalities which require state governments and local bodies to abolish multiple tenancies, create legislations to clear land titles (such as Bhoomi), introduce GIS (Geographical Information Systems) mapping, abolish the Rent Control Act (RCA), etc. JNNURM (Jawaharalal Nehru National Urban Renewal Mission) conditionalities such as abolition of the RCA, Urban Land Ceiling and Regulation Act (ULCRA) and others have to be seen in the context of the loan conditionalities imposed by the WB and MDBs. As a result of this, state govenments are rapidly introducing new amendments and bringing in tools such as TDR. In Karnataka, Veerappa Moily's government abolished the land act. Subsequent governments have carried these amendments forward.

TDR is different from the land acquisition act. In the land acquisition act, government forcefully acquires land for public purposes and gives monetary compensation to the owner based on the value of the land as determined by the government. Government also compensates the tenants on the property. This leads to many complications and often matters are dragged to the court leading to litigation. In the case of TDR however, the government compensates only the owner and not the tenants. It is therefore easier to acquire land through TDR.

Amendment of the Town and Country Planning Act and introduction of TDR

In Karnataka, planning takes place as per the guidelines laid down in the Town and Country Planning Act. This is a State Government Act. Any amendment to it has to come from State Government.
Karnataka State Government introduced section 14 B in the Town and Country Planning Act in 2005 whereby if the Planning Authority or Local Authority wants to widen an existing road, form a new road, provide parks, playgrounds and open spaces or any other civic amenities, they can acquire land demarcated for these purposes from the owner for free and in exchange give the owner "development rights in the form of additional floor area, equal to one and a half times of the area of land surrendered." The owner can then either use these development rights on the remaining part of the surrendered land or any anywhere in the local planning area or he may transfer the development rights to another person.
Prior to TDR, new changes were made in the Rent Act, APMC Act (Agriculture Produces Marketing Committee), reduction in the value of Registration fees (i.e. reduction in stamp duty), land abolition act which involved abolition of tenancies. This is a sequence of amendments leading to TDR.
Such amendments must be viewed in the larger context of land acquisition, entry of multinational retail chains such as TESCO, Wal Mart, Metro Cash and Carry, etc. and entry of large MNC banks. TDR is then a tool for clearing multiple tenures and tenancies which prevent large developers, MNCs and banks to acquire land easily.

Bangalore Metro and TDR

The proposed Bangalore Metro Rail Project should also be seen in the context of TDR. When the Metro is implemented, persons whose shops, establishments and houses come in the way of the metro will be awarded TDR as compensation. Apart from this, the government will acquire more land around metro stations which it will then lease to the MNC retail chains to build malls to generate revenue.
Land acquisition in the case of metro will take place through KIADB (Karnataka Industrial Area Development Board) Act and TDR. KIADB has an odd acquisition process where the Act does not consider tenants and gives compensation only to the owner. Under KIADB, land can be acquired only for industrial purposes. The metro, in this case, is seen as an industry/corporation.

Implications of TDR

TDR will smoothen the process of land acquisition and will leave poorer groups without claims on the land. Negotiations around land which earlier would take place between poor groups and the state will now be pushed into the private domain.

What is more important to note is that TDR and amendments to land acts are not in the purview of the local governments. Local bodies are not consulted when amendments such as TDR are made. Neither do local governments have the right to introduce such changes. For instance, in Maharashtra, the Municipal Corporation of Greater Mumbai (MCGM) can only draft Development Control Regulations (DCRs). The DCRs lay down guidelines for minimum Floor Space Index (FSI), TDR, building byelaws, reservation and dereservation of plots for various purposes, etc. It is the Ministry of Urban Development (MoUD) in the Maharashtra State Government which ultimately finalizes, sanctions and brings into force the DCRs, thus putting the State Government in a greater position of power than the municipal bodies.

The Bangalore Metro

Traffic congestion has increased in Bangalore since 1995. To ease the pressure on traffic, the government has introduced the Metro Rail Project.

The Metro Rail Project in Bangalore is introduced by amending the Mysore Tramway Act (1900). This means that the State Government need not consult local bodies and other agencies before introducing the metro. Simply by amending the act it can legally sanction the metro.

To implement the metro, government will acquire private lands. Those whose lands will be acquired for this project will be given compensation in the form of TDR. ***Only those owners who have legal titles to land, structures and assets will be awarded compensation. In the case of tenants, those who have bonafide tenancy agreements (written or unwritten) with a private property owner with clear property titles to occupy a structure or land for residences and business will be given compensation. Tenants who do not have any written documents need to furnish documentary proof such as telephone bills, electricity bills, ration cards, any postal evidence, passport or other legal documents to prove occupation of the premises to be eligible for compensation.***

Business loss compensation (compensation of business loss of 10 months) will be given to those persons who have documentation on VAT. Those businesses not paying VAT will be given 50% of business loss compensation.

<u>Government will acquire 28 acres of private land covering prime areas in the city including two slums which will be evacuated to implement the metro. So far, nothing has been declared about giving displaced slum dwellers any compensation or proper resettlement.</u>

The government will also acquire additional land which will not be used directly for the metro project, but will be given to MNCs to establish malls to generate revenue. Most of the land and building owners are small and medium level traders and vendors whose businesses will be wiped out with the coming of the metro and multinational retailers.

The total cost of the project is Rs. 6,300 crores of which the Central Government will give Rs. 1,800 crores while the State Government will give Rs. 1,500 crores. The balance Rs. 3,000 crores will be loaned from Japan Bank for International Cooperation (JBIC). UTI (Unit Trust of India) is the fund arranger for Phase I of the project.

The minimum fare of a metro ride is about Rs. 30. This already makes the metro journey beyond the reach of majority of the population. The metro covers only some parts of Bangalore which means that not everyone is able to use the metro.

Who loses when the Metro wins?

As mentioned above, the Bangalore metro will directly affect small and medium level traders and vendors who are currently opposing the metro because it will wipe out their businesses.

Taxis, autos and public buses will not be allowed within 500 meters to one kilometer radius of the

metro stations. A total of 36 stations have been planned for the metro. Feeder bus services will be introduced to ferry people to and from metro stations. This not only impacts the livelihoods of auto and taxi drivers, but also means ***revenue losses for the Bangalore Mahanagar Transport Corporation (BMTC).***
The councilors have no power to make decisions on this project. Most of the decisions will be made by the top bosses in Delhi and in the Karnataka State Government. Such large infrastructure projects become one of the many ways in which the elected council is kept out of deciding on important issues concerning the city.

Everyone pays for some users

In the present set-up, individuals pay Rs. 4.50 per unit of electricity. After a certain consumption limit, the tariff progressively increases. For the metro and the malls which will come in place, a flat electricity tariff of Rs. 2.50 has been set. This means that the public will have to bear the costs of electricity subsidy to private corporations.
The government will have to repay the loans it takes from JBIC within 25 years. It will recover the loan by:

- ➔ Charging entry fee to vehicles which pass through certain roads;
- ➔ Increasing parking fees in certain areas;
- ➔ Charging 2% cess from all people as infrastructure expenses;
- ➔ Prohibiting private vehicles on some roads (so that people are compelled to use the metro).

This means that everybody pays for a service that only some people may end up using.

The Delhi Metro Corporation (DMC) has planned the Bangalore metro and is the chief planning consultant. Phase I has has started with soil testing. Preliminary notices were issued to owners for land acquisition and now, final notices are being issued.

Transfer of Development Rights (TDR)

Exit traders, vendors and small and medium businesses; enter MNC and FDI = TDR

TDR is a clear formula for removing traders, vendors and small and medium businesses from prime commercial areas of the city and bring in large retailers and Foreign Direct Investment (FDI).

Presently, retailers like Food World and Big Bazaar have a coverage of 2% in the retail market. Their target is to increase total business to 8% by the end of this year. At the same time, international retail companies by Wal Mart, Metro Cash and Carry and TESCO want to enter the Indian retail markets and make investments here.

To smoothen this process, tools such as zoning and TDR have been introduced.

How TDR works?

Chickpet is a major commercial center in Bangalore. A number of businesses operate here including manufacture of textiles, plastics and stationery, jewellery and garment shops, etc. These traders have rented their shops and establishments here. There are also vendors who operate in this area through cooperation with shop owners. The shop owners allow vendors to stand outside their shops and carry out business.

The Bangalore Mahanagar palike (BMP) is eyeing this area and is asking land owners to give up their land for road widening. *However, most people in this area don't have clear titles since this area has multiple tenancies from four to five generations. There is no clear ownership of land in Chickpet. 80% of the persons in this area are tenants. The compensation will be given only to the land owners and not to the businessmen, traders and vendors who actually run their business in these areas.* As a result of this, these people are now moving their businesses to areas such as Jayanagar, Basavngudhi and Malleshwaram.

Push from Above – powerful lobbies at work in furthering 'reforms'

The push for introducing TDR comes from powerful lobbies such as CII (Confederation of Indian Industry) and FICCI. This push must be seen in the larger context of legitimating GIS mapping, creation of Special Economic Zones (SEZs), clearing unclear land titles and smoother entry of FDI.

TDR Experiments in other Indian cities

TDR was introduced in Chennai, Hyderabad, Ahmedabad and Mumbai from 1995 onwards.

In Mumbai, various types of TDR such as slum TDR, road, amenity TDR, etc, were introduced. In the case of Amenity TDR, if a private land is reserved for an amenity such as public school or public hospital, the owner of the land is given TDR as compensation. In the case of Road TDR, if the private land comes in the way of a road widening project, the owner is compensated with TDR. In the case of slum TDR, if a private developer agrees to house the slum dwellers for free, giving them 225 sq. ft. houses, he is given 2.5 times extra FSI to build houses for commercial sale. This allows the builder to recover the costs of housing the slum dwellers for free. Slum TDR is in great demand in Mumbai and has been much abused by builders.

TDR is issued in the form of TDR certificates which are then sold in the market either through agents or directly to developers for cash. If there is a surplus of TDR floating in the market, its purchase value goes down. *The MCGM in Mumbai does not have systems to keep track of how much TDR has been used and where. There is therefore a greater chance of developers cheating on the amount of TDR used.*

Thus, in Mumbai, the MCGM and the State Government which cannot give cash money as compensation to land owners for their land use TDR instead.

At the same time, developers, architects such as Hafeez Contractor, retired planners with the government, bodies such as Bombay First, etc. are pushing the State Government to increase FSI in Mumbai (which is currently set at 2) because of 'land scarcity'.

Not only this, but slum dwellers who are resettled under the slum TDR scheme are eventually given monetary compensation by the developers and moved away to the peripheries of the city. The developers then use the vacant land to build shopping malls.

How TDR affects local economy

Apart from its direct effects on traders and vendors, TDR indirectly affects the entire local economy which operates in a market setting. Typically in a market area such as Chickpet, traders and businesses require the services of daily wage laborers for various errands. Moneylenders also operate in market areas to give loans to small retailers. There are transport agencies, vans, tempos and autorickshaws which ferry goods inside and outside the market. Slums also exist in the market areas. All of these depend on each other for existence of the market as a whole. When TDR will be introduced, this networked economy is completely eradicated.

When the draft MCD policy is approved by the Supreme Court, street vendors will get a living and residents, clean streets.

The big picture

Tools such as TDR are aimed at clearing multiple tenures and tenancies which exist in market areas. Large retailers and developers find such tenures as messy and inconvenient if they are to acquire land and build on it. At the same time, TDR removes small local financiers which act as competition for private banks.

It is important to view the issue not as being separate but rather in the way all three - TDR, GIS based e-governance and urban renewal come together. Each provide for particular interventions that together add to a substantive anti-poor situation.

Transfer of Development Rights (TDR) - a key instrument to remove:
- **Tenancies and links to other businesses and service networks**
- **Small real estate developers**
- **Smaller local financiers**

It provides entry for:
- *Very large real estate agents and land developers*
- *Large private MNC banks and financial institutions*
- *MNC retail chains*

GIS based E-Governance is a key instrument to record and narrow tenure forms as a way to remove:
- **Multiple tenures**
- **Removes tenancies**

It provides entry:
- *Very large real estate agents and land developers*
- *Large private MNC banks and financial institutions*
- *MNC retail chains*

Since it helps categorize 90% of economies 'illegal', this results in:
- *Risk of eviction,*
- *constraining access to municipal infrastructure and services;*
- *Access to subsidized institutional finance*

Urban Renewal re-designates existing areas of multiple uses and diverse economic activities and social groups into homogenized large areas catering to the elite via 'development' territories and 'urban designed' mega projects. This can be older city areas, river front, older industrial areas.

This allows for:

- *MNCs to set up Malls, multiplexes, and dedicated high end retail areas for only very large traders backed by large globally connected financial institutions;*
- *Specialized high grade infrastructure to be provided (while the rest of the city suffer from low public services*
- *Very high level of anti-poor policing*

In favouring the large and the globally connected, this dis-allows

- Hawkers, diverse tenancies, small traders located on small plots via the specialized zoning and regulations;
- Smaller services and transport like rickshaw and small vans as well as bullock carts and other more wide spread transport forms;
- Smaller contractors and real estate developers involved in 'upgrading' property.