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**EFFECTIVENESS OF THE DEVELOPMENT CONTROL SYSTEM
FOR THE CITY OF COLOMBO, SRI LANKA**

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I. Introduction

Development control forms an integral part of the planning practice. It is the basic means by which the state intervenes to regulate the use and development of land in order to implement local and national planning policies. Most significantly it is the part of the planning process in which members of the public come into contact with local planning authorities.

Today, development control comes under considerable criticism about the nature of decisions taken, and the ways in which they are taken. One hears complaints that sluggishness discourages development; that its complexity is excessively costly; and that its nature stifles initiative. (Amos, 1980). Development control is not appreciated by the general public mainly because of the restrictions it imposes on the aims and aspiration of the developers. To gain a clear understanding of its role in planning practice it will be useful to analyse the development control system in relation to a particular country and city; Colombo in Sri Lanka.

Originally, the rationale for the introduction of state control on private development was to achieve objectives of safety and better health in order to create an improved environment for the benefit of the community. However, as the role of the state expanded and the extent of its intervention increased, the definition of the 'environment' subject to planning control has changed. From being wholly concerned with the physical form and content of development it now embraces the social and economic consequences of development. As a result, development control has been used to implement planning strategies for different purposes; for example to minimise the negative effect of urban growth, to check the menace of market forces and ensure social equity, as well as to support economic growth (Litchfield & Darin-Drabkin, 1980).

Therefore, development control is a tool, sometimes used to achieve its original objectives of safety and better health; sometimes to implement planning strategies; and in some cases to do both. Although it continues to regulate the use of land, while planning strategies have widened in scope, development control has proved incapable of meeting additional demands.

Since development control is used to implement planning policies, which are normally reflected in planning legislation, physical development plans and other associated planning documents, the failure to achieve development planning objectives may be due to the pursuit of inappropriate policies, to the application of inflexible standards and regulations, or both, which is why Koenigsberger (1975), Rivkin (1978) and McAuslan (1985) comment that development control practices are inappropriate, ineffective and inequitable in their operation in most Third World cities.

They argue that developing countries stand to benefit little from the transplanting of regulations that have evolved in different social soils with differing political and economic climates. Another criticism is that planning agencies in developing countries lack the power and resources to perform efficient and effective development control.

As far as Sri Lanka is concerned, the planning authorities depend on development control as a tool to regulate urban development as opposed to employing other alternatives, such as non regulatory measures, due to a lack of resources: consequently, development control constitutes the major component of planning practice in the country and has been in existence since the introduction of Municipal Council Ordinance of 1865 and Sanitary Ordinance of 1882.

Building by-laws were enacted for the first time in 1910. Then, the Housing and Town Improvement Ordinance (H&TI) of 1915 provided for the regulation of building development and control of land use in urban areas. Later, the Town and Country Planning (T&CP) Ordinance of 1946 was concerned with the preparation of planning schemes for urban areas.

H&TI Ordinance and T&CP Ordinance, based on the British planning laws, are the two major planning legislations by which development control was practised in Colombo before 1978. The standards applicable to physical planning and building construction were derived from these two ordinances, and from by-laws of the Colombo Municipal Council (CMC), which was responsible for the physical development of the city. The development permit system and building regulations constitute the main components of development control. Urban development became one of the priority objectives of the Government formed in 1977, which enacted the Urban Development Authority Law in 1978, for the promotion of integrated planning and the implementation of economic, social and physical development of areas declared urban development areas under the law.

The newly established Urban Development Authority, (UDA), controlled the development of several local authority areas, including the Colombo Municipality. A plan was prepared for the City of Colombo by the UDA and was introduced in draft form in 1982. The UDA was responsible for the implementation of this plan through development control, and with some amendments, it was legally recognized in January 1986 with the approval of the Minister in charge of Urban Development.

The City of Colombo Development Plan consists of two parts.

- a) A report explaining the objectives, and how future developments were to be achieved in relation to the maps delineating zones for various land uses and building densities within the city.
- b) A set of planning and building regulations.

As such, the City of Colombo Development Plan and the provisions of the UDA Law of 1978 and the UDA (Amendment) Act of 1982 are the legal base for the present development control system within the city, which covers an area of 3733 hectares with an estimated residential population of 615,000 (CMC, 1987). Since most of the development control functions were redelegated to the CMC in 1985, it is now responsible for the implementation of the development plan under the supervision and guidance of the UDA.

Unless development control takes into account the social, political and economic context of its area of operation, it is doomed to failure, and the effectiveness of the City of Colombo Development Plan will be assessed in relation to these criteria.

II. Appropriateness of Standards in Regulations

Introduction

It has been mentioned that development control in Colombo is based on the UDA Planning and Building regulations and other requirements of the City of Colombo Development Plan. Planning regulations specify the standards related to lot sizes, width of access, parking requirements, reservations for open space and building densities. Building regulations provide standards related to size of rooms, height of buildings, openings for light and ventilation, and type of materials used, as well as other aspects of construction.

For standards to serve a purpose, they must not be beyond the reach of those who must achieve them, and they must also be capable of adapting to changing socio-economic factors. If development control is to be effective, the standards stipulated in the regulations must be in accordance with the social, economic and environmental context of the particular city concerned. The impact of existing standards on development is evident when nearly fifty per cent of planning applications rejected during 1983-84 were thrown out due to non compliance with these standards. (Gunaratne, 1985).

Specifications as to lot sizes

According to section 17 of the UDA Planning and Building regulations, the minimum extent of a site required for any development is 150 sq.m. Although the population growth rate of Colombo has shown a continuous decline since 1946, it is still one of the most densely populated cities of the South Asian region. The present density of Colombo is 165 persons per hectare which is approximately 68 times more than the average density of the country. (CMC, 1987).

The scarcity of land to satisfy the housing needs of the existing population remains a critical problem in Colombo. Undeveloped land, mostly marshes, occupy nearly 13% of the land within the city. In addition, underdevelopment has resulted in a large amount of land being withheld from the market. As a result, land values have steadily increased over the years. Since 1978, with the open economic policy of the Government, the land values in Colombo have risen dramatically. Today, land price in a very good residential area is about Rs. 5000/= per sq.m. (CMC, 1987).

Furthermore, there are remarkable differences in land values in different parts of the city. Estimated land values in 1981 place the cheapest land at Rs. 480/= per sq.m. in Mattakkuliya area, and the most expensive at Rs. 6000/= per sq.m. in Fort and Pettah areas. (See appendix 1 for details).

Even at the lowest value, land with an extent of 150 sq.m. cost Rs.72000/= in 1981, in the Mattakkuliya area. This is a large sum of money considering the household income in a year. A survey by the Department of Census and Statistics in 1980/81 shows that 73.2% of households in the urban sector had a monthly income of less than Rs. 1500/= and only 9.2% of households earned more than Rs. 3000/= (Dept. of C&S, 1984-b).

With the wages of a public sector employee it would be impossible to think of buying a piece of land. In 1980, nearly 99% of government employees in the urban sector earned less than Rs. 1500/= per month. (Dept. of C&S, 1983). As most of the executives and professionals earning higher salaries live in Colombo, however, their situation is somewhat better.

Although the wage levels of government employees have increased since 1980, the annual reports of the Central Bank of Sri Lanka (1981-86) reveal that real wages have fallen relative to inflation. The Colombo consumer price index increased from 318.2 in 1980 to 561.2 in 1985 (Dept. of C&S, 1986), resulting in a falling standard of living for most of the population.

Exorbitant land prices have critically affected those in need of housing in the low and middle income groups, while construction costs have risen. The house construction price index has increased from 242 in 1978 to 652 in 1982 - an increase of 160% in four years. (Marga Institute, 1986).

Since savings in households with middle or low incomes are marginal, financing for housing, by means of bank-loans is beyond their repayment capacity. Therefore, in spite of the Government's effort to provide "shelter" for urban poor, land prices have made this prohibitive for the average person, and the majority are left out of the real estate market. The result has been the increase of illegal settlements (shanties) and overcrowding in slums where approximately 51% of the total population live (CMC, 1987).

Thus, the majority of people have been financially inhibited by standards related to minimum lot sizes, which means land is not distributed equitably, foiling one of the main objectives of the City of Colombo Development Plan.

Parking Standards

According to section 31 of the UDA Planning and Building regulations, every development should provide for a minimum number of parking spaces within its premises. The main purpose of this requirement is to ease the traffic congestion on roads.

Between 1980 and 1986, new residential and commercial developments constituted 94% and 91% of the total planning approvals by the UDA and CMC respectively. (See Appendix 2).

And as far as residential buildings are concerned, every dwelling unit exceeding a gross floor area of 200 sq.m. must provide one parking space.

For commercial buildings, the standards are as follows: (see Appendix 3 for the standards for all categories of uses).

Usage	Minimum car parking space
a)shops, departmental stores, office and other commercial buildings	- 1 for 200 sq.m. of floor space

- | | | | |
|----|--------------------------------|---|------------------------------------|
| b) | restaurants and night clubs | - | 1 for 10 sq.m. of restaurant space |
| c) | hotels, guest houses and clubs | - | 1 for 100 sq.m. of floor space |

Where the number of car parking spaces arrived at on the above standards consists of a fraction of half or more, according to the regulations, it should be counted as one. As a result, any commercial building (shop, office, etc.) exceeding 100 sq.m. should provide one car parking space.

The criterion to determine parking space standards based purely on the floor area of a development, is totally irrelevant in the context of Colombo.

As far as residential buildings are concerned, the demand for parking facilities is dependent on car ownership which is related to social status, income level, the standard of public transport facilities, Government control on the importation of motor cars, and the price of petrol.

According to the 1981 census, only 5.7% of total households in the city owned a car. When the number of households is categorized according to the floor area, 4.5% of total households occupied more than 200 sq.ft. (approximately 200 sq.m.), (Department of C&S, 1984-b). Although these figures indicate a relationship between car ownership and floor area of occupation they do not provide a strong base to confirm a pattern of car ownership related to the floor areas of houses.

On the contrary, any firm stand on parking is inappropriate in a rapidly changing atmosphere of vehicle ownership. The relaxation of controls on vehicle importation has led to a dramatic increase in the use of private vehicles during the past few years. Active motor cars and motor cycles increased by 37% and 617% respectively during the period between 1977 and 1981 (Diandas, 1983). The registered number of motor cars in Sri Lanka has further increased from 126,256 in 1981 to 148,587 in 1985 while the corresponding figures for motor cycles are 96,851 and 161,373 (Dept. of C&S, 1986).

An extended family of middle income, who cannot afford a car may require more than 200 sq.m. to live in, while a small family with a higher income may prefer to own a small house and a car. This argument is corroborated by the findings of a field survey by the Marga Institute (1986) which concludes that size of house does not bear a close relation to the income level of a household. So the parking space standard, indexed to the floor area of residential buildings is not relevant.

The same case can be made for commercial developments. The standards are again applied uniformly without considering the type, or location of business, or number of employees which influences the demand for parking spaces. For instance, a small retail shop in a central part of the city, can attract more custom generating a high demand for parking spaces compared to a large office building located elsewhere.

Imposing one standard on all types of commercial buildings - supermarkets, grocery shops, book shops, offices, banks, etc. - irrespective of their differences proves meaningless in the effort to

solve the traffic problems in the city.

Similarly, lack of firm definitions for different types of uses has created problems in determining parking requirements. Planning authorities have insisted on parking provision even in the case of small eating places, which are very common in Colombo and patronised by the poor, on the basis of the standards applied to restaurants. The status of the restaurant - whether it is a traditional eating place meant for low budgets or a western or Chinese restaurant catering to higher income groups - is not taken into account, even though the demand for parking is obviously different and cannot be related to their floor spaces.

In the regulations, there is a provision where planning authorities can impose a service charge for each car parking space not provided but required under the regulations. This service charge in respect of any development in Colombo is Rs. 120,000/= per parking space. This requirement mostly affects the middle income house builder who is compelled to conform to the parking standard in order to avoid such payment which is a considerable amount compared to the total construction cost of an average house.

Some developers, especially of commercial buildings in the heart of the city, are prepared to pay the required amount in service charges, so that they may utilize the valuable space for commercial use. Thus, parking standards are made redundant.

Standard for natural lighting and ventilation

Originally the building regulations applied British planning by-laws, and were not adapted to the social, economic and cultural needs of the local community. The Sri Lanka Institute of Architects argue that the present planning and building regulations are very much in line with the earlier Housing and Town Improvement Ordinance of 1916 and the only new concepts are the floor area ratios, the requirement of parking and concepts for the architectural control and conservation of buildings (S.L.I.A., 1982).

There has been no major change in standards relating to the provision of natural light and ventilation into buildings by means of openings. In addition to specifications regarding minimum area of openings, section 51 of the UDA Planning and Building regulations states that such openings must conform to a standard light plane at an angle of 63.5° to the horizontal. The standard, based on British building by-laws, is ludicrous, in the context of Colombo, due to outstanding differences in the climate and environment of the two countries.

Britain experiences four seasons with varying daylight during the year, but Sri Lanka, being a tropical country, does not have such climatic changes. While it may be relevant in Britain to consider seriously the penetration of sunlight into buildings, it is not necessary in Sri Lanka as there is too much sunshine throughout the year. And while British building regulations are flexible as to the use to which a building is put, Sri Lanka still rigidly follows a standard light plan of 63.5° which is totally irrelevant.

Conclusion

Standards for planning and building regulations are essential in guiding development, but these must be affordable and relevant to the particular context in which they are applied. When the reality of development control is prohibitively expensive and socially and environmentally redundant, the tendency is to bypass these regulations resulting in unauthorized developments. Thus, the inappropriateness of the standards embodied in the UDA Planning and Building regulations have hindered the implementation of the City of Colombo Development Plan.

III. Impact of Regulations on Potential Developments

Introduction

In simple terms, the purpose of development control is to guide the development of a city in a planned and orderly manner. If an objective is to prevent the centralization of an activity in a particular area, limiting growth can be considered an appropriate strategy. In order to achieve this, regulations controlling densities of developments such as floor area ratios (FAR) are deployed as tools.

The same tool can be applied in different contexts for different ends. Control over building densities can be imposed with a view to decentralize activities to prevent a burden on the available infrastructure in a particular area, or alternatively to restrict low rise development with the view of achieving maximum utilization of land, where there is a scarcity of land for development. Where there is no strategy, or where the strategy is not effective, the tool is purposeless. In order to achieve development planning objectives, the means and ends have to be formulated within the proper social, economic and political context.

In practice, planning tools may contradict strategies and their objectives. Some regulations create a situation where potential developments are restricted in spite of the fact that the development plan encouraged such developments to take place. Since commercial, residential and industrial developments are the three areas which mostly affect the socio-economic and physical development of the city, an analysis will be made of commercial developments in the central business district of the city, scrutinizing improvements to sub-standard residential buildings and the expansion of industrial establishments.

Commercial developments in Pettah

The central business district in Colombo consists of two distinct areas - Fort and Pettah. Fort is the financial and administrative centre, while Pettah has been the hub of wholesale and retail distribution for the city, as well as for the whole island.

Considering the availability of infrastructure, and high land values in these areas, the City of Colombo Development Plan has given them the highest floor area ratio (FAR) of 2.75, to encourage investment and accommodate the high demand for commercial development.

Although Fort has been undergoing a significant change in its physical form and character - the skyline is dominated by high rise office and hotel buildings - there has been no equivalent transformation in the Pettah area, the reason being, among other things, the restrictions in planning regulations.

The building fabric in Pettah consists of low-rise developments, built-up with little open space, with most of the buildings in a dilapidated condition.

By demarcating a high FAR for building densities, the objective of the Development Plan was to

encourage further commercial development of Pettah area. In addition to the maximum permissible floor area for any development calculated on the basis of FAR, there is provision in the regulations for the planning authorities to allow a further 30% of floor space, subject to a service charge. In other words, keeping the minimum open space of 20% required for commercial buildings, a developer should be able to build a four storeyed building in Pettah.

In practice this cannot be achieved in most cases because of restrictions on building height, determined by the regulations in relation to the width and the extent of the site. According to section 18 of the UDA regulations, only a two storeyed development is allowed on an existing lot which is less than 150 sq.m. in extent, or six metres in width. This requirement has hindered potential developments in Pettah because most of the existing sites are very small in extent, and narrow, due to previous subdivisions to meet the high demand for commercial premises.

The findings of a survey by Mendis, S. (1981) reveal that 60% of the total number of premises in the area covered by Front Street, Main Street, Fifth Cross Street and Olcott Mawatha (see the map in Appendix 4), the heart of the commercial district of Pettah, are less than 150 sq.m. in extent. The survey also shows that about 65% of the buildings in this area are more than fifty years old and are in need of redevelopment. As the owners are not in a position to invest money for better economic return, despite their willingness to do so, most of the properties in Pettah cannot be developed to the extent posited by the Plan.

Thus the application of certain regulations in the existing built-up areas, like Pettah, result in the holding back of potential development, contrary to the objectives of the Development Plan. This not only has a negative effect on the economic development of the city but also shows the ineffectiveness of development control practice.

Planning must avoid becoming synonymous with "banning", and must take care not to stifle the developer's flair, initiative and investment which are essential if the Plan is ever to be physically realized on the ground.

Redevelopment of substandard residential units

The urban housing needs of Sri Lanka have been steadily increasing over the years accompanied by the deterioration of basic living conditions evident in the slums and shanties. In this context the present Government has embarked on a massive housing programme to assist the poor to meet their housing needs and to improve existing housing stock to promote a better standard of living. The slums are old, deteriorating tenements or subdivided derelict houses. The slum tenements, built mostly of permanent materials, are very often arranged in back to back rows. A cluster of tenement units with a definite property boundary is called a "tenement garden". It shares common amenities and the occupants have a definite legal status of occupancy.

Today, 51% of Colombo's population live in improvised or substandard residential units which constitute 50.6% of the total housing stock (82,692) in Colombo (CMC, 1987).

The distribution of population and the condition of housing varies in different parts of the city. In 1981, the density of the planning units of Cinnamon Garden and Narahenpita were 48.8 and 79.4

persons per hectare respectively while Kochchikade, Maradana, Grandpass and Dematagoda planning units had the highest densities - 503.4, 224.2, 217 and 205 respectively. (See the map in Appendix 5 for the location of planning units.)

According to the Marga Institute (1986), municipal wards with the largest proportion of slum and shanty dwellers are Borella (99.9%), Panchikawatte (99.9%), Modera (99.8%), Mahawatte (99.5%) and New Bazaar (85.2%) compared with the lowest proportions in Bambalapitiya (0.8%), Milagiriya (4.8%), Fort and Pettah (5.5%) and Cinnamon Gardens (6.3%).

It is important to examine whether planning and building regulations work for or against those who are in need of improved housing, while noting that improvements in the form of extensions or alterations to a considerable proportion of the existing housing stock cannot be carried out because of restrictions of regulations.

Analysing the cases where planning approvals were refused in 1983 and '84, Gunaratne (1985) points out that a large proportion of refusals are related to the development of dwelling units in slum tenement gardens. He analyses in detail a case where planning approval for the construction of an additional floor to an existing single storey dwelling unit on an 86.5 sq.m. site, in a tenement garden of sixteen dwelling units, in Kochchikade had not been granted simply because it did not satisfy basic regulations concerning extent of site, minimum open space, width of access and light and ventilation.

Kochchikade is the planning unit which has the highest density (503 persons per hectare) in Colombo. According to a survey carried out by the UDA in 1979, there were 4145 slum tenement garden units occupied by 58% of the total population in that planning unit. These units generally occupied a plot of 50 - 100 sq.m.

The conditions of slum tenements in more prosperous areas of Colombo are such that even they do not satisfy the basic requirements of regulations for redevelopment. Thus, regulations very often hinder residential redevelopment, and prevent the already deteriorated houses being developed for the benefit of a large proportion of the city's population who occupy them. This runs against Government policy on housing development as well as the objectives of the Development Plan, which has zoned these areas for primary or mixed residential uses.

There is a provision under the UDA amended act of 1982 for the relaxation of normal regulations such as plot size, access, and room sizes in the case of low income housing. However, this applies only when a planning authority designates a particular area for that purpose. Normally, low cost housing or shanty upgrading programmes undertaken by the Government are granted such relaxations, but the slum tenements, scattered in various locations in Colombo have not so far been given such recognition or provision on an individual basis.

Planning regulations have prevented further development of a large proportion of existing housing stock in Colombo for the benefit of their occupants and the obvious consequence has been unauthorised development. Since the regulations are not aligned with the aspirations of the people, development control is seen to be ineffective.

Regulations based on land use zoning

Zoning provisions form an important part of the UDA Planning regulations. According to the City of Colombo Development Plan, there are nine land use zones: Primary Residential, Mixed Residential, Commercial, General Industrial, Special Industrial, Public and Semi-Public, Parks, Play Grounds and Open Space, Agricultural and Deferred Zones.

Courtney (1978) comments that in the cities of developing countries, where characteristically there are mixed land uses, the attempt to segregate uses does not meet with much success. There has been considerable intermixture of uses and types of developments in Colombo. People are accustomed to having various types of commercial and even industrial developments close to residential areas, or within them.

The City of Colombo Development Plan designates zones for mixed residential development where certain non-residential uses are permitted, but such zones are very limited considering the general mixed land use pattern of the city. Additionally, zoning provisions often affect developments which have the potential for economic development, as can be seen in the case of the Mattakkuliya planning unit.

Mattakkuliya, which is located to the north Colombo and close to the harbour, shows a mixed type development with the highest concentration of industrial and warehousing establishments. According to a survey by the UDA in 1979, there were 201 industrial establishments and 260 warehouses located here. In other words, 31% of the total industries and 70% of the total warehouses in the city.

However, the Mattakkuliya planning unit has been earmarked as a mixed residential zone limiting industrial developments to 1000 sq.m.; and in the case of warehouses - 250 sq.m. This has prevented further development of existing industrial premises even for office and other related functions. Gunaratne (1985) points out several cases of building applications rejected by the planning authorities because of these limitations. For example, an application for additional office space in an existing garment factory, with a floor area of 1676 sq.m., was turned down on the grounds that it already exceeded the permissible floor area limit of 1000 sq.m. in a mixed residential zone. The existing building covered only 40% of the site (3239 sq.m. in extent) whereas the regulations allow a maximum of 80% plot coverage for non-residential uses. Furthermore, since the FAR applicable to this particular site is 2.0, it could have developed a maximum floor area of 6478 sq.m. which is nearly three times that of the existing building.

There are similar cases where, due to zoning requirements, redevelopment of existing industrial establishments in Mattakkuliya were restricted. In such cases, developers have not been advised as to how the remaining site could best be put to use for the benefit of themselves as well as the community.

Rejection of such applications cannot be justified purely on the basis of zoning requirements, since development would not create harmful effects in terms of nuisance, pollution, traffic, or an undue demand on existing infrastructure.

Alder (1979) suggests that discretion must be exercised in the light of each application and the

authorities should not automatically reject all applications which conflict with the Development Plan or regulations.

Amos (1980) suggests that the conventional control system must give way to a new work style in which development is positively encouraged. This means that attitudes to planning applications must be to facilitate, rather than regulate developments. In Colombo, the opposite has been the case and regulations based on zoning have sterilised developments, preventing economic growth in the city, which is one of the objectives of the Development Plan.

Conclusion

The sanction of saying "No", which is inevitably associated with development control, must be used sparingly, and should be reserved for proposals which are either socially or economically irresponsible or environmentally objectionable, while, for the most part, the development control system should be an enabling activity carried out in the interests of society.

Unfortunately, development control in Colombo is geared more towards restrictions, despite the general objectives of the Plan, and Government policy to encourage the socio-economic development of the city.

IV. Effectiveness of Development Permit System

Introduction

The necessity of development stems from market forces and the socio-economic needs of the people. However, as Koeningsberger (1975) and Rivkin (1978) argue, the forces of a free market cannot be expected to produce a rational, efficient and equitable land use system; a system which can satisfy all legitimate needs for space at a given period of time, and allow for long term accommodation of future growth. This is why the government must intervene in private developments through a system of development control.

The development permit system is an essential mechanism for plan implementation to ensure that development conforms to planning policies, land use zoning provisions and related environmental performance standards while safeguarding the land available to satisfy future needs. According to the section 8J of the UDA law no development activity can be undertaken without a permit issued by the UDA or the local authority concerned. However, the extent to which the development permit system influences development trends in Colombo, is a matter of considerable dispute.

Effects of market forces

Originally, Colombo was a seaport used by Arabs, Chinese and Persian traders. Later, under the colonial rule of the Portuguese (1505 - 1658), then the Dutch (1658 - 1796), and finally the British (1796 - 1948) it was developed as the major commercial centre and administrative capital of the country. Thus the physical development of the city has been influenced and directed by a variety of factors; not by any planned action of the Government, but by market forces.

The Galle Road Corridor, once a high class residential area, is now predominantly a commercial area. The old residential areas of Pettah, Grandpass, Kotahena, Maradana and Panchikawatte have been commercialised and there has been an intrusion of industries and warehouses into the residential areas in the north of Colombo.

The period after 1977 saw major economic reform which led to the liberalisation of the economy, a significant augmentation of the flow of external resources and a massive increase in investment. The designation of urban development as a programme of national economic significance gave a strong impetus to the processes associated with a modernising urban economy.

The creation of the Investment Promotion Zone to the north of Colombo and the construction of hotels, commercial buildings, supermarkets, through tax incentives, on prime sites, has had a tremendous impact on the physical development of the city. The flow of foreign investment and the large influx of foreign personnel has increased the demand for rental buildings and residential units.

Associated with these changes, there has been an explosion in land values since 1977. The records maintained by the Registrar of Lands relating to land transactions, point to an overall tenfold rise in land values between the period 1977 - '79 (Marga Institute, 1986).

A survey of the Business Premises Market (Mendis, W. 1984) shows that in Colombo, the demand for floor space has been speedily rising, recording an increase of 194% between 1981 and 1984.

The growth of commercial and industrial activities has occurred against the objectives of the Development Plan, with a large number of unauthorised constructions in the form of extensions, modifications and changes of use in Colombo, which challenge the effectiveness of the development permit system.

Unauthorised developments

The change of use of a large number of residential units into commercial, light industrial and other uses has been a significant phenomenon in the recent past. This is mainly due to low residential rents in comparison with rents on new commercial buildings. Developers find it easy and profitable to establish a business within a short period of time through change of use, rather than going through a building construction process with exorbitant construction costs and land prices.

The conversion of residential units, has taken place mainly in the municipal wards of Kollupitiya, Cinnamon Gardens, Bambalapitiya and Havelock Town (Marga Institute, 1986). According to a survey (Mendis, W. 1948) the conversion rate in 1981 was one house in every two days, and in the following years, one house in every 1.2, 1.7, and 2.4 days respectively. This trend has created a tremendous pressure on house rents and the availability of houses to rent. In view of the relief measures afforded for the construction of houses, the change of use of residential units to other uses continues to undermine the Government policy of improving housing stock. Some of these changes of use not only conflict with the zoning requirements of the Development Plan but also have an adverse effect on the infrastructure and amenities of the surrounding area, in addition to creating traffic problems and other inconveniences.

In the beginning of 1987, according to UDA records, there were 2250 active files related to unauthorised construction and conversion of residential units. This indicates that the development permit system has not been effective as a tool to control undesirable developments.

A new problem is the establishment of warehouses and container yards, in the city, without development permits. With the liberalisation of the economy after 1977, the volume of import export has dramatically increased. In order to cope, more warehouses and an efficient cargo handling system were required. Containerisation has created revolutionary changes in cargo handling in Sri Lanka and has led to the building of new warehouses and container yards, during the past ten years.

According to the UDA policy, the establishment of container yards within the City of Colombo is not permitted. There are five areas demarcated for such developments outside the city limits: Peliyagoda, Ratmalana, Athurugiriya, Homagama and Urugodawatte. Nevertheless, by 1983, there were eighteen container yards and freight stations located within a radius of 12 km from the harbour. Most of them are in Colombo North due to cheap land availability there, and accessibility to the harbour. Similarly, the number of warehouses in Colombo increased from 325 in 1979 to 353 in 1983; most of them seemingly developed without planning permission (Weerasena, 1983).

The consequences of such unauthorised developments have been critical. Nearly 70% of container yards have been established in primary or mixed residential zones as defined by the City of Colombo Development Plan. The traffic on narrow roads through highly populated areas has caused tremendous problems in terms of congestion, noise and accidents. Thirty-nine accidents were reported during 1982 and to September 1983 in connection with container transportation within the city (Weerasena, 1983). Only one container yard has a road access of more than nine metres, where, according to international standards for container transportation, the minimum requirement is twelve metres. This suggests that the purpose of the development permit system in Colombo has been lost, and it will be useful to examine the reasons for its ineffectiveness in controlling haphazard developments in the city.

Causes for ineffectiveness of Development Permit systems

According to the law, every development in Colombo must obtain a development permit from the UDA or CMC. However, in most cases, developers seek planning permission only for the purpose of obtaining necessary services to their development and not for the sake of fulfilling the requirement of the law. For instance, water and sewerage connection cannot be obtained from the CMC without a valid development permit and a certificate of conformity. Once these requirements are satisfied, developers are no longer interested in conforming to regulations, resulting in the construction of unauthorised extensions and alterations, and changes of use of buildings in the city.

Container yards require only land for storage purpose and sometimes a small office space, which could function without municipal services. The change of use of a residential building is relatively easy because water, sewerage, telephone services and electricity are already in place. Consequently, developers are not interested in taking the necessary action to obtain development permits.

Likewise, those who cannot afford such services and cannot satisfy the regulations, do not bother about a development permit and simply carry out developments according to their requirements, of which slums and shanty settlements are the best example.

Another reason for the ineffectiveness of the development permit system is a lack of awareness about the existence of such a system. Many minor developments are carried out on a once in a life-time basis, by owners who are often unfamiliar with planning and building control procedures, in spite of the fact that the literacy rate of Colombo residents is as high as 94% (Department of C&S, 1984-a).

So there is a gap in the published guidance available to the public on development control in Colombo. And until people are made aware of what planning is, and why it is important, as well as what the law expects of the citizen, it will continue to be ineffective.

Conclusion

While people do seek planning permission to comply with the requirements of the law, (see Appendix 2 for the information on planning approvals by the UDA & CMC), the disparity between what is approved by the authorities, and what occurs on the ground is remarkable. Thus, the original purpose of combating the adverse effects of market forces, and promoting social welfare through the control of the use and development of land, has been lost.

V. Enforcement of Law

Introduction

If the machine of development control is to be effective, efficient and appropriate means of enforcement are essential. If enforcement is lax, not only will objectives not be achieved, but the very principle of regulations will discriminate between those who wish to adhere to and those who wish to flout them (Cullingworth, 1979).

Powers for enforcement

"The formulation, enforcement and implementation of land use plans and all other land control measures are inconceivable without an appropriate organisation possessing adequate powers and resources." (United Nations, 1973: 102)

So, no matter how appropriate the Plan, and regulations are, little can be realized without a suitable administrative framework with sufficient powers to ensure their enforcement.

The UDA and the CMC are the agencies responsible for development control in Colombo. Matters related to enforcement are mainly dealt with by the Legal Division and the Development Regulations Division of the UDA, which has the legal backing to prevent unauthorised developments of land and buildings by such measures as withholding development permits, charging penalties/ service charges, acquiring lands and buildings, and demolishing buildings. But the problem rests on the extent to which the UDA can take such action, as there are numerous constraints to performing effective enforcement.

Problems and Constraints

The major problems with enforcement stem from the sheer volume of people for whom the standards and planning regulations are inappropriate and unaffordable. They often have no choice but to violate regulations or control measures. Arising from these phenomena is a lack of community support for the purposes of enforcement. Planning authorities lack resources for a continuous system of monitoring which is an essential part of the planning process, making enforcement a difficult task.

Apart from these basic problems, there are other constraints related to the administrative, organisational and legislative system in Colombo.

Breaking the law may not be difficult but taking action swiftly against such acts in a "democratic" society is not that easy. Authorities must follow legal procedures which are often costly, lengthy and tedious. In Colombo, unless the conflicts can be resolved by negotiation, the UDA has to seek court orders to take necessary action against unauthorised developments. Little comes from turning the responsibility of planning decisions over to an overloaded judicial system. The courts are neither technically nor operationally suited to handle such matters and are unlikely to be able to

improve upon the present system of development control. Their priorities are on criminal offences not planning matters, so efficient and effective enforcement is limited.

Another aspect which makes enforcement difficult is a lack of communication between public authorities, and a conflict of interests amongst them. Bracken (1981) comments that the organisational aspect of planning practice, including the enforcement of law, is characterised by tensions among numerous agencies and departments who, in one way or the other, have something to do with the development of the area concerned. Each works to their own timescale and their own sense of priorities. This situation is compounded by the complexity of new organisations and the interrelatedness of urban problems. Any development control system that cannot deal with these complications will be ineffective.

The overlapping of different laws in Colombo makes the enforcement of development control very problematic. Public agencies operate within separate statutory frameworks. And in many cases they either undertake development directly, without obtaining any development permit from the planning authorities, or allow other private parties to do so by issuing licences and permits. It was found that all the developers of container yards in Colombo mentioned previously had permission jointly issued by the Ceylon Shipping Corporation and Central Freight Bureau (Weerasena, 1983).

In Colombo, there are many public agencies involved in matters related to physical planning and development. The following can be identified as the outstanding agencies in addition to the UDA and CMC:

1. National Housing Development Authority
2. Central Environment Authority
3. Sri Lanka Land Reclamation and Development Corporation
4. Common Amenities Board
5. National Water Supply and Drainage Board
6. Roads Development Authority

These authorities have different interests, objectives and priorities which sometimes run counter to planning objectives and regulations.

Conflicts are not uncommon even between the UDA and the CMC due to lack of communication or differing interests. The implementation of the City of Colombo Development Plan, prepared by the UDA, has not been transferred to the CMC which, as an independent body governed by elected members, has the different interests of local people to consider. There have been cases where the CMC has issued licences to run business in buildings where legal action was being taken by the UDA for unauthorised development and change of use on the premises. (UDA planning committee meeting minutes on 7 February 1987.)

In the event of action taken by other authorities affecting the requirements of the Development Plan or planning regulations, it is difficult for the UDA to take legal action against them. After all, all these authorities operate within a single governmental administrative structure. In practice, such conflicts have to be resolved by political intervention which may not necessarily take the view of the planning authority. In a broader sense, the responsibility of any act by a government agency is shared by a body of personnel rather than an individual, as in the case of a private developer, thus it

becomes practically impossible for one public agency to take legal action against another.

There have been cases where the Housing Authority and other voluntary organisations implement housing development projects directly or indirectly, (by means of providing loans, building materials, technical assistance), contrary to standards, regulations and zoning provisions of the Development Plan. The UDA find it very difficult to take strong action to stop such activities at a time when the Government has placed the encouragement of housing development as a top priority. The need for housing overrides the development control provisions, and enforcement become "inactive".

Lack of resources to perform enforcing measures was mentioned earlier, and the recently established unit in the UDA to deal with unauthorised developments functions with a very limited staff: a Town Planner, three Inspectors and three clerks under a Deputy Director. Though its operations are effective to a certain extent, in terms of the number of cases detected, it has done little to achieve planning objectives by rectifying or preventing unauthorised developments through enforcement.

Furthermore, the UDA has not identified the priorities for enforcing development control. As Dobry (1975) stated, the greatest defect of planning control is its failure to identify its own failings. This is valid in the case of Colombo where great effort has been taken to regulate or take legal action against relatively small developments, while large developments, creating major social problems, are overlooked. This also suggests that planning is not neutral and confirms the argument that planning works for the interests of the dominant class in society.

Conclusion

Thus the availability of laws does not necessarily ensure a commensurate level of achievement or quality of performance, as many factors influence the final planning output. Present enforcement of development control to realise planning objectives in Colombo has proved difficult, because, despite adequate powers entrusted in the planning authority, the system lacks community support and necessary resources. It also lacks the support of other public agencies due to a conflict of interests and lack of communication.

V. Efficiency and Equity of the Development Control System

Introduction

The ultimate success of a development control system will largely depend upon the efficiency of those who are operating it and the quality of decision making which requires well trained, adequate and determined staff and leadership.

The operation of the development control process within the planning authorities amounts to a complex balancing act in which a number of pressures have to be absorbed, and a point of equilibrium found in order to ensure the efficient treatment of an individual application. The process is made up of competing internal pressures - time spent, the prioritisation of certain cases - and is influenced by external pressures from applicants and their agents, and financial constraints on staffing (Brook, 1980).

Planning is an activity related to a political process through its fundamental involvement in the affairs of society. A great deal is expected from development control which restricts individual's rights in the interests of the community. However, as RTPI (1979) suggests, it cannot and should not be used to obstruct activities which are the legitimate expressions of fulfilment of the needs of a democratic society. Equally, it must not override, without very careful consideration, the minority interests of communities and small groups in society. Making a decision in such circumstances is never easy and it cannot always be achieved as quickly as some would wish. Hence, political intervention is inevitable.

It is critical to examine the efficiency and equity of development control within the existing administrative framework, and in the sphere of political decision making, and some discussion on the interrelationship between planning, society and the state is necessary.

Planning and State Intervention

Planning is essentially a state activity. Therefore, it can be argued that planning laws and procedures are developed within the state; consequently, the view attributed to the state will be reflected in the way that law is regarded.

Ramirez (1982) argues that although the dominant ideology of development planning advocates a socially autonomous state, the reality is that the state is linked to a social structure which is made up of social groups. These groups often pursue conflicting interests. Since social domination is expressed in the spatial structure of land occupations, legitimised traditionally through land institutions, an attempt to reverse or control it will only succeed if it is in line with the interests of the dominant class. Laws which reinforce the interests of the dominant class are implemented faster, with more determination, although their effectiveness is conditional on the dominated class accepting them. Planning laws are far from neutral, objective or in the public interest, and do, in fact, manifest the interests of the dominant class.

Castells (1978) argues that the dominant class has great influence over what is implemented by the

state. Legislation claiming to be in the public interest only fosters the interests of a particular group - not the poor whatever is claimed to the contrary. Which is why some regulations, even though they are inappropriate to the interests of the general public, continue to operate. Typically in Colombo "efficiency" in development control is linked to the interests of the dominant class, and not tied to an equitable decision making process.

Efficiency in Development Control System

"... There remains an obligation upon all authorities to be efficient in reaching decisions in planning applications." (Amos, 1980)

Efficiency implies making a good decision quickly at least cost. The neglect of quality, or time, or cost in favour of the other factors leads to severe social penalties. Thus, it is essential to have sufficient and qualified staff who are capable of the better management of development control.

The City Planning division of the CMC has only four Town Planners and a few technical and administrative staff to deal with development control functions. They cannot keep up with the work load and the system has become inefficient.

One of the criticisms of the development control system is the long delay in making decisions to issue permits, which impedes development projects. This is due to the cumbersome procedures for scrutinising, in detail, each application for planning permission. The average time taken for processing planning applications by the CMC is about ten weeks. This seems satisfactory in comparison with a developed country like Britain, where the planning authorities, equipped with qualified staff and more resources, also find it difficult to deal with applications within the statutory eight week period (Underwood, 1981).

Smooth handling of planning applications does not contribute to the effectiveness of the decision reached or the quality of the resulting development. Since planning authorities have tended to regard themselves as assessors only of the environmental implications of a development proposal, the significance of development as a means of creating economic growth, has been ignored all too frequently. The planning approval system does not present a positive service, and is regarded by the general public as a bureaucratic machine designed to make it difficult to develop their properties.

While the present development control system in Colombo is intransigent regarding the needs of the poor, those who can influence the decision makers will not find any obstacles in getting a favourable planning decision quickly. "Efficiency" in development control exists only for the interests of the dominant class of the society.

Equity in decision making

Theoretically, any law should not discriminate between individuals, groups or classes. But in

practice, it is common for consensus to be given to those whose social positions allow them to influence government decisions. It is common practice to legalise buildings or ignore any development operation carried out by an influential person, even though it contravenes certain provisions of the law. This confirms Ramirez's argument (1982) that the state is linked to a social structure which is based on class, and the notion that development control is for the benefit of society is meaningless.

Discrimination in development control is exercised where regulations and standards are uniformly applied, irrespective of the vast socio-economic differences in various parts of the city, affecting the poor most of all.

McAuslan (1980) comments that law is neither neutral nor objective and that even the words themselves, the way they are put together and have been interpreted, embody ideologies about power and society. The validity of this view can be shown from the wording of the UDA Planning and Building regulations. For example:

"however, **if the Chairman is of the opinion ...**, the minimum width of access **may be reduced ...**" (section 16-2b)

"The Authority **may relax** the requirements of..." (section 17-3)

"The Authority **may approve** any project for ..." (section 24-1 & 2)

"The Authority **may permit** the construction of..." (section 28)

"The Authority **may issue** temporary permit ..." (section 72)

These are the loopholes which the dominant class make use of, though, theoretically, such clauses imply fairness to all.

As far as land use policies and other provisions are concerned, the development control system has tended to accommodate large organisations or influential groups who are better able to negotiate, while private individuals have great difficulty in influencing policies in their interests.

While democratic rights can be seriously affected by planning decisions, redress is a complex business. An aggrieved person has recourse to certain appeal procedures. However, as the Minister concerned is the appellate authority regarding appeals against the issue of planning permits, the law limits the appellants' rights automatically.

While the planning system is linked to a political decision making process, the state, through its legislation and regulations, safeguards the interests of the dominant class of the society. And the efficiency of the planning authorities exists for a few, but not for the many who most need it. Thus the present development control system in Colombo is neither efficient nor equitable in its operation in the city.

VII. Conclusion

Having reviewed the rationale for government control on development and the objectives that interventions pursue, this study focused on the problems and constraints that impede development planning in Colombo. The analysis of selected standards embodied in the UDA Planning and Building regulations, showed that they are not appropriate to the needs, aspirations and incomes of the majority, who have no alternative but to violate the regulations one way or the other, making development control ineffective. Furthermore, some regulations obstruct or withhold potential development, producing a negative effect on the promotion of social, economic and physical development, contrary to the objectives of the development control system.

Analysing trends in the permit system and considering the volume of unauthorised developments in the city, it is clear that the present apparatus cannot meet contemporary needs. Even though adequate powers have been given to the planning authorities (UDA & CMC) by the provisions of the law, they do not perform effectively. Lack of resources, as well as sheer volume of work have made enforcement of the Development Plan difficult. And where the decision making process works in the interest of the dominant class, not the poor who constitute the majority of the city's population, actual development in the city runs counter to the principles the Plan is supposed to embody.

The authorities have not established explicit priorities for development control, and though the regulatory tools that are available have potential significance, no choice has been made as to the proper application of these tools within the socio-economic context of Colombo.

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APPENDIX 1

LAND VALUES IN COLOMBO - (1981)*

Planning Unit	Land Value (Rs. per sq.m.)
1.Fort - Pettah	6,000
2.Kochchikade	2,400
3.Maradana	2,400
4.Kollupitiya	2,400
5.Mattakkuliya	480
6.Kotahena	2,400
7.Grandpass	2,400
8.Dematagoda	1,200
9.Borella	2,400
10.Cinnamon Gardens	3,000
11.Bambalapitiya	2,400
12.Wellawatte	2,000
13a.Narahenpita	2,000
13b.Kirillapone	1,600

* **Source:** City of Colombo Development Plan, Urban Development Authority, 1985

APPENDIX 2

APPROVAL OF BUILDING APPLICATIONS

a) By the Colombo Municipal Council*

	1980	1981	1982	1983	1984	1985	1986
1.Land Residential Buildings	563	530	589	532	559	521	402
2.Commercial Buildings	67	58	45	4	-	41	83
3.Industrial Buildings	36	4	10	-	-	2	11
4.School Buildings	5	5	3	-	-	2	1
5.Additions & Alterations	456	528	538	411	179	129	421
6.Other Buildings	7	15	60	39	47	59	105
Total	1134	1140	1245	986	785	754	1024

Note:This excludes Government and Corporation Buildings

- * **Sources:** a) Central Bank of Sri Lanka, Annual Reports 1980-1986
b) Marga Institute, Housing Development in Sri Lanka, 1971-1981

b) By the Urban Development Authority**

	1980	1981	1982	1983	1984	1985	1986
1.Residential Buildings	22	24	22	67	494	659	339
2.Commercial Buildings	4	1	3	31	92	117	58
3.Industrial Buildings	5	-	-	4	7	19	10
4.Public and semi public	-	-	-	6	21	28	16
Total	31	25	25	108	614	832	423

** **Source:** Urban Development Authority

APPENDIX 3

PARKING SPACE STANDARDS*

Usage	Minimum car parking space
1. Residential	
i) Dwelling units exceeding a gross floor area of 200 sq.m.	-1 for 1 unit
ii) Flats exceeding a gross floor area of 100 sq.m.	-1 for 1 unit
iii) Flats with a gross floor area less than 100 sq.m.	-1 for 5 units or 1 for 200 sq.m. whichever is more
2. Commercial	
i) shops, departmental stores, offices and other commercial buildings	-1 for 22 sq.m.
ii) Restaurants and night clubs	-1 for 10 sq.m. of restaurant space or 1 for 20 sq.m. of total floor space whichever is more
3. Cinemas, theatres, auditoriums and similar use	-1 for 20 seats
4. Factories, industrial establishments and warehouses	-1 for 200 sq.m. and 1 lorry parking stall of not less than 3.0m. by 0.8m
5. Institutional	
i) Nursing homes and private hospitals	-1 for 3 beds
ii) Consulting rooms	-1 for 5 sq.m. of consulting room space
iii) Medical laboratory	-1 for 100 sq.m.
6. Other	-as may be decided by the Authority for each use but not less than 1 for 200 sq.m. floor space

* **Source:** City of Colombo Development Plan, volume 2 (schedule II), Urban Development Authority, 1985.