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Right to Land and the Rule of Law: Infrastructure, Urbanization and Resistance in India

Preeti Sampat
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Right to Land and the Rule of Law: Infrastructure, 
Urbanization and Resistance in India

by

Preeti Sampat

A dissertation submitted to the Graduate Faculty in Anthropology in partial fulfillment of the
requirements for the degree of Doctor of Philosophy, The City University of New York

2015
This manuscript has been read and accepted for the Graduate Faculty in Anthropology in satisfaction of the dissertation requirement for the degree of Doctor of Philosophy.

Professor David Harvey

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Outside Reader

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Abstract

Right to Land and the Rule of Law: Infrastructure, Urbanization and Resistance in India

by

Preeti Sampat

Adviser: Professor David Harvey

The Special Economic Zones Act 2005, a critical infrastructure model, was enacted in India in two days amid total political consensus. Within two years, intense conflicts over land and resources erupted in SEZ areas across the country between corporate developers, the state, and peasants’ and citizens’ groups. In the ensuing furor, several SEZs foundered and Goa state unprecedently revoked its SEZ policy, suspending 15 SEZs, some with construction underway. Amid raging debates and accusations of corrupt real estate deals over SEZs and other “infrastructure” and urbanization investments, the central (federal) government attempted to redraft land acquisition policy, eventually enacting a new law in 2013. This legal anthropological study of land and resource conflicts over “growth infrastructures” and urbanization in India examines the emergent Indian jurisprudence around land and resources; the policy genesis and evolution of Indian SEZs; the growth of India’s real estate economy; and successful peasant and citizens’ resistance to “infrastructure” and urbanization policies in Goa. Using ethnographic and archival research, it contributes to anthropological studies of law as process, and law contextualized in its broader social setting. It locates conflicts over land and resources challenging “state sovereignty” and capital accumulation at the center of India’s economic growth story. It analyzes contemporary processes of capital accumulation, relationships with land and resources, social movements, and negotiations of “citizenship” and “the state” refashioning the “rule of law” in India’s liberal democracy. It concludes that India’s growth is unfolding with recurrent conditions of “impasse” and resistance. Contradictory policy and legal provisions, interests within the state, and oppositional social alliances
have reopened a fundamental historical impasse over relationships with land and resources that underlines how critical access to land and resources are to a large number of people. It argues for a legal framework for land- and resource-use that is locally determined, egalitarian and ecologically appropriate as a tool towards ushering a fundamental “reconstitution from below.”


Preface

A new government is in power in India from May 2014. With discontent high over living standards and several high-level corruption scandals that rocked the previous center-right Congress Party-led United Progressive Alliance (UPA) government, the Hindu-right Bhartiya Janata Party (BJP)-led National Democratic Alliance (NDA) has secured a 62 percent majority in the Lower house of the Parliament. For the first time in 30 years, a single political party, the BJP, has won over 50 percent of Parliamentary seats. Despite a 39 percent overall vote share, the newly formed NDA government wields considerable mandate.

The new Prime Minister (PM) of India, Narendra Modi, is projected by his supporters as “clean” (corruption-free) and pro-business, and by his critics as authoritarian and intolerant of dissent. He is particularly controversial because of the anti-Muslim violence in Gujarat in 2002, and is accused of abetting and overseeing the mass murder of about 2000 Muslims in 2002 as Chief Minister of the state. Modi enjoys the support of major Indian business houses which have received favorable treatment in Gujarat state, where he was Chief Minister for nearly 14 years before his elevation as Prime Minister. Many Indian capitalists publicly endorsed him as an ideal Prime Ministerial candidate from 2010, when some major controversies implicating the UPA government and high-profile Indian businesses struck national headlines (such as the Commonwealth Games and Radiagate scams; see Varadarajan 2014). Indian business tycoons like the Ambani brothers were special invitees for his swearing-in. His public relations firm curated a Presidential-style election campaign highlighting his personality and oratorical skills over and above his Party, the BJP. Private jets to attend rallies and motor vans projecting holograms of his speeches in small towns and villages

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1 For this, he was denied a US visa in 2005 and has been unable to enter the US since. He is scheduled to make his first official trip to the US in September 2014 and the US administration is said to be keen to make amends for lost time. In a recent interview to a prominent Indian English news channel, NDTV, previous US Secretary of State Hillary Clinton was quick to clarify that Modi’s visa denial was the Republican government’s decision and the issue is now a matter of the past.
(presumably sponsored by his capitalist supporters) carried his message widely. The cadres of the Rashtriya Swayamsevak Sangh (National Patriots Organization) also threw themselves into his campaign nationally, invoking Hindutva (Hindu supremacist nationalist ideology) to garner Hindu votes. PM Modi is himself an ex-RSS *mukhya pracharak* (chief full-time worker and campaigner); the RSS assigned him to the BJP in the early 1980s.

As the Hindu-right and capital ascend under Modi, Muslims, so-called “anti-development” activists and organizations, and those opposing religious violence and hatred are already being targeted. I highlight some immediate incidents below to signal the potent mix of capitalist and Hindu supremacist ideology consolidating under the Modi-led NDA.

On June 3rd, a 24 year old IT professional, Mohsin Sadiq Shaikh, was bludgeoned to death by 30 activists of the Hindu Rashtra Sena (Hindu National Army) in Poona city because he sported a “Muslim” beard (the general stereotype is a long and pointed beard). The immediate provocation had been some Facebook posts that put up “derogatory” pictures of a Hindu iconic warrior from the region, Shivaji. The murdered Muslim youth had nothing to do with the posts and was merely heading home after work. Such random (and organized) acts of religion-based violence have historically served to foment religion-based hatred and polarize people along religious sectarian lines in India.

Next, on June 9, an Intelligence Bureau report to the Prime Minister’s Office (PMO) was “leaked” to the media, naming “foreign-funded” Non-Governmental Organizations (NGOs) such as Greenpeace, “a threat to national economic security” and blaming them for derailing “economic growth” to the tune of three to four percent of the country’s Gross Domestic Product (GDP). The “leak” was unusual. Regardless of whether it is acted upon, the “leak” is a message regarding what constitutes “anti-national” activity and should be clamped down. It doesn’t bode well for social
Preface

movements and organizations, of which there are many, challenging the paradigm of “economic
growth” currently underway.

In another far-reaching development on June 12, the Narmada Control Authority headed by
the Secretary to the Union Ministry of Water Resources, sanctioned the raising of the height of the
Sardar Sarovar Dam on the Narmada River in Gujarat from 121.92 meters to 138.68 meters. This
will submerge a few thousand hectares of land and displace an additional 250,000 indigenous people,
peasants and other rural residents along the Narmada valley in Gujarat, Madhya Pradesh and
Maharashtra states. By law, a decision to raise the height of the dam can only be taken once the
rehabilitation of those already and those anticipated to be displaced is complete. Several thousand
previous dam “oustees” are still awaiting rehabilitation. This move seems a retaliatory blow to the
Narmada Bachao Andolan (Save Narmada Campaign) that has opposed the construction of the
Sardar Sarovar Dam in Gujarat for over 25 years.

On June 26, ex-Solicitor General of India, Gopal Subramaniam, withdrew his nomination
for appointment as Supreme Court Justice and publicly slammed the government for slandering his
reputation. He claimed that the new government was trying to “rake up dirt on him,” and indirectly
prevent his appointment. News items in national dailies in the days preceding his withdrawal had
“leaked” details regarding Subramaniam’s nomination, alleging “controversial links” during his
tenure. As Solicitor General, Subramaniam had taken a principled stand barring Modi’s henchman
Amit Shah from entering Gujarat, following the latter’s implication in the “false encounter killings”
(by the police) of two Muslim unarmed youth from the state, after terming them “terrorists.” Shah
was prevented from entering the state so he would not influence the legal proceedings of the case
that is under investigation. Shah has reportedly been Modi’s closest aide going back over a decade
and was his key campaign strategist in the 2014 elections. He is credited with the critical BJP victory
in Uttar Pradesh state where he camped for a year prior to the elections (during this period the state
incidentally saw a series of brutal episodes of religious violence targeting Muslims). On July 9, Shah was elected the BJP national party president, consolidating Modi’s power within the party.

Top Commerce Ministry bureaucrats have of late been reportedly requesting changes in the recent land acquisition and tax laws enacted by the Congress-led UPA government to ease the woes of business and “build confidence in the market,” including revisions to consent and compensation provisions of the recently enacted land acquisition law. The representatives of the ruling NDA coalition, industry representatives and pro-business media have regularly claimed in media interactions that the Congress-led UPA, in power for a decade, brought the Indian government to “policy paralysis.” Their discontent is rooted in the corruption scandals implicating several businesses in the UPA years and some progressive legislative gains made by left party-social movement coalitions with the UPA’s nod to “inclusive growth” (rights to information, rural employment guarantee, food security, forest dwellers rights and provisions of the new land acquisition act). The NDA may not immediately risk paring down these measures, but its large electoral mandate and configuration of support enables it to further capitalist agendas with greater intensity. Disregard to dissent is implicit in the rhetoric of “policy paralysis.”

In his national address on Independence Day (August 15) 2014, PM Modi announced the end of the Planning Commission of India, marking the end of an “epoch,” arguably long defunct. “Minimum Government Maximum Governance” is the slogan that PM Modi promoted in his election campaign and the axing of the Planning Commission is an immediate instance of minimizing government. “Speed, Skill and Scale” with the “growth infrastructures” to facilitate them, and “Dedication, Discipline and Development” in the mold of Hindu nationalism, are mantras of the NDA.

Modi has historically dealt with contestations in Gujarat with authoritarianism and repression, and has strengthened Hindu-right forces within state apparatuses to quell dissent (see
Preface

Jaffrelot 2012 for an analysis of the “saffronization” of state apparatuses in Gujarat). The Hindu-right has historically alternated violent religious majoritarianism (Muslims are about 13 percent of the Indian population) and nationalist jingoism with Pakistan to foment Hindu supremacist ideology. Indeed, a series of “cease-fire violations” along the Indo-Pak border allegedly by Pakistan in August have recently escalated into diplomatic belligerence between the two countries.

Fractured electoral results for previous right-wing governments have significantly staggered the course of economic liberalization and allowed for some gains for the left in India. While this study reflects developments that unfolded under the previous government, the current government is unrestrained by the messiness of coalition politics, and is far more coherently organized with a historic mandate and powerful reach. As “the great transformation” of India is now enacted in Hindutva’s saffron hue, and the drama of its violence unfolds, resolutions to recurring conditions of impasse and resistance that this study documents could in time assume authoritarian, even fascist character (see also Desai 2014). Corruption, coalition politics and a fundamentally divided policy and political orientation under the UPA have created the political opening for the Modi-led NDA government and the peculiar convergence of authoritarian capitalist and Hindu-nationalist ideology it represents. This study is in the spirit of contributing towards strengthening very different trajectories of “development” based on locally determined, egalitarian and ecologically appropriate relationships with land and resources, mindful of the challenges that pursuing such trajectories could entail in the time to come.

September 11, 2014.
Acknowledgements

A doctoral dissertation is as much a collective process as it is the fruit of individual labor, although its character obscures the collective efforts that go into making it possible. When I started toying with the idea of applying to doctoral programs in mid-2006, I knew I had to overcome tremendous internal and collective resistance as a social movement activist surrounded by the sometimes healthy and other times overly skeptical proclivity in Indian social movements, bordering on disdain, towards academics who “abandon politics for the easy life of abstraction.” Thanks to Jean Dreze, Usha Ramanathan, S. Muralidhar and Philippe Cullet for early inspiration; to Jean for unsuspectingly posing the critical question at a critical time; to Murali for warning against “pull-back to comfortable stasis” as I inched forward; and especially to Usha for the unfailing “You are coming back.” Ali Mir, Biju Mathew, Reinhard Bernbeck, Mahua Sarkar and Jason Lapham held out helping hands at critical points as I plunged into US academia. Biju Mathew hosted my transition and oversaw my initiation into diaspora activism in New York, which became an important avenue for my political engagements in the New York years.

The initial months felt stormy and I struggled with my new avatar as a graduate student after some years of work as a rural activist in India. Despite my middle-class background that should have prepared me for consumerist display, but perhaps because of my activist background, I felt a rage each time I walked along 34th Street to reach the CUNY Graduate Center, passing all the massive apparel stores along the way. I had turned some labels and seen the names of the Southern countries where the products on display were made. In the dramatic simplification that is the wont of such states (in my case amplified by my social distance from my immediate setting), I thought, more than once, “this is what they want our people to do, produce their clothes and shoes.” In those days I read Marx’s Capital Volume I directly for the first time in David Harvey’s course. I can still recall a profoundly integrative experience the day that footnote four from chapter fifteen was explained by
Acknowledgements

David in class. In those days of rage, the two hours of *Capital* weekly were like a music concert (think deeply evocative Hindustani classical or semi-classical folk and Sufi free park concerts). Thanks to David Harvey for teaching with grace and letting me do my own thing, but always “hovering in the background” when needed. Thanks also to Donald Robotham for what I perceived as immediate Southern solidarity and ease, clarifying animated discussions and unstinting support, advice and guidance through the years. As I prepared for my second exam, I had two vivid dreams in succession, one in which David and Don were chatting at a table as I gently fell asleep; and another in which I had swum deep into the sea and as I made my way back, was pulled to the shore by David and Don; my sincere thanks to both for being there, willy nilly. I read *Peasants Against Globalization* (Edelman 1999) as a MA student in anthropology in 2000 and was immediately inspired by its empathy, engagement and integrity. As I made my transition to academia, I hoped to emulate that spirit of engagement. Thanks to Marc Edelman for inspiration, insights and guidance through the doctoral years. I encountered Jeff Maskovsky late in my doctoral process and was inspired by his fresh and sharp insights into developing the potential insights of my work; thanks to him for consistent and valuable support in the writing process. Thanks also to Philippe Cullet, my external reader, for reading and commenting on chapter and dissertation drafts, and for especially sharing valuable legal and policy insights.

My dissertation fieldwork was supported by the National Science Foundation and the Wenner-Gren Foundation. The Land Deal Politics Initiative also partially supported fieldwork in Goa. As I made my way through state bureaucracy and industry representatives during fieldwork in Delhi I was greatly aided by affiliations with the Center for Policy at the Indian Institute of Management (IIM), Bangalore and by the Institute of Economic Growth (IEG), Delhi University. Thanks to Professors Rajeev Gowda and Trilochan Shastri of IIM and Professors Bina Agarwal and Amita Baviskar of IEG for institutional affiliations and support. The Ministry of Commerce helped
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make crucial initial connections with bureaucrats and SEZ developers. The Tata Institute of Social Sciences (TISS) in Mumbai has always been an institutional home and special thanks are due to the Director Professor S. Parasuraman, my earliest mentor, and the Assistant Registrar Roja Pillai for making TISS and its various resources and facilities so accessible to me.

In Delhi, Neetu Bawa and her family generously sustained me through fieldwork travails with their care, affection and time. Thanks are also due to Philippe Cullet and Zain Bhana for making a “home” that a woman on her own in Delhi could safely escape into (and that is high praise). In Mumbai, Simpreet Singh, brother-in-struggle, sustained me. The support of Soumya Sen and his family were on more than one occasion a welcome reprieve. My fieldwork in Goa would not have been possible without the gracious support and invaluable advice of Pravin Sabnis, Albertina Almeida, Franky Monteiro, Charles Fernandes, Agnel and Maria (“Emy”) Fernandes, Peter and Luizinha Gama, Swati Kerkar, Ramkrishna Zalmi and Solano Da Silva. Special thanks to Albertina Almeida for her generosity with time, effort and care as I struggled to make sense of my fieldwork settings and informants. Usha Ramanathan, Albertina Almeida, K.B. Saxena, Sudhir Krishnaswamy and several legal experts I consulted were especially helpful in my struggles with Indian laws and judgments. Many others in Goa, Mumbai and Delhi also generously gave me their time and shared precious insights and experiences.

Writing support was provided by the Center for Humanities Andrew Mellon Dissertation Fellowship, the Writing Across the Curriculum At-large Fellowship and the Center for Place, Culture and Politics Dissertation Fellowship. The two dissertation fellowships involved weekly multi-disciplinary seminars that offered valuable insights, helped clarify and articulate my ideas, and strengthened my writing. My dissertation group helped rescue protagonists’ voices from drowning in empirical details and helped strengthen my own voice as I struggled to make sense of my material. Thanks to Karen Williams for a wonderful organizing effort and to other members of the group,
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To my parents, quick to support when needed who I suspect are rather bewildered with my choices but graciously let me be, and to all my comrades and friends who inspire and sustain me, I offer this, some seeds I collected from my wanderings.
## Contents

Preface iii  
Acknowledgments viii  
Abbreviations xiv  
Tables and Figures xvi  

### Introduction

“The Life of the Law”  
Dissertation Overview  
**A Note on Methodology**  
The Challenges of “Studying Up”  
Situating the “Researcher from New York”  

### Chapter One  

**Contextualizing “Growth”**  

Broad Historical Context  
Some Goan Developments  
**Relationships with Land and Resources**  
Land- and Resource-use Indicators  
**A Living History of Environmental Activism**  
Global Genealogies  
**Special Economic Zones**  
**Industrial Corridors**  

### Chapter Two  

**Eminent Domain**  

The Doctrine in Practice  
Legal Instruments  
Public Purpose and Private Interest  
**Dual Nature**  
Limits to Absolute Power  
**Vacations Sovereignty**  
**Eminent Domain vs. the “Third Tier of Democracy”**  
Judicial Activism  
**Eminent Domain, Continued**  

### Chapter Three  

**“Bare Law” Provisions**  

The SEZ Act 2005  
**What have the provisions and concessions for Indian SEZs entailed?**  
The Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013  
**The Evolution of the New Land Acquisition Law**  
The “Stake-Losers”  
**Resistance in the Rice Bowl**
# Contents

<table>
<thead>
<tr>
<th>Chapter Four</th>
<th>The Domain of the State: Infrastructures of Growth, Corridors of Power</th>
<th>98</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Corridors of Power</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td>The Revenge of Finance</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td>Archival Tra(s)ids in Infrastructures of Information</td>
<td>104</td>
</tr>
<tr>
<td></td>
<td>Policy Imbroglio</td>
<td>108</td>
</tr>
<tr>
<td></td>
<td>The RDSL “Surrender”</td>
<td>115</td>
</tr>
<tr>
<td></td>
<td>Making the Law</td>
<td>118</td>
</tr>
<tr>
<td></td>
<td>“Soft Law”</td>
<td>119</td>
</tr>
<tr>
<td></td>
<td>Shadowing (Soft) Law</td>
<td>125</td>
</tr>
<tr>
<td></td>
<td>Legacies of a “Mixed” Economy</td>
<td>133</td>
</tr>
<tr>
<td></td>
<td>A Note on “Consultations”</td>
<td>134</td>
</tr>
<tr>
<td></td>
<td>Infrastructures of Growth</td>
<td>135</td>
</tr>
<tr>
<td></td>
<td>Postscript</td>
<td>136</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter Five</th>
<th>The Domain of Capital: Perilous Geographies of Indifference</th>
<th>142</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Where We Once Grew Paddy Now Real Estate Grows)</td>
<td>----</td>
</tr>
<tr>
<td></td>
<td>What is the Real Estate Economy?</td>
<td>146</td>
</tr>
<tr>
<td></td>
<td>Framing the REE</td>
<td>146</td>
</tr>
<tr>
<td></td>
<td>Scale</td>
<td>148</td>
</tr>
<tr>
<td></td>
<td>Policy</td>
<td>152</td>
</tr>
<tr>
<td></td>
<td>Rent</td>
<td>155</td>
</tr>
<tr>
<td></td>
<td>Finance</td>
<td>157</td>
</tr>
<tr>
<td></td>
<td>Resources</td>
<td>161</td>
</tr>
<tr>
<td></td>
<td>Labor</td>
<td>163</td>
</tr>
<tr>
<td></td>
<td>Costs</td>
<td>164</td>
</tr>
<tr>
<td></td>
<td>How was the REE Resisted in Goa?</td>
<td>166</td>
</tr>
<tr>
<td></td>
<td>The Tourism-Real Estate Dialectic</td>
<td>169</td>
</tr>
<tr>
<td></td>
<td>Goa Bachao Abhiyan</td>
<td>172</td>
</tr>
<tr>
<td></td>
<td>The REE and Perilous Geographies of Indifference</td>
<td>186</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chapter Six</th>
<th>The Domain of Resistance: The Goan Impasse</th>
<th>192</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The Goan Impasse</td>
<td>194</td>
</tr>
<tr>
<td></td>
<td>Amka Naka SEZ! Amka Zai PEZ! The Anti-SEZ Agitation</td>
<td>198</td>
</tr>
<tr>
<td></td>
<td>People’s Movement Against SEZs</td>
<td>199</td>
</tr>
<tr>
<td></td>
<td>SEZ Virodhi Manch</td>
<td>203</td>
</tr>
<tr>
<td></td>
<td>Court Proceedings</td>
<td>205</td>
</tr>
<tr>
<td></td>
<td>Analyzing the Success of the Anti-SEZ Agitation</td>
<td>206</td>
</tr>
<tr>
<td></td>
<td>An Alliance of Forces</td>
<td>206</td>
</tr>
<tr>
<td></td>
<td>“Our God was with Us”</td>
<td>208</td>
</tr>
<tr>
<td></td>
<td>Evidence of Irregularities</td>
<td>210</td>
</tr>
<tr>
<td></td>
<td>Other Anti-SEZ Mobilizations</td>
<td>211</td>
</tr>
<tr>
<td></td>
<td>Electoral Imperatives and Police Restraint</td>
<td>211</td>
</tr>
<tr>
<td></td>
<td>Small State and Sympathetic Media</td>
<td>213</td>
</tr>
<tr>
<td></td>
<td>Determining Land Rights</td>
<td>213</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Conclusion</th>
<th>Resolving the Impasse</th>
<th>218</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rights to Land- and Resource-Use for All</td>
<td>220</td>
</tr>
<tr>
<td></td>
<td>“A Life of Contradictions”</td>
<td>224</td>
</tr>
</tbody>
</table>

| References   |                                                            | 228 |
## Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASSOCHAM</td>
<td>Associated Chambers of Commerce</td>
</tr>
<tr>
<td>BJP</td>
<td>Bhartiya Janata Party</td>
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<td>BMIC</td>
<td>Bangalore Mysore Infrastructure Corridor</td>
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<td>BoA</td>
<td>Board of Approval</td>
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<tr>
<td>BRICS</td>
<td>Brazil, Russia, India, China and South Africa</td>
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<tr>
<td>BUPC</td>
<td>Bhumi Uchched Pratiroth Committee</td>
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<td>CBAADA</td>
<td>Coal Bearing Areas (Acquisition and Development) Act</td>
</tr>
<tr>
<td>CIC</td>
<td>Chief Information Commission</td>
</tr>
<tr>
<td>CM</td>
<td>Chief Minister</td>
</tr>
<tr>
<td>CPI(M)</td>
<td>Communist Party of India (Marxist)</td>
</tr>
<tr>
<td>CREDAI</td>
<td>Confederation of Real Estate Developers’ Associations of India</td>
</tr>
<tr>
<td>DIIPP</td>
<td>Department of Industrial Policy and Promotion</td>
</tr>
<tr>
<td>DMIC</td>
<td>Delhi Mumba Industrial Corridor</td>
</tr>
<tr>
<td>DoC</td>
<td>Department of Commerce</td>
</tr>
<tr>
<td>DPSP</td>
<td>Directive Principles of State Policy</td>
</tr>
<tr>
<td>DTA</td>
<td>Domestic Tariff Area</td>
</tr>
<tr>
<td>DTC</td>
<td>Direct Taxes Code</td>
</tr>
<tr>
<td>EGoM</td>
<td>Empowered Group of Ministers</td>
</tr>
<tr>
<td>EPZs</td>
<td>Export Processing Zones</td>
</tr>
<tr>
<td>FRA</td>
<td>Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GMAS</td>
<td>Goa Movement Against SEZs</td>
</tr>
<tr>
<td>GNP</td>
<td>Gross Net Product</td>
</tr>
<tr>
<td>GoG</td>
<td>Government of Goa</td>
</tr>
<tr>
<td>GoI</td>
<td>Government of India</td>
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<td>IA</td>
<td>Investment Area</td>
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<td>IR</td>
<td>Investment Region</td>
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<td>LAA</td>
<td>Land Acquisition Act</td>
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<td>LARRB</td>
<td>Land Acquisition and Rehabilitation &amp; Resettlement Bill</td>
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<td>MAT</td>
<td>Minimum Alternate Tax</td>
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<td>MLAR</td>
<td>Market Led Agrarian Reforms</td>
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<td>MoC</td>
<td>Ministry of Commerce</td>
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<td>MoF</td>
<td>Ministry of Finance</td>
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<td>MoRD</td>
<td>Ministry of Rural Development</td>
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<td>MSEZ</td>
<td>Mumbai SEZ</td>
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<td>MWR</td>
<td>Ministry of Water Resources</td>
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<td>NAPM</td>
<td>National Alliance of People’s Movements</td>
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Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>NCA</td>
<td>Narmada Control Authority</td>
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<td>NCPRI</td>
<td>National Campaign for People’s Right to Information</td>
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<td>NCR</td>
<td>National Capital Region</td>
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<td>NDA</td>
<td>National Democratic Alliance</td>
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<td>NGO</td>
<td>Non Government Organization</td>
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<td>NIMZs</td>
<td>National Investment and Manufacturing Zones</td>
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<td>NMP</td>
<td>National Manufacturing Policy</td>
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<td>NRRP</td>
<td>National Rehabilitation and Resettlement Policy</td>
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<td>NSDP</td>
<td>Net State Domestic Product</td>
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<td>PCPIRs</td>
<td>Petroleum Chemical and Petrochemical Investment Regions</td>
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<td>PESA</td>
<td>Panchayat Extension to Scheduled Areas Act</td>
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<td>PM</td>
<td>Prime Minister</td>
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<td>PMAS</td>
<td>People’s Movement Against SEZs</td>
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<td>PMO</td>
<td>Prime Minister’s Office</td>
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<td>PPPs</td>
<td>Public Private Partnerships</td>
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<td>R&amp;R</td>
<td>Rehabilitation and Resettlement</td>
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<td>REE</td>
<td>Real Estate Economy</td>
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<td>RHSL</td>
<td>Reliance Haryana SEZ Limited</td>
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<tr>
<td>RP</td>
<td>Regional Plan</td>
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<td>RTFCTLARRA</td>
<td>Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act</td>
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<td>RTFCTLARRB</td>
<td>Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill</td>
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<td>SC</td>
<td>Scheduled Castes</td>
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<td>Special Economic Zones</td>
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<td>SEZs</td>
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<td>SIAs</td>
<td>Social Impact Assessments</td>
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<td>Scheduled Tribes</td>
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<td>SEZ Virodhi Manch</td>
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<td>TISS</td>
<td>Tata Institute of Social Sciences</td>
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<td>UPA</td>
<td>United Progressive Alliance</td>
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<td>WTO</td>
<td>World Trade Organization</td>
</tr>
</tbody>
</table>
Tables

1. List of sub-sectors for Infrastructure Lending 101
2. Share and Growth of India’s Services Sector (at factor cost) 149
3. Unitech Fixed Deposit Scheme 158
4. Infrastructure tax collected from municipalities and administrative blocks 168
5. Major differences between Draft RP 2021 and Final RP 2021 180

Figures

1. District and Taluka Map of Goa 31
2. Growth of Notified SEZs and Trends in Investment Related Investment, Employment and Exports 78
3. Distribution of SEZs 122
4. DMIC Project Influence Area and New Industrial Regions 138
5. The Proposed Dholera Smart City 141
6. Goa Property Advertisement in National Daily Times of India 167
7. Eco zone demands for conversion to settlement, 2012 172
8. Verna Panchayat Submission for RP 2021 182
9. Verna Panchayat Notified Plan RP 2021 183
10. An overview of the Grand Hyatt Goa from the Dona Paula-Bambolim road. 189
Introduction
Land and resources are once again at the center of accumulation strategies for capital globally.\(^2\) Agribusiness corporations, food insecure governments (often as they lose their own farmlands to industrial development) and global finance are brokering land deals in fertile land for agricultural production, notably in sub-Saharan Africa.\(^3\) Structural adjustment, privatization and bilateral trade agreements are facilitating investments in land and fueling large-scale dispossession.\(^4\) Within so-called “emerging” economies however, “land-grabs”\(^5\) by (largely though not only) domestic capital for “industry, infrastructure and urbanization,” facilitated by policy, form dominant “economic growth” strategies. These have received inadequate attention in the discussion on contemporary “land-grabs.”\(^6\)

In India, concerted policy emphasis aiding accumulation is exemplified in the new land acquisition law\(^7\) that deems investments in industry, infrastructure and urbanization “public purpose,”\(^8\) facilitating forcible acquisition of land and resources for them. A slew of measures like the National Manufacturing Policy 2011, Public Private Partnerships Policy 2011, Petroleum Chemical and Petrochemical Investment Regions 2007 and the SEZ Act 2005 undergird these

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3 See UNEP 2011; Deininger and Byerlee 2011.
4 See White et al. 2012; Borras et al. 2013. Indian agribusiness too has been investing in food production through bilateral agreements. Land Matrix data show that 1,289,000 hectares have been acquired in 39 deals by Indian companies for agriculture in Africa and Asia (Rebello 2013; Grain 2008).
5 White et al. (2012) describe “land-grabs” as the large-scale acquisition of land or land-related rights and resources by corporate (business, non-profit including pension funds, or public) entities. They highlight the “dispossession of land, water, forests and other common property resources; their concentration, privatization and transaction as corporate (owned or leased) property; and in turn the transformation of agrarian labour regimes” (ibid: 620) generated by “land-grabs.” Subsequent conceptual refinement has led some to describe “land-grabs” as only those land deals that are executed through “extra-economic force” (see Borras and Franco 2013; Levien 2012; also Hall 2013 for an overview).
My preference here is to go along with Adnan (2013) in contextualizing “land-grabs” within “capitalist-facilitating accumulation,” that encompasses broader forces facilitating dispossession (see explanation below). I find the distinction between “extra-economic” and “economic” coercion unhelpful in the processes I describe and prefer to think of “coercion” as the political aspect in political economy that may be deployed by “the state” or “the market.” The distinction between extra-economic and economic coercion then emerges from a forced distinction between the “the state” and “the market” that under conditions of capitalism is only heuristic.
6 For exceptions see Walker 2006; Levien 2012 and Sampat 2013a.
7 The Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act 2013 was enacted in September 2013.
8 Public purpose is generally defined as any purpose leading to the general benefit of the public and is a narrower category than “public interest.” Thus, whether a public purpose serves public interest or not can be subjected to judicial scrutiny.
emphases. Other Market Led Agrarian Reforms (Borras and Franco 2010) like the Land Titling Bill 2013 additionally promote regularization of land holdings to facilitate market transactions (Sampat 2013b). The scale of the appropriation of land and resources for “economic growth” ranges from a few hundred or thousand acres for Special Economic Zones (SEZs) to over 60,000 acres for investment regions of growth corridors (comprising multiple projects for industry, infrastructure and urbanization). While the individual scale of these projects is relatively small compared to global land deals elsewhere (see UNEP 2011 for some figures), their scale of dispossession of people and livelihoods is significant. On aggregate, these projects also amount to a massive transfer of land and resources to capital. Official data thus reveal that from 2007-11, the area of cultivable land in India has shrunk by 790,000 hectares, largely attributed to diversion for non-agricultural purposes like construction, industries and other “development” activities (Mohan 2013).9 Transfer of land and resources by force or market transactions towards industry, infrastructure and urbanization, with conflicts over such transfer, have consequently seen phenomenal rise in recent years (see Banerjee-Guha 2008; Levien 2012; Podur 2013; Chakravorty 2013; Sampat 2013b).

Dispossession has historically been resisted in India, but the SEZ model introduced in 2005 marks a turning point. Many SEZs set forth a wave of conflicts over land and resources across the country, sundering alliances between “the state” and capital, creating divisions within the state, fostering alliances among peasants10 and citizens11 groups resisting dispossession, and unsettling

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9 A recent federal Committee on Land Reforms has decried growing corporate investment in indigenous areas “as the biggest land grab of tribal lands since Columbus” (GoI 2009a).

10 While peasants includes rich farmers, my use of the term “peasants’ groups” specifically refers to small and marginal land-owning farmers with less than ten and two acres of land respectively, landless agrarian workers, pastoralists, fisherfolk, forest dwellers and other petty commodity producers. Peasants are also further stratified along ethnicity, religion, caste and gender lines. Indigenous and dalit (previously so-called untouchable) communities and religious minorities, particularly Muslims, as well as other backward castes (OBC) among Hindus, and gender variations among these groups, form critical axes of social inequality in India. Where necessary to distinguish, I use the term big farmers to refer to the rich peasantry.

11 “Citizens’ groups” here refer to coalitions of individuals, often concerned professionals and representatives of Non-Governmental Organizations (NGOs) that coalesce around contentious issues. They are not NGOs in themselves, as they often do not take institutional funds or salaries or run projects, but groups of concerned people working voluntarily for campaigns and raising resources through individual donations.
“rule of law” through revisions and reversals. As we discover below, the recurring conditions of “impasse” that these conflicts have generated continue to emerge along other infrastructure and urbanization projects. Their recurrence opens possibilities for political and legal resolutions to the conflict over land and resources. Such resolutions can take the form of repression under authoritarian regimes, or open possibilities for fundamental “reconstitution from below.”

“The Life of the Law”\textsuperscript{12}

This project was conceived as an ethnographic and archival study of Special Economic Zones (SEZs) in India. From their inception under the SEZ Act 2005, Indian SEZs have generated immense controversy over land and resource acquisition. Largely promoted by Indian capital (that is also increasingly transnational), SEZs have pitted capitalists and their allied interests within the Indian state against peasants and citizens groups (see note five above) resisting dispossession and the takeover of lands and resources. When I began my research in the wake of the SEZ controversies, the questions that interested me included: the processes and actors involved in the legal genesis and evolution of the SEZ Act 2005; the role of domestic capital in the institution of Indian SEZs; the evolving jurisprudence around land and resource rights and SEZs; their implications for relationships with land and resources; the successful resistance to SEZs in Goa (with a synoptic study of successful resistance in Raigad in Maharashtra that was dropped after preliminary research); and the implications of such resistance for the relationship between the Indian state and capital, citizenship and democracy, and contemporary capitalist accumulation in India. Through my investigations in these various settings around SEZ infrastructures, my intention was to analyze their implications for land and resource relations.

\textsuperscript{12} “The Life of the Law” is the title of a book by Laura Nader (2002) discussing the historical development of legal anthropology and her insights emerging from (then) over four decades of work in the field.
Introduction

Over the course of research and writing, my questions broadened into an inquiry of two critical interventions in India’s “economic growth”\textsuperscript{13} and their implications for relationships with land and resources\textsuperscript{14}—growth infrastructures, and urbanization projects. Growth infrastructures include SEZ enclaves and growth corridors like the Delhi Mumbai Industrial Corridor (DMIC). Urbanization projects create new or renew existing urban areas that are “smart,” “world-class” or “global” through the confluence of urbanization policy and real estate transactions and are fueling a gradually consolidating Real Estate Economy (REE; see chapter five). Several of these urbanization projects are within SEZs and growth corridors, which also explains investments in these growth infrastructures by real estate developers.

These investments are aimed at transforming the predominantly rural agrarian Indian economy into an advanced capitalist one. In policy-speak, policy and legal interventions facilitate these investments to free land and resources for their best uses, improve the countryside and unleash India’s economic growth, eventually integrating the country’s economy more fully with the global economy. The dispossessed population, if acknowledged, and the already poor, will then (presumably) be efficiently absorbed into the employment generated by these investments. Growth will continue ad infinitum.

Manufacturing and industrialization are low on the radar of capital in India however; manufacturing has stagnated over two decades of reforms as investments are overwhelmingly directed towards service, extractive, “infrastructure” and real estate sectors. In the absence of planned or existing “linkage effects” (cf. Hirschman 1981),\textsuperscript{15} the investments in growth

\textsuperscript{13} Official accounts of “economic growth” measure it specifically in terms of the country’s Gross Domestic Product (GDP).

\textsuperscript{14} By “relationships with land and resources” I refer to relationships around (in ownership and use entitlement) and to (in actual uses they are put to) land and resources (cf. Escobar 2008).

\textsuperscript{15} Hirschman defines “linkage effects” as “investment-generating forces that are set in motion, through input-output relations, when productive facilities that supply inputs to that line of utilize its outputs are inadequate or nonexistent. Backward linkages lead to new investment in input-supplying facilities and forward linkages to investment in output-using facilities” (1981: 65).
infrastructures and urbanization are unlikely to lead to productive linkages. Instead, they assume the form of “plunder” of land and resources aided by “rule of law” (Mattei and Nader 2008), generating classic “primitive accumulation” (Marx 1990) and/or “accumulation by dispossession” (Harvey 2005), the simultaneous contemporary existence of which Adnan (2013) terms “capitalism-facilitating accumulation.”

These dispossession are intensely and widely contested, and underline that access to land and resources are critical to the survival and interests of a large number of people. Big farmers (owning 10 hectares of land and above) are arguably better positioned to transition in the changing landscape (Magarpatta City near Poona in Maharashtra state is a case in point), and recent demands for higher compensation for land acquisition have come predominantly from the rich northern “green revolution” agrarian belt. It is the small peasants that bear the worst brunt of dispossession, who do not want to give up land and resources, risking lives fighting for them (for instance violence in Nandigram in West Bengal against the Indonesian owned SALEM SEZ or in the controversial South Korean-owned POSCO SEZ area in Odisha has resulted in the killings of several people resisting dispossession but has not suppressed the resistance). The dispossession of small peasants already living under conditions of formal subsumption is not only about their real subsumption. In *its indifference to dispossessed populations, “capitalism-facilitating accumulation” for growth threatens to render especially small peasants “absolute”* (cf. Smith 2011; see also Levien 2013; and discussion in chapter six).

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16 Adnan (2013) offers this as a generic concept for transnational, domestic and local processes of primitive accumulation and accumulation by dispossession, distinguished as distinct phases that often coexist in different regions of the global South, through direct and indirect mechanisms and institutions.

17 Magarpatta City is a new township with mixed residential and commercial real estate on the outskirts of Poona city in Maharashtra. Over 120 big farmers from the area pooled together 400 acres of land to create their own cooperative urban township, replete with an IT SEZ. Small peasants and other rural residents dependent on the lands were dispossessed of their homes and livelihoods as a result of this transformation. The farmer’s cooperative now undertakes the development of similar township projects elsewhere in the country (see http://www.magarrettacity.com/).

18 Most agriculture is integrated into the market with cash crop production (see also discussion in chapter two).
Peasants are thus creating a non-negotiating “counterpolitics” (Smith 2011) with respect to land and resource rights and generating conditions of impasse for economic growth.

In India they are critically joined by citizens’ groups threatened with immiseration, some at risk of losing a measure of landed security and others concerned about growing inequalities, local resource and infrastructure burdens and environmental protections. Such groups comprising allied middle-class professional residents in project areas (see note five above) provide necessary skills and resources (such as accessing critical information, creating campaign materials or contributing financial resources) to wage campaigns and legal battles. Cutting across class, caste, ethnicity, gender and religion, these alliances between peasants’ and citizens’ groups defy their categorization as the “environmentalism of the poor” (cf. Martinez-Alier 2002; see also Baviskar 2005). The role of information emerges critical in catalyzing resistance, forging alliances, and challenging “legality” and “state sovereignty.”

“The state” (at the center, in the states and across parties) is compelled to respond with reversals to prevent major electoral fallbacks (the case of West Bengal is particularly relevant here given that the fallout of agitations over land acquisition led to the ouster of the Communist Party of India [Marxist] after nearly 35 years of rule), and is constantly revising the legal frameworks of these infrastructures. The revisions notwithstanding, it is the unwillingness of peasants and citizens groups to give up land and resources, irrespective of the forms that growth infrastructures take (land acquisition is equally fiercely resisted in the industrial corridor areas in Gujarat and Maharashtra), that is at the heart of these conflicts. Despite the rule of law skewed in favor of capital, there is pitched resistance on the legal front as well. Ongoing conflicts over land and resources are creating radical assertions over state sovereignty and challenging the state’s power to determine “public purpose.” Legality, or “rule of law” is unsettled, and social alliances across classes and communities are opening possibilities for fundamental “reconstitution from below” (cf. Barker et al. 2013).

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19 Smith (2011) argues that the growing impoverishment of people confronted with capitalist growth is creating an absolute surplus population that can no longer engage in a “politics of negotiation” but instead create “counterpolitics.”
Introduction

While the scope of this work has widened from an inquiry about SEZ infrastructures, the study at the same time contextualizes SEZs in their broader social context. To the extent that it offers a lens to apprehend India’s growth story, the dissertation indicates next steps for a larger project, with deeper theoretical and historical treatment. To the extent that it captures the broad social context of SEZ infrastructures and their implications for dispossession, resistance and rights to land and resources, the dissertation contributes to studies of “law as process” (Nader 1969a; Gluckman 1969; Bohannon 1969; Moore 1978). The social field of this study covers the complex, inter-related and often overlapping but heuristically distinct domains of the state; capital; and resistance in India. Its scale ranges from national policy-making arenas; transnational and domestic capital; and rururban social movements contesting dispossession, with SEZs and their implications for relationships around and to land and resources as the central (though not the only) theme.

Anthropological studies of disputes to discover the rules that maintain order (Radcliffe-Brown 1933) developed and underwent significant revision with the study of disputing processes and the political and economic interests of litigants (see Nader 1969a; 2002). Keeping the importance of “the disputant” in view in the broader context of policy, my study identifies three broad sets of protagonists in the struggles over land and resources around growth infrastructure and urbanization projects; although each of these sets of protagonists have considerable internal variation.

One is the domestic and transnational capitalists (many also of Indian origin) who seek greater access to land and resources for investment, extraction or rent. This group includes SEZs and other growth infrastructure and real estate developers and investors operating at local, regional,

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20 These are heuristic distinctions made for ease of analysis. As will be evident from the chapters, these “domains” and the research materials, actors, processes, and/ or institutions they each refer to (explained in the next section), intersect and overlap, not least in the chapters themselves.

21 Rururban here indicates both a mix of rural and urban settings, as well as those rural settings, like in Goa, that have urbanized amenities not common to many Indian rural areas, like better power and water supply, and transport and communications infrastructures (internet, telephone and cell phone coverage, roads, hospitals, etc.).
Introduction

national and transnational scales. While the role of foreign-origin capital is certainly important, and
global genealogies shape growth models, my dissertation emphasizes the centrality of domestic
capital in these processes; investments in zones, corridors and urbanization emerge as a critical “spatial fix” (cf.
Harvey 2001) for the growth of Indian capital, and as corollary, the growth of the Indian economy.

Another set is the politicians and bureaucrats occupying different roles within the central
(federal) and state governments who often facilitate land transfers to capital, making money from
such deals for themselves, their political parties, or for state revenue through corrupt or otherwise
biased deals. This also includes interests within the state, like officials of the Finance Ministry that as
we discover below, resist certain growth infrastructure models out of differing conceptions of the
role of the state, desirable infrastructures and visions of “inclusive growth.” “The state” appears
here less as a “cunning” protagonist (cf. Randeria 2003), or “vertical and encompassing spatiality of
power” (Ferguson and Gupta 2002), or (more specifically) as a “speculative” (Goldman 2011) or
“land-broker” state (Levien 2012); “the state” emerges instead as an arena rife with competing ideologies and
interests, in turn shaped by historical legacies and immediate contingencies.

The third are the growing alliances of peasants and citizens groups asserting control over
land and resources to prevent their take-over by the state and/or capitalists. The latter are typically
not part of policy-making arenas, but through their struggles have come to influence policy and
collectively articulate very different development needs. That peasants and allied professionals,
despite their different class positions and the variations between them are consistently challenging
the institution of growth infrastructures and urbanization in alliance, signals the scale of
dispossession (see also discussion of resistance in chapters five and six); it also opens interesting
questions for the resolution of recurring conditions of impasse their struggles have generated.

The struggles between—and sometimes among (particularly in the case of state
representatives)—these protagonists that my study documents highlight that the contests over land
Introduction

and resources are at the same time contests over livelihoods, the scale of policy interventions, and processes of policy-making. The disputants in this story may not articulate explicitly “anti-capitalist” politics, but that also does not take away from their discerning critique of capitalist growth processes underway in India. Anthropological studies have shown that legal orders incorporate inequality and law is not neutral; that conflict, and not consensus, is an enduring aspect of any legal order (Starr and Collier 1989; Nash 1989; Collier 1989; Vincent 1989). As a study of SEZ policy, and of economic growth policy interventions, the dissertation contributes to historically informed analyses of power relations in the study of legal systems that use political economic analysis to show power struggles and conflict between and among different classes. As a specific model of the infrastructures of growth, I treat the SEZ Act 2005 as a dynamic “force field” (Foucault 1990) that relies upon several interests (particularly the bureaucracy, the political establishment and capital) coming together in its enactment; and contesting its implementation (largely but not exclusively, peasants and citizens groups). SEZs thus reveal the contested trajectory of liberalization in India—a dynamic interplay of forces in an ongoing contest of power.

In the legal framework of SEZs, tax, duty, environment and labor concessions (see chapter three) along with land and resources appropriated for them appear to represent “spaces of exception” (cf. Ong 2006). However, in the comprehensive inclusion of economic activities (manufacturing, services, agriculture and mining) of SEZs and their approvals without any limits on numbers and sizes, in other words in their scale and scope, and the broader field of policy contextualizing them, *SEZs represent a normative model of “development,” that post-liberalization is increasingly conflated with economic growth.*

The “juridical” (self-restraining; as when the state restrains itself from forcibly acquiring land in the face of opposition) and “cognitive” (deliberative; as the law gets reinterpreted and altered in implementation) aspects of rule of law (see Schuerman 1996, 2002; also Dyzenhaus 1999; Mattei
Introduction

and Nader 2008) are important in the existing political framework. Contestation on the ground by peasant and citizens groups has led to significant “stalemates,” changes and reversals in the implementation of the SEZ Act 2005, the implementation of other growth infrastructures like the DMIC or provisions of the new land acquisition law. In the balance of ongoing struggles against dispossession, these are small but important legal “concessions” to dissent.

In a recent volume, Corbridge et al. (2011) discuss three critical transformations in India’s political economy since the 1980s: the institution of liberal economic reforms; the rise of the Hindu right; and the popular democratic mobilizations of the historically subordinate classes. Taken together, these phenomena amount to “a great transformation” in the Indian economy, referencing Polanyi’s (2001) “double movement,” as “the attempt to create a market-oriented society from above compels a movement from below to moderate its severely dislocating effects” (Corbridge et al. 2011: 2). As interests within the Indian state allied with transnational and domestic capital attempt to effect policies for greater economic growth, there is significant resistance from below. *Conditions of impasse and resistance are becoming a central leitmotif of India’s “economic growth.”*

The recurrent conditions of impasse point to possibilities for “locally determined egalitarian and ecologically appropriate rights to land- and resource-use.” Legal frameworks in themselves guarantee little, and require powerful social forces that can effect fundamental “reconstitution from below.” Such reconstitution can only emerge from struggle; a framework for “locally determined egalitarian and ecologically appropriate rights to land- and resource-use” then, can potentially become a worthwhile tool in the dialectical counter to dispossession from economic growth. My study concludes with a preliminary exploration of the elements for such a hopeful legal framework.

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22 These rule of law questions exercised Frankfurt School legal theorists Otto Kirchheimer and Franz Neumann as they countered Carl Schmitt’s political and legal theory. Concerned with the place of ethics in law, Kirchheimer argued that the Weimar’s collapse was not inevitable as Schmitt maintained, because its positivist “jurists were afraid to distinguish between ‘friends and foes,’” but because administrative and judicial actors in Weimar hostile to democracy instrumentalized legal institutions to squelech political opponents (Schueerman 1996: 7).
Introduction

Dissertation Overview
The rest of the chapters are organized as follows. Chapter one begins with a broad historical account of the political economic transformations in India since independence influencing the current conjuncture. It then highlights some key historical developments in Goa that have bearing on the successful resistance to urbanization (understood here in relation to real estate development) and SEZ policies. The last section then traces the global genealogies of zone and corridor infrastructures and their relation to economic growth.

Chapter two analyzes the colonial doctrine of “eminent domain” (the sovereign power of the state to forcibly acquire land for “public purpose”) in relation with land and resource policies in India, and the complicated questions of sovereignty embedded in it. Eminent domain is consistently used to “overproduce” state sovereignty over “citizens” arbitrarily (see Ramanathan 2010). Its dual nature, as an instrument for facilitating capitalist accumulation, or as an instrument for redistributive justice, constitutes grounds for dilemma. The trajectories of the Land Acquisition Act (LAA) 1894 and land reforms legislation in the post independence period in India capture this dilemma. Existing legal provisions for decentralized local development planning that foreground community and individual rights challenge the application of the doctrine, or pose significant limits to it. Judicial interventions over the application of eminent domain have challenged the procedure and applicability of “public purpose” in development projects, but have not gone so far as to scrutinize the doctrine itself. An expanded scope of the doctrine then, engenders “economic growth” and dispossession by invoking “state sovereignty.”

Chapter three traces the evolution and critiques the provisions of the SEZ Act 2005 and the 2013 Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act (RTFCTLARRA). Through a synoptic discussion of the “successful” struggle
against the Mumbai SEZ in Maharashtra (that influenced the provisions of both laws), it then emphasizes the perspective of the “stake-losers” (Iyer 2007) of these laws.

Chapter four is termed the “domain of ‘the state,’” by which I refer to specific bureaucratic practices and institutions related to SEZ law-making processes. The chapter examines “infrastructures of growth” and their policy-making arenas, focusing on SEZs. The SEZ law-making process sheds light on the role of allied and opposed interests within the state, in particular the significant differences over SEZs between the Ministries of Finance and Commerce. “Soft law”\textsuperscript{23} settings around formal ministerial and bureaucratic negotiations significantly impacted the law-making process. Shadowing formal and soft law settings, gossip and rumor point to ministerial rivalries, bureaucratic turf wars and high-level corruption. These are the settings of the “corridors of power.” Other extra-legal settings influencing the law-making process include the struggles of peasants and citizens groups resisting SEZs; I juxtapose the skewed power of “stake-holder consultations” with “stake-loser repression.” I conclude the chapter with a discussion of the “infrastructures of growth,” and some observations on the emergence of DMIC as another “fix” in the making.

Chapter five is termed the “domain of capital” and analyzes capitalist enterprises and their processes of consolidation. The chapter maps the growing consolidation of the “Real Estate Economy” (REE) in India, as a prime driver of SEZ and industrial corridor infrastructures and an intensifying source of accumulation as the Indian economy grows. The REE is largely domestic (mainly because foreign investments in real estate are regulated), but its consolidation is seeing the emergence of transnational players and the involvement of global finance. The growth of the REE, its connections with extractive industries (such as stone and sand quarries, or ground-water

\textsuperscript{23} Zerillo (2010) refers to “soft law” as those non-binding but coercive processes of closed-door consultations and recommendations that inevitably come to be enacted as law. While the use of coercion arguably renders these processes more appropriately in the realm of “mixed law” or “private governance,” here I use the term soft law to discuss non-coercive closed-door consultations and recommendations from private bodies that influence law-making.
Introduction

exploitation), its extreme exploitation of labor and its dependence on monied upper classes, raise questions regarding its linkages with productive investments and sustainability. At the same time market- and state-led land acquisition for these infrastructures is dispossessing rural populations. I discuss in particular the anti-Regional Plan (RP) 2011 agitation in Goa as a specific instance of successful resistance to the growing REE in Goa. While historically rooted in the Goan political economy, the RP 2011 agitation resonates elsewhere in the country. The anti-RP 2011 agitation highlights the need for state backing of decentralization initiatives that the agitation struggled towards.

Chapter six is the “domain of resistance,” by which I refer to specific “repertoires of protest” (Tilly 1973) coalescing in the wake of struggles against dispossession in India. The chapter focuses on the resistance to SEZs in Goa by a broad alliance of social forces that came together, and created an impasse on the ground for SEZs and their developers. This “Goan Impasse” reflects a deeper historical impasse over equal rights to land and resources. The anti-SEZ agitation in Goa also follows on the heels of other successful environmental agitations in the state. The ongoing nature of such conflicts in Goa opens up the questions of locally determined egalitarian, decentralized and environmentally appropriate development, and I discuss potential resolutions of the Goan Impasse emerging from the anti-SEZ resistance. The resonance of the Goan anti-SEZ agitation with other anti-SEZ or infrastructure- and urbanization-related agitations elsewhere in the country is significant, especially in the alliances between peasants and citizens groups, their “repertoires of protest” and legal actions. The Goan Impasse poses a critical historical challenge over land and resources and points to the necessity of programmatic social movements that can effect fundamental “reconstitutions from below.”

In conclusion, I discuss the widely recurrent impasse over land- and resource-use rights in India. As a legal (and partial) resolution, I argue for a framework of egalitarian, ecologically
Introduction

appropriate and democratically determined rights to land- and resource-use for all. This requires a fundamentally different and differently determined “development” paradigm that pushes back on the capitalist offensive, and goes beyond the tenuous compromises of “inclusive growth.” I conclude the dissertation with a preliminary discussion of relevant constitutional principles and legal precedents towards such a hopeful framework.

A Note on Methodology

My research has mapped a diverse terrain, primarily in bureaucratic, corporate and activist settings across Delhi, Mumbai and Goa. It has also traversed ethnographic and archival methods. I interviewed actors in all of these settings as well as legal experts, journalists, academics and especially in the SEZ areas in Goa, peasant and middle-class (mostly professionals) residents in villages. I attended bureaucrat-developer conclaves in Delhi and Mumbai and activist meetings in Goa. I began my research with mapping developments in the land policy framework. Work for this was largely archival, as reflected in the chapters on “eminent domain” and the “bare laws.” I studied Indian legal historical developments, case law, and the evolution of land policy and the doctrine of eminent domain. I also consulted legal experts, bureaucrats and academics to develop insights into legal developments.

For the SEZ law-making process, I conducted interviews with senior and mid-level bureaucrats24 in the Commerce and Finance Ministries and within SEZ administrations directly involved in SEZ law-making or implementation processes. While senior bureaucrats shed light on policy issues, mid-level bureaucrats had hands-on insight into the nitty-gritty of implementation and

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24 A senior bureaucrat would typically be any bureaucrat in a ministry (state or central) at a senior secretary or department director’s level at state and federal levels, members of the SEZ Board of Approval (BoA) or SEZ Commissioners responsible for the jurisdiction of several SEZs across one or more states. A mid-level bureaucrat is typically a lower rank official between a clerk and senior bureaucrats, typically with specific departmental functions, such as a land acquisition officer or under secretary to a department.
decision-making processes. I also interviewed several senior representatives of SEZ developers in Delhi and Mumbai.\textsuperscript{25} I traced archival records within the Ministries and in media and corporate archives. Some critical bureaucratic and Ministerial paper trails proved very difficult to access and I discuss my travails with them in the chapter on infrastructures. I attended four industry-bureaucrat conclaves on SEZs in Delhi and Mumbai and visited three operational SEZs to interview businesses operating in SEZs. While my attempts at participant observation were significantly limited by issues of access (see section on “the challenges of studying up”), the industry-bureaucrat conclave settings helped develop insights regarding “soft law.” I also interviewed academics, journalists and legal experts working on SEZ-related issues to gain wider understanding of the SEZ law-making process.

To understand the developments in real estate, I interviewed several senior representatives real estate developers in Goa, Mumbai and Delhi (a few of them were also SEZ developers), scrutinized developer business reports, \textit{Red Herring} Reports,\textsuperscript{26} and media archives. I interviewed activists and residents in Goa opposing real estate development and urbanization policy (in the form of the \textit{RP 2011}) in their villages. Journalists writing on real estate in state and national dailies were particularly insightful and pointed to relevant sources and contacts.

To map the Goan anti-SEZ agitation I spent six months in Goa (it was also in the course of this period that I interviewed Goan real estate developers and anti-RP 2011 activists), with several weeks each in Kerim and Loutolim villages, key sites of the anti-SEZ agitation in the state. I interviewed activists from the agitation and allied organizations, local peasant and resident communities in the two villages, and bureaucrats, politicians, lawyers, academics, journalists, and

\textsuperscript{25} A senior industry representative would typically be at the Chief Executive Officer or Vice President level of a company.

\textsuperscript{26} These reports are submitted by public limited companies to the Securities and Exchange Board of India before any new public stock issue. Several large real estate developers have public issues and these are available online from the SEBI website. Thanks are due to journalist John Samuel Raja for alerting me to this database.
priests of the Diocesan Church. The state is relatively small and this enabled access as I could easily commute across the state within a day.

**The Challenges of “Studying Up”**

Through the course of my research and in my various research settings, my focus was (initially) on investigating the institution of SEZ infrastructures and the contestations around them. As I broadened my investigations to the larger social field of SEZs, and especially as I studied settings of power, my access was uneven and checkered. Interviews were often one-off “hit or miss” encounters, where I had to make the best of the time given to me. Some times I was able to carry out follow-up interviews, but my attempts to get closer to the settings of power were curtailed partly by the unwillingness of my “powerful” interviewees to entertain too many probing or critical questions, partly by bureaucratic discretion (I was refused permission to observe SEZ Board of Approval meetings), and partly by gendered dynamics (it is difficult to find opportunities for informal social interactions with developers and bureaucrats and at least on a couple of occasions an excessive interest in my personal well-being sent me packing after the first interview). Added to this, representation of details was curtailed as a lot of my informants “spoke” on condition of anonymity, especially if revealing potentially critical insights or information. In attempting to capture the scale of institution of SEZ infrastructures and then of “infrastructure” and “urbanization” policy, ethnographic intimacy with my informants and the spaces they inhabited was either not possible or curtailed (see also my discussion on “corridors of power” in chapter four).

The only settings that allowed for ethnographic proximity with greater ease were the villages in Goa where I studied the anti-SEZ resistance and was perceived as a sympathetic researcher by activists and resident communities opposed to SEZs and the RP 2011. However, mine was not a

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27 In her classic call to anthropologists to “study up,” Nader (1969b) discussed the need to study spaces of privilege and power in order to get more substantively at the workings of power.
Introduction

village, community or social movement ethnographic project. In the villages, I was interested in the specifics of how my informants “spoke to power” and what they could tell me about power. Their wider social settings appear as a background in my dissertation. Given the sensitivities around caste inequalities that I account for in the chapter on the resistance to SEZs in Goa, I have also not made caste backgrounds of my informants in the villages explicit. I have however, provided general discussion of these social variations in the following chapter to facilitate a more nuanced understanding of the anti-RP 2011 and the anti-SEZ campaigners. What my project could not approximate in ethnographic depth, I attempt to make up with the breadth and diversity of sources, materials and settings around the institution of growth infrastructures and urbanization projects in India and the resistance against them in Goa.

In researching the project, my fieldwork often took me to areas outside my comfort zone, meeting senior bureaucrats and developers. I had to step into a role and “perform,” as the opportunities were privileged and I had to make use of them as they arose. Each time I had to make that call, I had to overcome internal resistance. For a large part this had to do with the feeling that I was deceiving my interviewees and being dishonest, or that I was spying. I observed in mortified fascination as my phone contacts shored up numbers of developers and industry representatives from Mumbai, Delhi and Goa. Each meeting felt like an encounter and I did a little internal skip and grin when I walked away.

One of the first such encounters drove home to me my own privilege. It was a conclave on SEZs organized by the Associated Chambers of Commerce (ASSOCHAM) at the five-star Le Meridien hotel in July 2011. As I left for the hotel that morning, I felt a fair bit of trepidation at the possibility of being “caught” as an “interloper” or “outsider” at the meeting, although I had registered beforehand, citing my academic credentials and reference letters. I needn’t have worried; the large conference hall was packed with a few hundred participants from all over the country,
Introduction

mostly representatives of SEZ developers and units, and legal and accounting firms. My middle-class privilege allowed me to blend in as “a researcher from New York,” and even make some SEZ small talk.

For the record, I never lied by commission regarding my affiliations or positions, and only once by evasion. The developers and bureaucrats were simply not interested in my background or positions, most assumed “New York” could only mean “agreement,” and were happy to talk, some more insightfully, others eagerly as my questions probed. I have protected most of their identities. I learned in the course of my research that “studying up” is a challenge in ethics and responsibility. It is also a nuancing of empathy and sympathy.

Situating the “Researcher from New York”

I began my doctoral program at the Graduate Center CUNY, in the fall of 2007. In November that same year, news of violence in Nandigram in West Bengal state over land acquisition for a Special Economic Zone (SEZ) developed by the Indonesian Salem Group erupted all over the Indian media. In March that year 14 people had died in police gunfire while protesting the notification (official declaration) of 25,000 acres of land (under the LAA 1894) for the SEZ. Unrest had been festering for some while. I followed the news in growing horror (partly amplified by the physical distance from activist responses in India) at what emerged as a complex of violence between the ruling Communist Party of India (Marxist), the Trinamool Congress Party and protesting peasants and citizens groups allied with the Bhumí Uchchhat Pratirodh Committee (BUPC; Committee Against Land Evictions). Things reached a violent climax as political factions and the BUPC struggled to assert control over the area and the region became a battlefield of sorts when a non-violent protest march of around 15,000 people led by the BUPC was met with violence by various political party cadres ad the police. Many people died (reported estimates vary from 7 to 100) and around a
thousand houses were damaged or burnt down. As investigations and fact-finding missions to Nandigram were underway, the state government, under enormous pressure then, moved the controversial SEZ to a less fertile and cultivated stretch of land in Nayachar village.28

The Nandigram episode bore out along with other controversial land acquisitions. By the end of 2007 (literally on New Year’s Eve), the Goan government also canceled all 15 approved SEZs in the state under sustained agitation from peasants and citizens groups. The agitations in the Mumbai SEZ area were also brewing and news of resistance to SEZs from other states was also gathering steam. These episodes together underscored the little regard by the political establishment (irrespective of ideology) for dissent and rights of “citizens” to determine their own development needs.

In the Summer of 2008 I then conducted a preliminary study in the Mumbai SEZ area on the outskirts of Mumbai city in the Raigad district of Maharashtra. This was to be the largest SEZ in the country, covering an area of 11,300 hectares (roughly 27,923 acres) over 45 villages and promoted by one of the biggest Indian transnational corporate houses, Reliance Industries Limited. It had become a site of intense resistance from 2006 when the plans for the SEZ were first unveiled. The agitation over the MSEZ became instrumental in influencing several changes in the policy framework for SEZs (like the withdrawal of forcible acquisition of land for SEZs; increase in the processing area of the SEZs and a ceiling on the extent of land acquired for SEZs, albeit the ceiling was later removed). In April 2008 (before my fieldwork), under immense pressure from the peasant and citizens group coalitions, the district administration of Raigad conducted an unprecedented referendum over the MSEZ. The results of the referendum were never officially released, although independent records of those opposing the MSEZ claimed that 96 percent of the nearly 6000 people who participated in the Referendum voted against it. This figure cannot be verified, but it appears

vindicated in that the peasant and citizens coalitions eventually ousted the SEZ by 2009 as its
developers failed to acquire even 25 percent of the land originally sought.

That summer, through deliberations with other activists, Simpreet Singh of the Ghar Bachao
Ghar Banao (Save the Home Make a Home) anti-slum demolition campaign in Mumbai and I
resolved to bring together national and regional social movement coalitions\(^29\) to consolidate
experiences and insights from groups struggling against SEZs across the country. Other such
initiatives had been undertaken and we hoped to build on their efforts to initiate a collective national
process of scrutinizing SEZs. Over the course of the next several months we reached out through
social movement networks and by the summer of 2009, secured the agreement of the National
Alliance of People’s Movements, the National Campaign for People’s Right to Information and the
Tata Institute of Social Sciences to convene an initial national meeting on SEZs in June 2009.

The first meeting was held in early June. Representatives from nearly all the major struggles
against SEZs (in Maharashtra, Karnataka, Tamil Nadu, Andhra Pradesh, Odisha, West Bengal,
Gujarat) that we could reach out to attended the meeting, at their own expense. This underlined
support for a national coalition formation around SEZs. A decision to initiate People’s Audits of
SEZs was arrived at, borrowing a format of accountability enforcement developed by the Right to
Information (RTI) campaign.\(^30\) It was also resolved that all organizations would raise resources
through local donations for the process, with the Tata Institute and another research and advocacy

\(^{29}\) Many social movement coalitions in India describe themselves as non-party political movements and do not take
institutional funds, but run on members and supporters donations (possibly an organizational relic from the
Independence movements that were similarly supported by popular donations). These are not Non-Governmental
Organizations (NGOs), although coalitions align with NGOs as well.

\(^{30}\) The Mazdoor Kisan Shakti Sangathan (Peasant and Workers Solidarity Collective) is widely credited with pioneering
the Right to Information (RTI) movement in India for over two decades now, and founded the National Campaign for
People’s Right to Information. The movement developed a format of public hearings or people’s audits of state-led
development works in rural Rajasthan where the organization is based. Given large-scale embezzlement of rural workers’
wages, details of public works expenditures on labor and materials were campaigned for. With door-to-door wage
verifications in villages where aggrieved workers sought full wages risking backlash from officials and elected
representatives siphoning development funds, the movement unearthed massive embezzlement of development funds
each year in development works. A series of local mobilizations took shape and the collective built a state and then
nation-wide campaign demanding the RTI for all information affecting public interest. The campaign was ultimately
successful in securing a wide-ranging entitlement to information for ordinary citizens enacted as the RTI Act in 2005.
organization, the National Centre for Advocacy Studies providing resources for travel across states for organizers and audit panelists who required support (panelists were to be mostly nationally and regionally known senior lawyers, retired bureaucrats, retired judges, journalists, academics, artists and activists). The first People’s Audit of SEZs was to be held in Maharashtra in the Mumbai SEZ area in September that year. Consultations for similar processes were to be initiated in the other states and pending the Maharashtra audit, groups in other states were to take the decision to proceed with devising their own formats for audits, or not.

Six People’s Audits of SEZs were eventually conducted from September 2009 to April 2010. I stayed in India for fall 2009 to help with organizing the People’s Audit process on behalf of the three convening organizations. Over the next 11 months, eight of which I stayed in India for, People’s Audits were organized in Maharashtra, Tamil Nadu, Karnataka, Andhra Pradesh, Goa and Delhi states, the final audit in Delhi included representatives from anti-SEZ struggles in states that could not organize audits. Each audit format was locally arrived at and involved scrutinizing details of several SEZ projects, their social, economic and environmental impacts, their implementation methods and testimonies from residents.

This process underscored for me the scale of SEZs and their implications for dispossession of lands, resources and livelihoods, their environmental implications, and the endemic corruption in the land deals for SEZs. To end a long story, I was not unbiased when I started my dissertation research; my perspective is situated in my experiences.
Chapter One

Contextualizing “Growth”
Chapter One

In this chapter I begin with a brief overview of historical political economic developments relevant to the current conjuncture of “liberalization” and “growth” (significant historical social, political and institutional transformations such as those around caste and gender inequalities are minimally addressed in the interests of the focus on economic policy). I then provide a similar overview of developments in Goa; discuss indigenous relations with land and resources and the gaonkaris (collective ownership of land and resources) codified as Comunidades by the Portuguese; and give an overview of the main economic activities in the Goan state that have also contributed to popular discontent regarding their environmental impacts; and give an overview of Goa’s significant history of environmental activism. The third section then traces the global genealogies of SEZs and Industrial Corridors and notes some peculiarities of these “growth infrastructure” models.

**Broad Historical Context**

India is a fairly late entrant into the SEZ model for export promotion and global integration. While Export Promotion Zones (EPZs) were introduced from the late 1960s in the country (see section on SEZs below), several internal factors constrained industrialization and export promotion in India. Under the import substitution-led industrialization model adopted in the post Independence period, Chibber (2003) argues that Indian capitalists successfully carved out concessions and subsidies from the state and enjoyed “protection” from international competition without disciplinary state oversight. For a successful shift to a globally competitive export-led industrialization strategy, a consensus between the state and capital over export development would have been crucial. In South Korea, he points out, disciplinary oversight by the state with targeted incentive structures enabled production for the rigors of the global market. The promotion of particular industries, quality control and production targets for export with the added advantages of Japanese investments and market reach helped South Korea develop export capacity and integrate globally. An authoritarian
Chapter One

regime, relatively low inequality, redistributive measures and policies geared to stimulate domestic demand also helped create a dynamic domestic market.31

In India on the other hand, the import substitution model and the “conciliatory politics” of the Congress leadership “locked in place” a pattern of Indian capital wrestling concessions from the state without disciplinary oversight (cf. Corbridge and Harriss 2000; Chibber 2003). Nehru’s conciliatory vision of the Congress Party sought to balance industrial development with centralized planning (Corbridge and Harriss 2000). The anti-capitalist (if romantic) Gandhian ideal of self-sufficient village republics had been unanimously set aside within the party after Gandhi’s death, as a larger consensus over industrialization prevailed. The combination of mixed economic objectives and conciliatory politics: a) trumped avowed socialist objectives by derailing redistributive land reforms; b) encouraged institutional reforms in farming over targeted infrastructural investments so that expanded cooperative farms and decentralization of power to Panchayats (village institutions) reinforced the power of landed and “upper-caste” elites; and c) accentuated the growth of industrial monopolies reliant upon protectionist policies and public investment as stimuli (ibid.). The effects of conciliatory politics on planned development enhanced the power of the (largely “upper-caste”) significant holders of property rights—the industrial and commercial bourgeoisie, rich peasantry and bureaucratic office holders whose discretionary powers were increased with the greatly expanded role of the bureaucracy as a whole.

The power of the bourgeoisie and of the rich peasantry also mapped on to the relations between the central (federal) and State governments. The bourgeoisie was influential in the center (despite an adverse socialist leaning political culture), and the rich peasantry was increasingly powerful in State governments. As a result:

31 In Taiwan as well, Corbridge and Harriss (2000) point out that the Kuomintang government undertook redistributive land reforms in the 1950s and built on Japanese colonial investments in agrarian infrastructure. Taxation and favorable linkages between agriculture and other sectors then enabled a favorable transfer of resources to industry in Taiwan.
Chapter One

…the strangulating embrace of the bourgeoisie and the rich peasantry created a political context in which it became impossible for the regime at the centre to continue to implement the Nehru-Mahalanobis planning model [with redistributive land reforms and agrarian restructuring] because it could no longer mobilize the public investment resources to do so (ibid.: 65-66).

Centralized planning had concentrated on supply-side development but failed to enable commensurate demand-side expansion through redistribution and appropriate infrastructure. State revenues began to dry up as “productive linkages” between agriculture and industry (cf. Hirschman 1981) could not be established within the economy. After Nehru’s death in 1964, conditions worsened. The currency was devalued in 1966, and the country became increasingly dependent on conditional aid (including the US Public Law 480 food aid). It also became susceptible to growing pressures from the US and the Bretton Woods institutions to initiate capitalist agrarian reforms in the form of the “green revolution,” to increase the role for global and domestic capital, and reduce state control and planning. Agrarian reforms then enabled rich “upper-caste” peasants with the advantages of scale and resources to invest in modern seeds and fertilizers with mechanized farming (see also Gupta 1998). At the same time, industrial growth stagnated. While the wide range of controls on industrial expansion did not constrain some business houses from emerging as monopolies, the overall controls on business during the much maligned “license raj” combined with demand-side constraints, decreasing public investment and infrastructural bottlenecks to create overall stagnation in the economy. By the mid 1960s, the Planning Commission was reduced to an advisory body unable to take any substantial remedial measures. These conditions fueled social
unrest and popular discontent (the Naxalbari revolt of 1967 that resulted in the political formations of “Naxalites,”32 also occurred at this time).

Political infighting between Nehru’s daughter Indira Gandhi and the Congress old guard split the Congress Party in 1969. Gandhi’s political trajectory then steered a path between left and right, making populist promises to secure support while doing little to implement them, even as she rejected the politics of class struggle represented by the Marxists (Corbridge and Harriss 2000). Her positions in many respects were a reprise of Nehru’s conciliatory politics, but in a much more politically fragile environment; which she then sought to consolidate with the imposition of “emergency rule” in 1975-77 (ibid).

Anti-emergency agitations united under the leadership of socialist Jaiprakash Narayan to form the Janata Front (People’s Front). The Janata Party, as it was named after it came to power, included a coalition with the rich and largely “upper-caste” peasantry from the northern states and the Hindu nationalists (then organized as the Hindu Mahasabha, which emerged as a major political force with over 30 percent vote-share in the “anti-Indira” wave after the Emergency). The immediate post-Emergency period thus signaled the rise in power of the Hindu right on the one hand and the rich peasantry on the other (rallying with Charan Singh who briefly became Prime Minister with Indira Gandhi’s support when the Janata Party government fell).

This rise in the power of large landlords sealed the decline of the socialist agenda of agrarian reform (ibid.). The rich peasantry by this time had reaped the rewards of commercialized agriculture, with significant state subsidies for fertilizers, pesticides, high-yield variety seeds and mechanized production. Motiram and Vakulabharnam (2011) argue that market-dependence had ramifications for the peasantry and agriculture as a whole, as small (owning two to ten acres of land) and marginal

32 The Communist Party of India (Marxist-Leninist) that had initiated the revolt subsequently splintered into several groups through the 1970s. Some of these splinter groups have merged recently and are organized as the Communist Party of India (Maoist).
Chapter One

farmers (owning less than two acres) too became increasingly dependent on market-oriented input and price subsidies without the advantages of scale.

In 1980, Indira Gandhi returned to power but did not address the “structural issues” behind economic stagnation. After her assassination in 1984, her son Rajiv Gandhi, then at the helm of affairs and under the influence of the liberal global orthodoxy introduced the “new economic policy” in 1985 in an attempt to “liberalize” the economy. The turn towards liberalization was not inevitable but emerged as a response to internal pressures building up as the “crisis in public investment” rather than any external pressure (Corbridge and Harriss 2000). Monopolistic business houses saw opportunity in liberalization, but many small Indian capitalists felt threatened by the dismantling of the controls protecting them from “global competition” (ibid. 2000). Reform initiatives slowed down in the face of opposition and intensified the “underlying tendencies” of the Indian economy towards public expenditure, imbalance in taxation, and commercial borrowing (ibid.: 103).

During this time, debt grew, despite the economy growing at about five percent per annum (Harriss-White 2003) and manufacturing at eight percent. From 1982 to 1990 India’s public debt jumped from 7.94 billion dollars to 70.12 billion dollars (11.4 percent of the Gross Net Product to 27.6 percent). The green revolution had increased rural wages to an extent in northern states and also benefited “lower-caste” peasants (see Jaffrelot 2003). Official figures showed a reduction of rural poverty from 57.3 percent of the population in 1970 to 35 percent by 1990-91 (Corbridge and Harriss 2000). India’s fiscal deficit however, precipitated the economic crisis of 1991 and became the pretext for “liberalization,” with agreement among all political parties by then, of the “necessity” for “structural reforms.”
Chapter One

The social and political elites who had consolidated their power in the preceding decades moved in to carve out their share and exert pressure on the reforms processes. After nearly a decade of reforms in 2000, Corbridge and Harriss contended:

A new dialectic of centralization and decentralization in the country is allowing New Delhi and the States to regulate in favour of capital in the formal economies of India (often to good effect), even as an ideology of deregulation is encouraging certain ‘intermediate classes’ to seize command of an ‘informal state’ at the local level, there to enforce a form of ‘actually existing Indian capitalism’ that is based on ‘primitive accumulation’ or ‘accumulated cruelty’ (ibid.: 146).

Since the 2000s to the present, the pace of “structural reforms” has intensified. As Indian capital has sought to make gains, the established pattern of wresting concessions from the state without disciplinary oversight has continued (the SEZ model is an example of such “concessions” at a large scale, see also chapters three and four). Manufacturing is low on the priority of capital however, and has stagnated since the 1980s at 15-16 percent of the GDP (GoI 2011a), employing a mere 12.6 percent of the workforce in 2011-12 (Rangarajan et al. 2014). Services have grown to 51 percent of the GDP (Banga 2005) and employed 26.9 percent of the workforce in 2011-12 (Rangarajan et al. 2014). The share of agriculture reduced from 35 percent of the GDP in 1983 to 14 percent in 2011-12 (Thomas 2014) although it still employed 48.9 percent of the workforce in 2011-12 (including forestry and fishing; see Rangarajan et al. 2014). Agrarian distress among small and marginal farmers has grown acutely in this period. As input and price subsidies have declined, market dependence, environmental stress and growing indebtedness, among other reasons, has led to the phenomenon of farmers’ suicides in Maharashtra and Andhra Pradesh (Motiram and Vakulabharnam 2011). With manufacturing low and a shrinking agricultural sector, there is growth
in the services and construction sectors, with construction employing 10.6 percent of the workforce in 2011-12 (see also chapter six).

Growing discontent from the 1970s has also given rise to significant non-party social movements (referred to as “jan sangathans” or “people’s movements” in India). These agitational movements share affinities with left parties but have created their own structures and idioms. They are often simultaneously “red and green” in ideology (Guha 1990) and have sought to compel state and central governments towards egalitarian and democratically determined “development” policies. They have also emerged at the intersections and coalitions of “class” and “identity” (cf. Edelman 1999). For instance, some of these are the mine and cement workers Chhattisgarh Mukti Morcha (Chhattisgarh Liberation Front) in the central adivasi (indigenous) areas (see PUDR 1991); the anti-dam struggle along the Narmada river valley, the Narmada Bachao Andolan (Save Narmada Campaign; see Fisher 1995; Baviskar 2005); the National Fishworkers Forum (see Sinha 2012); or the Mazdoor Kisan Shankti Sangathan (Peasants and Workers Solidarity Collective) in north-western central plains (see Jenkins and Goetz 1999; Ray and Katzenstein 2005). These social movements have mobilized a wide array of agitational modes (or “repertoires”), including legal recourse, to interrupt processes of dispossession and have also won important rights-based entitlements in alliance with left-parties such as the rural employment guarantee, right to information, forest rights and food security laws.

These developments form the backdrop for the current “reform dirigisme” on “infrastructure, industrialization and urbanization” in India and the consequent conflicts over the appropriation of land and resources from agriculture and allied uses. I turn below to some historical developments in Goa relevant to this study.

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33 These movements should not be confused with Non Government Organizations (NGOs), they rely on membership and limited non-institutional donations for their campaigns and activities.
Some Goan Developments

Figure 1: District and Taluka* Map of Goa

*Note: Taluka refers to a district administrative block. Names in Italics are major cities and towns or Taluka headquarters.


With a total area of about 1429 square miles and a population of 1.46 million (GoI 2011b; the state is very small relative to other Indian states), Goa has a unique history in South Asia as a Portuguese colony for 451 years until 1961. Goa’s “merger” with the Indian union was “facilitated” by the Indian military (that then ruled the state for six months), and was not without controversy and allegations of one imperial rule being replaced by another. In 1961 it was made a Union Territory34 of India and became a separate state only in 1987. Campaigns in the initial years by neighboring Indian states Maharashtra and Karnataka (then Mysore) to acquire Goa as “their territory” found

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34 The Constitution of India of 1950 did not make reference to the Portuguese colonies, hence the status of Goa, Daman, and Diu after their merger into the Indian Union was defined by the Government of the Union Territories (UT) Act of 1963. The powers of a UT are constrained in comparison to that of a state, particularly with regard to financial matters. A UT is further under the administration of the Home Ministry of India and the GoI’s ability to intervene or delay in matters, including review actions taken by UT governments is considerable.
support among prominent sections of Goans (who leaned towards Maharashtra), and the issue of “merger” deeply divided Goans, also along religious communal lines. In 1967, after much unrest, a Goa-wide “opinion poll” was conducted by the central Government of India (GoI) on the issue of merger with Maharashtra. A majority of Goans voted against the merger, consolidating Goa’s status as a distinct political entity within the Indian union. Debates around the opinion poll articulated and mobilized a distinct “Goan identity” needing protection, and brought sections of the Hindu and Catholic populations together that felt threatened by a merger with Maharashtra (Rubinoff 1992). In later years and more recently, demands for “special status” for Goa to disallow purchase of lands by non-Goans in the state have arisen from this complex political history of a distinct “Goan identity” and this frame has been an important historical refrain in social movements in Goa (also mobilized in the anti-RP 2011 and anti-SEZ agitations).

Over the years a syncretic culture has evolved in Goa; “upper-caste” Christian converts from Hindu backgrounds formed a powerful minority under the Portuguese and there has historically been minimal communal strife between Christians, Hindus and Muslims. The latest census figures giving religious break-up of the population were unavailable until January 2014, but inferring from the 2001 census figures, Hindus are about 65.8 percent, Christians 26.7 percent, Muslims 6.6 percent (GoI 2001) of the state’s population. Inferring from a Government of Goa (GoG) survey of 2004, indigenous Scheduled Tribes (ST) are over 12 percent of the state’s population (including 36.58 percent of ST Christians) and Scheduled Castes (SC) are at 1.8 percent.

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35 In this regard, despite coming to power, the Hindu-right in Goa has failed to incite religious hostility despite some early efforts and has had to make its peace with the local Catholic and Muslim communities to survive politically. They have however, portrayed immigrant Muslim communities as more orthodox than “Goan” Muslims instead to further communal politics.

36 Scheduled Tribes (STs) are indigenous communities that have their own nature-based religious practices. While these are non-Hindu communities, the Hindu right has been making an effort to bring them within the Hindu religious fold. Scheduled Castes (SCs) are communities that the Hindu caste system deemed “untouchable” and hence kept outside the caste system. SC and ST communities were codified by the post-independence Constitution of India that recognized both communities as historically oppressed and marginalized by Hindu upper-caste and non-Hindu communities in a position of dominance. SC communities have taken the political identity of dalit, literally translating as oppressed or
Chapter One

The per capita annual income in the state according to 2009-10 figures stood among the
highest in India at approximately $2500 (or $6.8 per day at then prevailing conversion rate of Rs. 45
to 1$;10 PTI 2011). The human development indicators in the state are high; the female sex ratio in
the state is relatively high at 968 women to 1000 men (940 in India overall); the literacy rate
(percentage of literates to population above seven years) is very high at 87.4 percent (74 percent in
India overall; GoI 2011b); the literacy rate among ST communities is extremely high at 71.7 percent
(47.1 percent in India in 2001) and the ST communities’ female sex ratio is high at 1017 females to
1000 males (GoG 2004).11 These indicators, along with the state’s size, are important factors when
considering social mobilizations in the state, as many campaigns quickly coalesce into state-wide
agitations. High indicators and income ratios also attract migration to the state across all classes and
have notably attracted metropolitan investment into real estate, cumulatively adding to existing
resource and “infrastructure” (implying here services like water and electricity supply, garbage
disposal and roads) burdens for residents.

I briefly summarize below some aspects of the political ecology and economy of the state.

Relationships with Land and Resources

“broken” people but the term dalit may also be used to include ST communities by some given their historical
oppression.
37 Depending on the locality of a Catholic person’s origin, their “original” caste can be determined and often
corresponds with their socio-economic status such that the Brahmin and upper-caste Christian converts are generally
better off than SC and ST Christians. Before 2004 ST communities were not officially recognized in Goa, hence earlier
census figures do not reflect the presence of these communities accurately. All indicators for ST communities used in
this paper are from a survey of three ST communities conducted in the state by the GoG (2004).
38 All $ rates in this section are calculated at then prevalent rate of Rs. 45 to 1$, for 2009-10.
39 While the socio-economic indicators of the so-called “lower-castes” and indigenous communities in Goa are higher
compared to the rest of India, caste hierarchies and discriminatory practices persist in Goa even among Christians. As a
result I found in the context of my field study that people across castes may eat at each others’ homes indicating a
relaxation of the rules of “pollution,” but marriage alliances are seldom, made across these lines. As explained below,
traditional patterns of land ownership and access to resources are also determined to significant extent by caste and
community status. In the context of this study, Brahmins followed by Marathas (warrior caste) form the so-called upper-
castes; Other Backward Castes (OBCs) and SCs form the so-called “lower” castes. STs have also been traditionally
discriminated along with SC communities.
Chapter One

Under Portuguese rule and patronage, mercantile capital relations dominated in Goa (Trichur 2013). Traditionally, gaonkars were considered the original inhabitants of a village and the lands and resources of the village were held collectively by them and distributed for cultivation (including khażan lands,\textsuperscript{40} grazing lands and plantations) to “users” by lease through auctions and the income from auctions was equitably distributed among gaonkars. The gaonkari was considered a village republic with ownership of all land and resources; the land could not be sold, nor could it be converted for non-agricultural purposes. A system of share-holders also incorporated members who were not gaonkars by lineage. The fisherfolk were also organized in collectives according to fishing zones (see D’Cruz and Raikar 2004), and supplied gaonkars and the rest of the community with fish, in return for market areas. The gaonkari also assigned lands to those providing services to the village like washermen, barbers and gravediggers. Lands were zoned for crematoriums, housing and for agriculture by the gaonkari and the protection of fields, bunds, sluice gates and other structures were also their responsibility. They also built and maintained village temples and later churches.

The Portuguese retained and codified the gaonkari legally in the form of Comunidades. While first mention of the rules of Comunidades are found as early as 1526, the Código das Comunidades (Code of Comunidades) was officially gazetted by the Portuguese in 1961, the year that Portuguese rule over Goa ended. There were in 1961 223 Comunidades in Goa that owned a majority of the state’s land and resources (see Sridhar 2010). Anti-caste activists point out however, that members of dalit, other so-called “lower” caste and tribal (indigenous) communities and women were not members of the Comunidade and it is unclear whether traditional gaonkaris were inclusive of all castes, communities and women and hence more egalitarian than the Comunidades.

Portugal was a poor country towards the end of its colonial rule, and had neither the capital to invest in Goa nor the industrial output to supply to the colony’s needs; it was only after its merger

\textsuperscript{40} Khażan lands are low-lying coastal lands reclaimed from marshy mangroves by construction of dykes and sluice gates that were used as salt pans and for rice cultivation and prawn farming collectively.
with the Indian union that the state’s capitalist transformation took place (Newman 1984). Intensified mining in the post-1961 period by Goan “big families” (influential mercantile families) who had been granted mining concessions by Portuguese patronage, introduction of fishing by trawlers, the dilution of the traditional Comunidade systems through partial land reforms, and the vigorous promotion of tourism meant that capital in Goa increasingly came from the “destruction” of land (Newman 1984; Trichur 2013). The combination of ecological, socio-economic and institutional changes without effective state support in turn adversely affected the management of common property resources like kbazan lands (Sonak et al. 2006). Lands and resources held by Comunidades reduced considerably with rising incidence of privately owned property, including fields, forests and orchards. Commons have been acquired by the state and also transferred to industry.

More recently, at least in some villages like Loutolim and Verna, ST members also reportedly have shares in Comunidade lands and resources, as do some women, depending on their economic status and ability to buy shares. Given their historical exclusion from ownership of lands and resources however, people from the SC and ST communities in Goa, Catholic or otherwise, are often landless and/ or landed peasants with small holdings, cultivating rice, tending coconut and arecanut (beetle nut) groves, growing fruits and vegetables, producing coconut oil and farming prawns and other shellfish through the year. They may also cultivate lands acquired through purchase of shares in a Comunidade or tend to the lands of “upper-caste” Catholics and Hindus who traditionally have larger land holdings including paddy fields and orchards. According to a GoG (2004) survey, 20.39 percent ST heads of households are cultivators and 18.46 percent are agricultural laborers, making them the significant peasant communities in the state.

Land- and Resource-use Indicators
In this section I give an overview of the main economic activities impacting relationships with land and resources in the state, and their relative shares in the state’s political economy. Physically, Goa is marked by three broad geographical divisions: the Western Ghats mountain range, the midland plateaus and the coastal areas, apart from nine river systems of which the river Sal originates in the Verna plateau, near the site of five SEZs that were to come up on the plateau. Each of these physical divisions has their own significant ecological and cultural characteristics that are inter-related in complex ways and impact the political economy of the state. Traditionally, Goan villages have congregated either in the plains, the undersides of plateaus or the coastal stretches, with no settlements on top of the plateaus and sparse settlements in the mountainous Ghats (Alvares 2002). Goa’s total Net State Domestic Product (NSDP) in the financial year April 2009-March 2010 was $4951.8 million (at Rs. 45 to 1$; GoG 2012).

a. Agriculture:

The overall significance of agriculture has gradually declined in the state with the transformation of the economy. According to official figures, of the total area of 361,113 hectares of the state, the total cropped area in Goa was estimated at 167,607 hectares in 1960-61 (GoG 1960), declining marginally to 160,320 hectares for 2009-10 (GoG 2009a) and to 159,916 hectares in 2010-11 (44.28 percent of total land available; GoG 2010). Cashew, paddy and coconuts respectively form the major agricultural produce in the state. The overall dependence on agriculture however, has declined; the NSDP from agriculture, forestry and fishing in 2009-10 stood at $325.54 million, merely 6.6 percent of the total NSDP, employing 16.49 percent of the workforce (GoG 2012).

b. Mining:
Chapter One

There is extensive laterization in Goa because of its tropical moist climate. Laterite caps extend over mountains, plateaus and plains. These are rich in iron ore deposits that give the earth in the region its deep red color and also store water (see Alvares 2002; GSI 1985). In recent years, iron ore mining has grown immensely in the state with over 50 million tons of India’s iron ore exports annually mined from Goa alone, making it the country’s top iron ore exporter. Rampant “illegal” and “legal” mining\(^1\) has destroyed the ecology of these areas, causing environmental hazards and the destruction of water resources. In 2009-10 the officially reported NSDP from mining stood at $628 million or 12.7 percent of the NSDP (GoG 2012). Mining has become hugely controversial especially since a judicial commission into illegal mining appointed by the central Government of India (GoI 2012a) submitted its findings of rampant legal violations. The commission’s report noted that most mining companies encroached upon agricultural lands and water bodies, that mining areas were overburdened, and operators did not pay due royalties (Chakravarty 2012). The BJP-led government that came to power in 2012 announced the suspension of all mining operations in August 2012, pending review of licenses. The Supreme Court of India in an order in October 2012 recommended an interim ban on transportation (including export) of all illegally mined iron and manganese ore from the state. However, the Supreme Court recently issued notice to the state government over reports that ore mined from Goa is being illegally exported under the claim that it was ore sourced from the neighboring states and not mined from Goa (Venkatesan 2013).

c. Tourism:

Trichur (2013) points out that tourism in Goa in the 1960s-80s catered to low-budget tourists and an alternative hippie culture, becoming part of peasant livelihood strategies along the coast. In an effort to remake her image and promote foreign relations after the Emergency rule episode, then Prime

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\(^1\) Anti-mining activist Ramesh Gauns points out that this division is arbitrary since the “legal” mines were operated by influential families patronized by the colonial Portuguese government (interview with Ramesh Gauns April 13, 2012).
Chapter One

Minister Indira Gandhi promoted Goa as a global tourist destination from the 1980s (Trichur 2013). This changed the nature of tourism in the state and brought in capitalist hotels catering to “high-end” tourists. These concerns not only exploited local labor, but also took over large areas of land, guzzling resources and violating coastal protection laws with impunity.

The estimated tourist inflow ratio into the state is now extremely high. In 2009-10 the domestic and foreign tourists in Goa were 2.15 million and 371,951 respectively and the total NSDP from trade, hotels and restaurants was $721.3 million or 14.6 percent of the NSDP (GoG 2012). Policy interventions frequently reflect the concerns of pressure groups interested in more returns from tourism. Alvares (2002) points out that the government machinery is often rewarded for non-enforcement of rules or their misinterpretation, leading to violations of coastal zone regulations, building height regulations, untreated sewage release in the sea and extraction of groundwater causing the salinization of aquifers.

In their study analyzing the changes in three coastal systems in Goa over five villages, sand dunes, mangroves and khazan lands Kazi and Siqueira (2006) point out that given the attractive returns from tourism, sand dunes were either denuded or razed for unhindered views of the sea; interest in khazan lands has waned; and more land was sought to be converted for beachfront hotels, beach shacks, restaurants and other entertainment activities.

d. Real Estate:

The real estate economy in Goa is deeply implicated in the state’s promotion as a tourist destination. The emergence of Goa as a tourist destination has raised the demand for “holiday homes” in the state from the metropolitan upper classes from other states. These “second homes” are locked up for most of the year and are the cause of much local resentment. Such investments have led to a rise in construction activity, burdening the local infrastructure and diverting land and resources from
Chapter One

other activities. The price of property has risen so that there are frequent complaints of how new homes are no longer within the reach of local Goans but people from other states invest in them. More land is converted into “settlement areas,” and building regulations are turning lax. Real estate construction has also increased as the Goan population itself expands and there is migration from the villages to towns for occupational reasons. Figures for the number of housing units and the rate of increase in built-up area are hard to come by (see discussion in chapter five); the NSDP from real estate construction for 2009-10 was reportedly $270.8 million or 5.5 percent of the NSDP (GoG 2012). Both, anti-RP 2011 and anti-SEZ agitations in the state reflected the growing local resentment regarding the stresses on land, resources and infrastructure as a result of the growth in real estate (see chapters five and six).

e. Industrial Estates:

The Goa Industrial Development Corporation (GIDC) was established in 1965 to assist small-scale industrialization, and acquires land, develops infrastructure like roads and water and power supply and ensures services like post, banks, etc. within an estate. The land is owned by the GIDC and initially allotted on a 30-year lease (with the option to sub-lease or transfer the plot), extendable to 95 years on easy installments. There are currently 21 Industrial Estates in Goa with 1555 units employing 38540 persons (figures obtained from GIDC in April 2012). While the NSDP originating in the Industrial Estates is unavailable, the total NSDP from manufacturing in Goa in 2009-10 was $956.15 million or 19.3 percent of the NSDP (GoG 2012). The GIDC is also the main governmental body implicated in the irregular transfers of land and resources to SEZs.

Most Industrial Estates are located on or around the plateaus as these are officially considered “barren” lands. These lands have been acquired from Comunidades at low rates by the GIDC, invoking the power of eminent domain. The plateaus have been used traditionally by
villagers as grazing land and some plateaus also have cultivable fields. The plateaus are catchment areas for water for the villages, fields and orchards around them. Industrial Estates have depleted water sources by excessive use of bore wells and wastes generated from industry have in some instances polluted the ground water sources and fields and orchards around plateaus (a Coca Cola plant on the Verna Industrial Estate is particularly notorious among locals). 42 Many of the jobs generated by Industrial Estates have not gone to locals from the area, but have attracted migrants, creating additional sources of resentment.

A Living History of Environmental Activism

It is relevant to note here that a significant tradition of “natural worship” of flora and fauna in the region has fostered a reverence for the environment, forming an eco-theological basis for biodiversity conservation (Borkar 2006). For instance, “sacred groves” that vary in size and extent have residing deities with entry into them marked by strict taboos and codes of conduct (ibid.). Many of these are also located in and around the midland plateaus. Tree worship, worship of termite mounds (as the popular Goddess Santeri) and animal worship of crocodiles, turtles, snakes, dogs and lions by various communities are commonly prevalent. Christian ST communities who are predominantly peasants also perform rice rituals, taking a few ears ceremonially to the Church after prayers in the field, and to their homes to be tied on the doors. An intuitive concern for the environment shaped by local religious practices thus informs relations with the environment and the repertoires of protest in Goa.

The period of post-1961 capitalist transformation of Goa, has seen a rich and significant history of agitation against environmentally destructive projects. Some of the earlier movements coalesced around Zuari Agro Chemicals in Sancoale in the 1980s, the Konkan Railway agitation

42 The company has ironically pledged its commitment to protect rights and resources of communities where it operates (see Coca Cola 2013).
Chapter One

along the coastal areas in the late 1980s and early 1990s, the Nylon 6,6 agitation against the Du Pont plant in Bhutkhamb plateau at Kerim (where one of the three notified SEZs was to come up) in the late 1980s and early 1990s and the Meta Strips agitation of the late 1990s (in the vicinity of the Verna Plateau and involving some of the villages and residents also affected by the SEZs). Along with these there have been numerous smaller local actions and legal activism by concerned individuals and citizens groups in villages across the state.

a. Zuari Agro Chemicals:
Zuari Agro Chemicals (now Zuari Industries Limited) set the precedent on the Sancoale plateau in the early seventies, and introduced Goans to environmentally destructive impacts of industrialization. The wastes and effluents from the industry leached into the valleys below and polluted the springs, sweet water bodies and other water bodies. Mass fish mortality and pollution of fields and groundwater in the mid-70s earned Zuari’s fertilizer plant enduring notoriety. The plant was eventually forcibly closed by the courts. However, repeated citizens’ complaints to various state authorities and eventual legal action with the support of the non-profit Goa Foundation in the eighties, pollution from Zuari industries continues, albeit reduced (Alvares 2002).

b. Konkan Railway:
The Konkan railway project also saw huge protests in the state. While initially welcomed as it was to be aligned through the midlands of the state, the new alignment in 1990 through khazan lands saw increasing opposition. People protested the destruction of khazan lands and mangroves, hills razed to the ground or left collapsing and choked paddy fields. By 1993, things reached a head with the Prime Minister of India issuing stop work orders. An inquiry commission set up subsequently to investigate issues however, ruled in favor of the new alignment and work resumed. The first train
made its journey on the route from Mumbai to Margao on the Republic day of India in 1998 (ibid.).

These were both “unsuccessful” environmental movements, but they engendered a significant environmental awareness among people who participated in them and in the state generally. They also fostered a culture of protest and a relationship of confrontation with the state. Some senior activists in the anti-RP 2011 and anti-SEZ agitations directly drew their lineage from these struggles. The two following struggles were “successful” and were on the sites where two of three SEZs in Goa would receive final approval (notification). They thus directly impacted the living history of struggles in the SEZ areas and some of the participants in the ant-SEZ agitations had also participated in the following agitations.

c. Nylon 6,6:

Bhutkhamb plateau near Kerim village (site of Meditab SEZ) is traditionally used for grazing and has religious significance for local communities with designated worship areas. The plateau serves as water catchment area for the groves and farms around it. In the late 1980s, the GIDC acquired land on Bhutkhamb for Nylon 6,6 production by (transnational) Du Pont in collaboration with (Indian) Thapars. Despite using two highly hazardous chemicals (adipic acid and Hexamythelene Diamine), Nylon 6,6 was officially declared pollution free. As residents discovered its environmental hazards, a long drawn-out agitation spanning several years catalyzed across the state. The final showdown came in 1995 when the police opened fired at protesters and one ST youth, Nilesh Naik from Kerim (whose Samadhi is across Bhutkhamb today), was killed. In retaliation, protestors beat up the police, stripping some and chasing others into the woods and proceeded to the company’s office in nearby Ponda town, burning everything they could find, including cash. Thapar-Du Pont found no relief even in the courts, which refused to extend police protection or issue restraint orders against

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43 This is typically a square stone memorial six feet across.
protesters on account of the industry’s pollution generating potential. The company eventually shut shop and relocated to Tamil Nadu (see Alvares 2002; Sadhle 2000). This significant living history fundamentally shaped local relationships with the plateau; while a largely younger generation spearheaded the anti-SEZ agitation, veteran protestors from the Du Pont agitation added forces.

d. Meta-Strip:

The Meta-Strip agitation of the late 1990s was around the Sancoale plateau (site of Peninsula SEZ). Meta-Strips was to import and process scrap from Europe to send valuable metals back and dispose the waste in Goa. The project got GoG’s clearance in 1996 in a record six days. While an Environmental Impact Assessment was conducted to preempt opposition, it obfuscated potential hazards of the industry that included unacceptable levels of toxic and carcinogenic metal fumes and groundwater pollution (Alvares 2002). Residents from surrounding villages, including the Verna plateau area (Sancoale and Verna are 10 kilometers apart), organized a campaign with road blockades and sit-ins that met police repression resulting in serious injuries and the death of a policeman. Meta-Strips retaliated by booking cases against activists in different states to harass them. By May 2000, with intense agitation on the streets, and the company’s electricity and water supply cut, the High Court refused to entertain the company’s applications for continued electricity and water supply citing environmental concerns. The GoG finally ordered the plant shut and constituted an expert committee that confirmed the project’s environmental hazards but did not recommend closure, suggesting instead costly investment in pollution control. The plant operates today but its production is drastically reduced and it has had to invest heavily in pollution control technology (Alvares 2002).
A mixed social base of caste, class, gender and community identities has thus been a historical feature of environmental struggles in Goa. These agitations comprised men and women; professionals and peasants; educated, semi-literate and nonliterate people; Catholics from Scheduled Tribes, mixed-caste or Brahmin communities; Hindus from various castes; and unconverted Scheduled Tribes. While livelihood concerns flowing from environmental and infrastructure stresses were significant, identities and relationships around land and resources also formed important refrains for mobilization. These struggles also largely emerged in the more populated hence electorally significant plateau and coastal regions, enabling often successful negotiations with the state. They uncovered not just official disregard of the destruction of the environment and traditional livelihood bases in favor of capital but also a corrupt system that enabled state and private actors to violate laws. Land and resource grabs for capitalism-facilitating accumulation thus form a historical trajectory of development and resistance in Goa post 1961, and had an abiding if implicit impact on the anti-RP 2011 and anti-SEZ agitations.

Global Genealogies: Growth, Zones, Corridors

In a 2009 report, the World Bank notes: “Growing cities, ever more mobile people, and increasingly specialized products are integral to development” (World Bank 2009: ix). Economic growth, it adds:

...will be unbalanced. To try to spread out economic activity is to discourage it. But development can still be inclusive, in that even people who start their lives far away from economic opportunity can benefit from the growing concentration of wealth in a few places.

44 Peasants from ST and SC communities often tend the lands of upper-caste Catholics and Hindus and/or have small holdings. Depending on their class status in some villages, they may purchase Comunidade shares to cultivate rice, tend coconut and arecanut (betel nut) groves, grow fruits and vegetables, produce coconut oil and farm prawns and other shellfish.

45 This should not be read as “exonerating” hierarchies in the context of social movements, or as diminishing the extremely necessary and important work of gender-, caste- and other community-based mobilizations for equity and justice.
The way to get both the benefits of uneven growth and inclusive development is through ‘economic integration’ (emphasis in original; ibid.: xxi).

The Bank itself has been consistently losing relevance in large parts of the “developing” world (except the poorest countries) as countries like India and China have attained “middle income” status (see Kanbur 2010) and as a result of the spiral of protests against its policies. But its economic orthodoxy profoundly influences the economic policy agendas through diverse policy consultation circuits (see Bebbington et al. 2004; Mosse 2008). In India thus, as if on cue, the Planning Commission of India has been announcing that 300 million Indians will be moving to cities in the next two decades as the country’s economy grows (GoI 2013b; ET 2013a; see also chapter five). Investments in growth infrastructures and urbanization will presumably “integrate” this movement of people.

Given the Bank’s contribution to the debates on displacement (notably through the constitution of the World Commission on Dams; see WCD 2000), its report astonishingly makes no mention of “development induced displacement” entailed in urbanization and the increased mobility of people. The word displacement is mentioned once, in a footnote explaining “migration caused by sociopolitical reasons” (see World Bank 2009; 166). This is also typical of policy assertions in India that make no mention of dispossession as a corollary to growth and urbanization.

If the assertions of the massive movement of 300 million people from rural to urban areas over the next two decades bear out in India, the implications for dispossession and uprooting of rural populations, agrarian livelihoods and cultures, and large-scale land-use change with consequent stresses on the environment and food security are serious. This is particularly significant as 70 percent of the country’s over 1.2 billion population lives in rural areas and 60 percent depends on

46 The Asian and subsequent crises in the South from the late 1990s (see Khor 2001; SAPIR 2002; Sampat 2003), also culminated in the spirited gatherings of the World Social Forums that criticized Bank and World Trade Organization (WTO) policies. The gridlock that the BRICS (Brazil, Russia, India, China and South Africa) nations have created for the WTO has further exacerbated the Bank’s policy leverage.
agriculture and allied activities. The omission of these concerns from policy discussions on growth, especially in the Indian context where development induced displacement has been intensely contested at least since the 1970s (see also the discussion in the following chapter) and more so since the mid-2000s, is bewildering.

I trace below the global genealogies of the two growth infrastructure models relevant to this study, SEZs and Industrial Corridors.

**Special Economic Zones**

Export-led economic growth has been an important part of the economic strategy prescribed to and subscribed by Southern countries on the path to “progress” and “development,” especially since the 1970s. The first Export Processing Zone (EPZ) was the Shannon airport in Ireland established in 1959. Offshore assembly in Southern countries had started in the 1950s in Hong Kong and Puerto Rico, followed in the 1960s by Taiwan, Singapore, Philippines, Mexico and the Dominican Republic. Following the example of Shannon airport, many of these governments set up special industrial parks, called Export Processing Zones (EPZs) to attract foreign investment. The first Asian zone was the Kandla EPZ established by the Indian government in 1965 in Gujarat. Within the boundaries of these zones, firms were allowed to process goods for export without paying duties on imported components. Hong Kong, following its tradition as a commercial hub, designated the entire island as an EPZ.

Originally conceived as zones of experiments with the “free market” in otherwise protected economies, export zones have been implemented with increasing intensity and varying results across the world. Thus, by the end of the 1960s, eleven developing countries had an EPZ; towards the end of the 1970s there were fifty-seven zones in twenty-nine countries; in the mid-1980s there were

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47 I use the distinction of Southern and Northern countries here keeping in mind the complexities of the North in the South and the South in the North.
seventy-nine zones in thirty-five countries, with substantial assembly activity occurring outside designated zones as well (Currie 1984 in Wilson 1992). By the early 1990s, Asia accounted for over half of the world’s zone employment; Mexico, the Caribbean, and Central America about 30 percent (with Mexico over half that amount); South America (Brazil, Colombia and Chile) about 8 percent; while Africa, the Mediterranean and the Middle East accounted for the small remainder (Wilson 1992).

In India, there were a relatively modest 11 EPZs operating before the current model of SEZs replaced and considerably expanded the scope of the zone model. Policy preoccupation with export-led global integration intensified in the post-liberalization period, and the first SEZ policy was drafted in 2000. In 2005 the SEZ policy was finally given a more “stable” form through the SEZ Act, 2005.

The pattern of capital wrestling concessions from the state discussed in the previous section was exemplified to such a degree in the SEZ Act, that the targeted incentive structure of traditional zone models was abandoned in favor of blanket concessions and a rather free-for-all grab for land and resources, with active support from state representatives (see discussion on the SEZ law and its evolution in chapters three and four). Domestic capital (including transnational capital of Indian origin) flocked to SEZs, though foreign investment was relatively scarce. By August 2007, in less than two years of enactment, the there were already 366 approved SEZs (with additional 176 in-principle approvals) in India. By 2011 this number had grown to 584 (with an additional 45 in-principle approvals).

The model has met its nemesis in two arenas however (see chapter four). One, an unlikely candidate, is the Finance Ministry which imposed a Minimum Alternate Tax on SEZs in 2011 and threatens to base their incentive structure on investments rather than the current concessions on profits. The other is the resistance to land and resource acquisition from peasant and citizens
Chapter One

groups. Combined, these two forces have made SEZs increasingly unviable for capital; and the Commerce Ministry is reportedly seeking policy “revisions” to revive the sagging fortunes of SEZ investors.

**Industrial Corridors**

In 1957 Jean Gottman heralded the growth of the megalopolis from his observations of metropolitan growth corridors along the US northeastern seaboard:

> Urban land utilization is indeed devouring land fast, in many ways. The old habit of considering it as a minor occupant of space will soon have to be revised. Our modern civilization has found the means to grow more and more agricultural products, to raise more and more livestock, on less space; but industrial, commercial, and residential uses are constantly increasing their space requirements. Our generation is probably witnessing the beginning of a great revolution in the geography of land use. Megalopolis heralds a new era in the distribution of habitat and economic activities (1957: 200).

Gottman also pointed to the historical existence and growth of such corridors in Europe. In 1989 then, a group of French geographers under Roger Brunet identified Europe’s “backbone” (what the press termed the “blue banana;” Hospers 2003), including urban centers like Rotterdam, Amsterdam, Duisburg, Cologne, Frankfurt, Mannheim, Basle, Zurich, Milan and Genoa, also including London and Brussels. More recently, “golden” and “yellow” bananas have also been identified in Europe. These metropolitan growth corridors have developed from historical regional economic developments, although efforts have been made by states to facilitate their connections.48

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48 In 2005 for instance, the EU facilitated a memorandum of understanding (MoU) between the European Commission and the main European rail organizations in the blue banana region, for a European rail traffic management system (ERTMS). In 2006 this was backed with the identification of six freight corridors between The Netherlands, Belgium, Germany, Switzerland and Italy, for “technical harmonization” (see http://www.corridor-rhine-alpine.eu/).
Chapter One

In India however, several large corridors are planned between major cities in anticipation of productive investment. These are being facilitated with state support for land acquisition and other infrastructural services. They anticipate “productive” investment through the creation of these infrastructures, including “world-class” cities (see Goldman 2011) without planning for additional productive linkages (see Hirschman 1981 for a discussion on the critical role of linkages for investments to result in distributive effects). While the policy rhetoric around these infrastructures in India echoes Gottman in Rostowian “take off” terms, these corridors are running into considerable trouble over their institution.

For instance, the Bangalore Mysore Infrastructure Corridor (BMIC) is one of the earliest such planned corridors in India, initiated in 1995 by the Karnataka state government over 21,000 acres in 170 villages. The BMIC, stalled for several years now, envisages a four-lane expressway, link roads, five new cities and power, water, telecommunications and sewage and waste water management services between the IT hub Bangalore, and Mysore city, 143 km south west of Bangalore. In 1999, its development contract was awarded on a 30-year lease basis to Nandi Infrastructure Corridor Enterprise (NICE), a subsidiary of Indian-origin transnational Bharat Forge Utilities Limited of the Kalyani Group. By 2001 the project was caught in allegations of corruption in approvals and award, real estate scams, and litigation by over 400 land-owners challenging the acquisition of their lands and compensation awarded. Till date, only about 7000 acres of land (out of a total of about 21,000 acres) has been acquired by the state government and transferred to the developer, and 66 km (out of a total of 163 km) of the planned expressway constructed (see Saldanha 2001; Nandy 2010; Deccan Herald 2014; also http://www.bmicapa.org/; see also discussion on the Delhi Mumbai Industrial Corridor in chapter four).

While the financial crisis of 2008-11 and controversies over SEZs may have kept transnational capital of non-Indian origin from the SEZ model, it is not shying away from
investment into infrastructure corridors or “smart cities.” Investments in industrial corridors have seen greater global investments, notably from Japan, which is emerging as one of the biggest growth infrastructure investors in India in recent years (conversely, India has emerged as one of the biggest Japanese overseas development aid destinations since 2003-04; see Varma 2009).  \footnote{In his India Japan Global Partnership Summit plenary address in 2011, ex-CEO of the DMIC, Amitabh Kant (he is now the Secretary, Department of Industrial Policy and Promotion in the Commerce Ministry) stressed partnership between Japan and India to counterbalance “the growing influence of the Chinese penetrations of markets across Africa and Asia” (see http://www.youtube.com/watch?v=pIwrwmrQ3n8).}

In its election manifesto, the BJP promised billions of dollars worth infrastructural investments and the creation of “100 hi-tech cities” in the country, six of these planned in the DMIC (see Mahalingam 2014). IBM has already been enlisted in the creation of “smart cities” along the DMIC and has recently created an “Integrated Communication Technology (ICT) Master Plan” for the Dighi Port Industrial Area in Maharashtra (in the DMIC). A recent press release of the company promises to use its “smarter cities software” in Dighi “to integrate and interconnect information from various departments and agencies throughout the city to improve safety, prevent and anticipate problems, and improve the quality of life for citizens” (IBM 2013). US-based CISCO Technology Systems has recently shown interest in helping India develop new “smart-cities.” The Australian High Commission has also reportedly approached the Urban Development and Housing Ministry recently to promote Australian “expertise in urban design, construction of new smart cities, green and quality buildings, networked buildings, waste management and urban regeneration” in “India’s urban development initiatives” (PTI 2014a).

In “emerging” economies, land and resource transfers are often facilitated by rent-seeking state actors, who assume the role of land “speculators” or “brokers” (cf. Goldman 2011; Levien 2012). In the different though resonant context of China, Walker (2006) has described this phenomenon as the plunder of public goods by “gangster capitalism.” The active involvement of the central and state governments in the creation of growth infrastructures like SEZs and Industrial
Chapter One

Corridors comes, as Goldman (2011) points out, at the cost of large-scale disinvestment from other local economies on which a majority of India’s population depends (see also Harris-White 2003).\(^\text{50}\) I turn next to an analysis of the doctrine of “eminent domain” and its role in facilitating land and resource acquisition for economic growth.

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\(^{50}\) Recent reportage from China with specters of new ghost towns and empty buildings is relevant to note here (Johnson 2013a,b,c).
Chapter Two

Eminent Domain
Chapter Two

Conflicts over land and resources in India have erupted in left-, center-right- and Hindu right-ruled states alike since the mid-2000s. That these conflicts occur in the fullness of two decades of neoliberal reforms is a clue into their evolution across the political spectrum, as ideological divides narrow in the face of “economic growth” imperatives. Protests continue to rage, against forcible land acquisition in Odisha, Andhra Pradesh, Tamil Nadu, Karnataka, Maharashtra, Gujarat and Assam states, or against inadequate compensation in Haryana or Uttar Pradesh states. In 2009 however, after nearly 35 years of rule, the Communist Party of India (Marxist) suffered a massive electoral rout in West Bengal, following escalation of conflicts and controversy over land and resource acquisition for SEZs (in Nandigram) and industry (in Singur). This is likely to have been a bitter pill for political elites across parties. The power of the state and central governments to acquire land forcibly and their “repertoires of repression” (Edelman and León 2013) are curtailed by electoral realpolitik under the existing conditions of India’s liberal democracy.

In this chapter I enter the conflict over land and resources in India through an examination of the legal doctrine of “eminent domain” (the sovereign power of the state to forcibly acquire land for “public purpose”), and its historical evolution from its pre-constitutional colonial origins. The legal instruments through which the doctrine has found expression, redistributive land reforms on the one hand and dispossessing “development” projects on the other, capture the dilemma of its dual nature. The questions around sovereignty and decentralization of power that it summons pose important challenges for rights to land and resources. Is it desirable to do away with the doctrine of eminent domain? What are the existing substantive restraints against the state’s “absolute power” for land (and resource) acquisition? Can we retain state power for redistributive purposes without the

51 By neoliberal reforms I refer to the specific policies aimed at instituting structural adjustment, liberalization and privatization in the economy that intensified in the country from 1991.
52 See note 8 in the introduction for the distinction between “public purpose” and “public interest.”
Chapter Two

power of eminent domain? Using material from legal and archival research, I interrogate these concerns critical to land and resource rights.

The first part of the chapter focuses on the doctrine of “eminent domain.” I begin with the history of legal provisions for land acquisition in India, the colonial water laws, the recently repealed Land Acquisition Act (LAA) 1894, the largely unsuccessful Land Reforms legislation, and the Coal Bearing Areas ( Acquisition and Development ) Act (CBAADA) 1957. I then address two aspects of “eminent domain” of particular relevance to this study—the ongoing conflation of “public purpose” with “private interest” in the service of “economic growth;” and the dilemma over its dual nature.

Part two of the chapter begins with an examination of the valences of sovereignty embedded in the doctrine as “state sovereignty” is historically “overproduced” (cf. Ramanathan 2010) over “vulnerable citizens.”53 I then review the jurisprudence around “eminent domain” through some critical judgments of the higher courts in India. Next I examine existing substantive “restraints” on the power of eminent domain in the constitutional provisions of the Fifth and Sixth Schedules; the 73rd Constitutional Amendment Act 1992; the 74th Constitutional Amendment Act 1993; the Panchayat Extension to Scheduled Areas (PESA) Act 1996; and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA) 2006. Finally I conclude the chapter with observations on the implications of an expanded power of “eminent domain” and its “unsettled” legality.54

53 While special security legislation is unquestionably a critical feature of the sovereign power of the state over citizens needing critical redress, it suffices to merely flag it here in the interest of the focus of this chapter on eminent domain.

54 By legality I reference the “rule of law” theorist Dyzenhaus (2006) who in the tradition of Frankfurt school theorists Neumann and Kirchheimer, argues for the central place of “morality” or “ethics” in law. Here, my direct reference by legality is specifically to principles of egalitarian justice in law.
Chapter Two

The Doctrine in Practice

The term “eminent domain” is said to have originated in Europe in 1625 in the works of Hugo Grotius and Samuel Pufendorf (Dias 2004). Grotius argued that the property of “subjects” lay under the “eminent domain of the state” that may use, alienate and even destroy the property in the case of extreme necessity and for public utility, while making good its loss to those who lose it (The State of Bihar vs Kameshwar Singh 1952). The doctrine of eminent domain has its origins in India in pre-Constitutional colonial British common law. While not expressly referenced in the Indian Constitution, it is applied through laws related to land acquisition by “the state.” The claim for compensation for the loss of property to compulsory acquisition comes from “natural law”—the supposed “natural right” of a person to enjoy personal property derived in the theory of “possessive individualism”—and hence the “right to compensation” for its loss.

In a 1952 judgment upholding the power of eminent domain for acquisition of land from big landlords for redistribution, the Supreme Court of India noted: “the concept of acquisition and that of compensation are two different notions having their origin in different sources. One is found on the sovereign power of the State to take, the other is based on the natural right of the person who is deprived of property to be compensated for his [sic] loss” (ibid: 25). In as much as natural law has little role in the Indian constitution and British common law from which the doctrine is drawn precedes the Indian Constitution, the doctrine of eminent domain has extra-constitutional and pre-democratic moorings in India.

A similar argument can also be made for “private property” entitlements, flowing as they do from natural law and colonial common law precedents. The institution of private property follows a historical trajectory significantly negotiated during British colonial rule, going at least as far back as the Permanent Settlement of Bengal in 1793 and extending into post-independence property
Chapter Two

regimes. This British colonial legacy is thrown in relief by comparing the context of Goa, where private property entitlements were not as pronounced, and the power of eminent domain was not applied on any noteworthy scale. Instead, land and resources were largely collectively held under the traditional gaonkari system in each village that was formalized under Comunidade Code by the Portuguese. While this may be because of the pre-capitalist nature of the Portuguese colonial state, post independence in India (and subsequently in Goa), the British colonial legacy of eminent domain and private property entitlements were retained.

Land reforms for redistribution of land to landless peasants and tenants were also premised on private property entitlements. The doctrine of eminent domain in fact gained constitutional primacy over the “right to property” as a result of land reforms (see discussion below). The “success” of eminent domain in appropriating land and resources however, has historically depended on whom it is directed towards—the more economically, socially and politically marginal the people whose lands are appropriated (such as the indigenous adivasis and small peasants whose lands are acquired for “development” projects)—the easier to acquire land and resources.

Legal Instruments

Under the Indian federal system, land is a “state subject” (as opposed to “union” or “federal subject”). Thus, each state has its own land-related laws. Acquisition for the central (federal) government is through a national land acquisition law. Until 2013 this was the colonial 1894 Land Acquisition Act that was retained post independence, when it was replaced by the new land acquisition law (RTFCTLARRA 2013; see GoI 1985).

56 See discussion in the previous chapter. Although private property entitlements existed in Goa, they registered a rise after Goa’s “merger” with India. Similarly, the British colonial heritage of “eminent domain” supersedes the Comunidade Code after 1961.
Chapter Two

The earliest use of eminent domain by the British in India to acquire land was in the irrigation and canal laws like the Northern India Canal and Drainage Act 1873; the (Bengal) Canals Act 1864; the Bengal Irrigation Act 1876; and the Bombay Irrigation Act 1879. These laws invoked eminent domain for the acquisition of land for laying canals from water resources, with compensation entitlements. They did not assert state “property rights” over water itself, but asserted the right of the state to access water resources (see Iyer 2009). In the post independence period, most of them have been replaced with newer state-specific legislation, although the older laws form the bases for current legal provisions. The LAA 1894 was arguably the oldest national law affecting land acquisition to survive right until 2013.\(^\text{57}\) State-specific laws are beyond the scope of this study and I focus below on national legislation impacting land acquisition.

**a. Land Reforms and the Land Acquisition Act (LAA) 1894:**

Immediately after independence, the power of eminent domain was only of a statutory character (without constitutional reference), operationalized through Land Reforms and the LAA 1894.\(^\text{58}\) Land Reform laws were enacted in each state from the 1950s to break the concentration of land with zamin\dars (big landlords), and to redistribute land to “landless” (read title-less) tillers and tenants. The reforms fixed “ceilings” on large land holdings and re-distributed the surplus land after “nationalizing” it.

The Supreme Court of India however, in its early phase (1950-70) struck down land reform legislation on the grounds that it violated the “right to property” which was then a “fundamental

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\(^\text{57}\) The Bombay Irrigation Act of 1879 was also in force in Gujarat state until 2013 (Gujarat and Maharashtra were formed out of the Bombay state in 1960).

\(^\text{58}\) Since land is a state subject, land reform laws varied from state to state. But land acquisition is a “concurrent” subject, so that the central law on acquisition also applies as a minimal benchmark for all the states. In practice this means that states without their own acquisition laws can use the national laws.
right” under Article 19(1) (f) of the Indian Constitution. This “judicial activism” triggered a severe reaction by the Parliament, as many Congress members with Nehru had socialist leanings. Starting from the First (Constitutional Amendment) Act of 1951, all state land reform laws related to the “takeover of property by the state” were moved to the “protected” IXth schedule of the Constitution. The IXth Schedule insulated land reforms from judicial challenge and invalidation. The Parliament next inserted Articles 31A-C through the First Amendment and the Twenty-fifth Amendment, and saved certain laws related to “acquisition of property” from challenge under Articles 14—“equality before law;” and 19—“fundamental rights.” This elevated eminent domain from a statutory application to a “constitutional doctrine.” Blanket protection from judicial challenge under the IXth Schedule however was later considered untenable under the “basic structure” of the Indian Constitution (after the definitive Keshavanand Bharti vs. the State of Kerala judgment in 1973).

The “right to property” was then finally removed from the list of “fundamental rights” through the 44th Constitutional Amendment Act in 1978 by the Janata Dal government, and this further strengthened the power of eminent domain. This Act also inserted Article 300A, leaving the “right to property” as a “constitutional right” (it had already been removed from “fundamental rights”) so that a person could not to be deprived of it “save by authority of law.” The “right to compensation” underwent various amendments however, so that the legislature was now under no constitutional obligation to pay compensation to most of those “deprived of property.” Those entitled to compensation were only the “tillers of cultivated land” (including their buildings and structures), and minority educational institutions. All other classes of land or homestead owners and others dependent on land or landed communities, such as landless peasants, wage laborers, service providers, were excluded from compensation (Basu 2008; see also GoI 2012d).

59 “Fundamental rights” guaranteed by the Indian Constitution are considered inviolable.
Chapter Two

Land reforms encountered pitched resistance from the landed elite however, and gradually lost salience in policy. As noted earlier (see chapter one), in the years leading up to Nehru’s death, big farmers consolidated their power in the states, while other propertied bourgeoisie consolidated their reach at the center. Except in some pockets like West Bengal and Maharashtra where local organizing by the left parties and to some extent Gandhians resulted in redistribution, land reforms met minimal success.

Indira Gandhi too failed to secure redistribution, and with the advent of her son, Rajiv Gandhi, “liberalization”-oriented policy gained ground. Post liberalization, in the bid for “urban renewal” and “world-class cities,” land ceiling laws in many urban areas have been entirely repealed, and in many states greatly relaxed in rural areas to facilitate large-scale private holdings of land.

The 1894 land acquisition law however, met greater success, and was retained in the post-independence period with some amendments. It incorporated land acquisition for a variety of “public purposes,” such as, new and existing villages; town or rural planning; other planned development under government schemes or policy; a corporation owned or controlled by the state; housing for the poor, landless or those affected by natural calamities, government projects or development schemes; educational, housing, health or slum clearance schemes; and acquisition for public offices. Amendments in 1963 also included acquisition by the state for companies seeking land for employee housing, and for any other public purpose sanctioned by appropriate authorities (GoI 1985).60

The law had three procedural provisions for “hearing objections” of those dispossessed, after the “first notice” of acquisition (“notification” under section 4), after “declaration of acquisition” (section 6), and after “notice of compensation” (section 9). The “competent authority”

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60 This provision can be considered the fulcrum for recently proposed measures for acquisition that seek to incorporate private investment in infrastructure and industry into the definition of public purpose.
generally the same district collector who sanctions the acquisition, had final say in adjudicating “objections.”

The constitutional status of eminent domain, the unqualified removal of the right to property as a fundamental right, and the inadequate compensation framework, without attention to existing social, political and economic inequalities, rendered *dalits, adivasis*, poor peasants* and the urban poor most vulnerable to land acquisition. Fervor for land reforms died but the post-independence “developmental” projects—notably large dam, irrigation, industry, industrial townships and other projects took shape. By 2002, state-led land acquisition in India displaced over 60 million people (Fernandes 2008). Many of the dispossessed were indigenous people with clear collective land and resource entitlements under the Fifth and Sixth Schedules of the Constitution (see below), and landless peasants. Most received little, let alone “just” compensation (Iyer 2007; Fernandes 2008). Ironically, a more progressive public purpose of equitable redistribution engendered the dispossession of already economically, socially and politically vulnerable people.

**b. Coal Bearing Areas (Acquisition and Development) Act (CBAA) 1957:**

Special acquisition legislation was enacted for coal given its historically iconic status as a symbol of nationalism and the working class (Lahiri-Dutt et al 2012). The Coal Act of 1957 (CBAA; see GoI 1957) was modeled on the LAA 1894 and empowers the central government to undertake prospecting and acquisition of any potentially coal-bearing area. In a matter of seven days after serving notice to the occupier of the land, any standing crop, fence or forest can be cleared for prospecting, with compensation paid before or at the time of prospecting. If coal is discovered, the

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61 *Dalit* is the political identity taken by discriminated communities outside the Hindu caste-fold, the previously so-called untouchables. *Adivasi* literally means original inhabitants, or indigenous people.

62 By peasants I refer to both land-owning farmers and landless agrarian workers.

63 Other minerals are covered under the Mining Areas (Development and Regulation) Act. Acquisition for their extraction falls under the land acquisition law.
entire area for acquisition could be notified within three years. Any objections to acquisition and amount of compensation are to be made within 30 days of the acquisition notice and the final decision on any such claims and objections, like in the LAA 1894, is to be made by the “competent authority” appointed for the acquisition. The valuation of compensation under the law expressly states that any profits emerging from what is below the surface of the land or any future appreciation of prices must not be considered. Most mining areas including coal bearing ones are forest lands inhabited by adivasis and other forest dwellers, with little “infrastructure” and “development,” and the valuation of these lands is historically extremely low. As a result, people in these areas have been subjected to flagrant cultural, ecological, economic, political and social dispossession and immiseration.

As noted in the previous chapter, discontent with “development” has grown since the mid-1970s and the enforced displacement of people for “development” projects is particularly contested (Guha 1990; Fisher 1995; Parasuraman 1999; Baviskar 2005; Dharmadhikary 2005; Nilsen 2010). Anti-displacement movements have raised critical questions regarding social and environmental “costs” of projects; “prior informed consent” of the “project-affected;” the legal entitlements and livelihood security for all dispossessed by a project, including the landless residents of a project area; the democratic process and accountability of state actors; and the “capitalist” bias embedded in “development.” “The state’s” presumption of “public interest” has been forced by these movements.

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64 The newly proposed Mines and Minerals (Development and Regulation) Bill 2011 proposes to consolidate the all mining under one law, with registration for coal minerals administered by the central government. It provides for sharing 26 percent of the profits from coal and lignite and royalty for other major minerals with the dispossessed.

65 Even the more recent PESA (discussed below) and the Samata judgment of 1997 upholding the rights of scheduled tribes in scheduled areas that expressly prohibits mining leases to non-tribals in these areas have not been able to prevent this process of dispossession (see Krishnakumar 2004; Das 2005; Lahiri-Dutt et al. 2012).

66 One of the most influential anti-displacement movements that coalesced in the 1980s is the Narmada Bachao Andolan (Save Narmada Campaign) in the Narmada river valley. The Campaign’s key founding activist, Medha Patkar, was also commissioner to the World Commission on Dams instituted by the World Bank in 1998.
to grapple with vital questions regarding the “development” it undertakes—for whom and at whose cost.

Still, years of agitations did not translate into a clear legal mechanism addressing enforced displacement, resettlement and rehabilitation until the 2013 land acquisition law. Even explicit provisions made for projects have been violated. Ramanathan (2009) argues that there has been a historical disparity between the legal recognition of land acquisition and the lack of any effective legal framework for rehabilitation and resettlement. *The exercise of eminent domain has been historically unsuccessful in securing redistributive and economic justice, and has compounded inequalities and conflicts over land by “over-producing state sovereignty over vulnerable citizens.”* I turn below to the conflation of “public purpose” with “private interest” in contemporary uses of the doctrine.

**“Public Purpose” and “Private Interest”**

The phrase ‘public purpose’ has to be construed according to the spirit of the times in which the particular legislation is enacted and so construed, acquisition of estates for the purpose of preventing the concentration of huge blocks of land in the hands of a few individuals and to do away with intermediaries is for a public purpose (The State of Bihar vs Kameshwar Singh 1952: 3).

The reference in this 1952 judgment of the Supreme Court upholding the land reform legislation in Bihar to “the spirit of the times” is ominous in the current context. Eminent domain was historically used to facilitate capitalist infrastructures, but under the sponsorship and ownership of the state. Post liberalization, the traditional distinction between “public” and “private” purpose in state acquisition, the former for state-sponsored “development” projects and the latter for directly capitalist-owned projects, is blurring (see Nilsen 2010). The initial state-led land acquisition for SEZs and transfer of their ownership (by lease or purchase) to SEZ developers marked a decisive shift
towards the exercise of eminent domain explicitly for “private interest.” In a revealing interview, then Commerce and Industry Minister Kamal Nath in whose tenure the SEZ Act 2005 was enacted noted (in the context of the SEZs preferring locations near urban areas):

If an investor comes and says I want to build my zone here, and I tell him to go build it somewhere else, he will leave. I can’t do that. …We have to be market-friendly. Where the investor wants the zone is his [sic] business decision. Otherwise they won’t come. We must have a model that works. As I said, they do contribute to infrastructure—inside the zone (Gopalakrishnan and Shrivastava 2008).

The 2013 land acquisition law expands the scope of eminent domain more explicitly by emphasizing land acquisition for “industry, infrastructure and urbanization.” The foreword to a 2011 draft of the law revealed a slippage. It noted:

Infrastructure across the country must expand rapidly. Industrialisation, especially based on manufacturing has also to accelerate. Urbanisation is inevitable. Land is an essential requirement for all these processes. Government also needs to acquire land for a variety of public purposes (emphasis added; GoI 2011c).

Emphasizing land acquisition for “infrastructure, industrialization and urbanization,” it stated the government also needs to acquire land for “public purposes;” while the Bill itself sought to expand “public purpose” to private investments in infrastructure, industry and urbanization. Subsequent versions of the bill elaborated this expanded scope of “public purpose,” and the eventually enacted new land acquisition law finesse this wide scope with “partial consent” clauses (see next chapter for detailed provisions of the 2013 law).

The expanding scope of eminent domain conflates the essentially divergent motives of private entities that undertake projects for private profit, and of “public purpose,” minimally understood as the “development” and “welfare” of all “citizens” in a liberal democracy. The
Chapter Two

inclusion of a wide array of private investments in SEZs, industrial corridors, Public Private Partnerships and “smart cities” as “infrastructure and urbanization” facilitates large-scale appropriation of land and resources from “vulnerable citizens” (see also chapters four and five). I turn below to the dilemma of the dual nature of eminent domain.

**Dual Nature**

Postcolonial critiques of the role of colonialism in modern law point to the salience of exceptional power\(^67\) in shaping it. Indeed, exceptional power was resorted to by the state as much during the partition of India and Pakistan, as the Emergency imposed by Indira Gandhi, and it continues to be applied in the frontier states of Jammu and Kashmir and the North-East or through special security related legislation such as the Unlawful Activities (Prevention) Act 2002 and the Armed Forces Special Powers Act 1957. Exceptional power exercised through the state is a “reflex” used by political parties of all ideological persuasions.

Skirting the critiques of the use of exceptional power however, is the contradiction that exceptional power in the form of eminent domain was also used to institute redistributive justice through land reforms, albeit weakly. If liberal democracy is understood as class compromise rife with contradictions (cf. Sandbrook et al. 2007), the dual nature of eminent domain is one such manifestation of contradictions. Its dilemma is perhaps best understood as a tension among the forces of power operating through the Indian state. While it is tempting to secure the power of eminent domain for egalitarian redistribution, this potential has at best been marginally realized, and hangs in the long shadow of its historical abuse of “vulnerable citizens.”

Critics have argued for the need to do away with the doctrine of eminent domain entirely (see Ramanathan 2009). Is it possible to do away with the doctrine however, without settling

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\(^67\) See for instance Hussain 2003 for a discussion on “emergency rule.”
questions of sovereignty and redistributive justice? Can the power of the state for redistributive justice be guided with clear substantive limits and without the use of eminent domain? Rule of law theorists point to the juridical or self-restraining (as when the state restrains itself from forcibly acquiring land in the face of opposition) and cognitive or deliberative (as the law gets reinterpreted and altered in implementation and in practice) dimensions of democracy that help circumvent the absolute power of the state (Dyzenhaus 1999; Scheuerman 1994, 2002). I turn to these questions in the next part of the chapter.

**Limits to Absolute Power**

Vexatious Sovereignty

It cannot be disputed that in every Government there is inherent authority to appropriate the property of the citizens for the necessities of the State and constitutional provisions do not confer this power though they generally surround it with safeguards (The State of Bihar vs. Kameshwar Singh 1952: 42).

The power of eminent domain “inheres” in the sovereign power of the state. Sovereignty itself emerges in the context of international relations as the right of the sovereign state to determine its own affairs without interference from another state. Recent discussions of “multiple” and “overlapping” sovereignties point to the inherent contradictions in the concept of “sovereignty” as states grapple with pressures from international bodies, multilateral and bilateral treaties, transnational corporations and to some certain extent, local bodies of self-governance (cf. Randeria 2007). The “global war on terror” constitutes multiple cases in point that clearly defy principles of “state sovereignty.” The doctrine of constitutionalism holds that it is the individual citizen who is

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68 “Absolute” power in the title of this section is not “totalitarian” power but “exceptional” power operationalized through certain legal provisions in an ostensibly democratic framework, like eminent domain.
sovereign in a democracy. At the same time the Indian constitution recognizes specific enabling provisions for the entitlements of communities like the minorities, scheduled castes and scheduled tribes, over and above individual rights in the interest of social, economic and political justice. Sovereign powers of the state are also invoked by right-wing fundamentalists towards conservative and often violent agendas. In India, “state sovereignty” forms a domain rife with contest and challenge as social movements and multiple political parties frequently challenge the powers of “the state” and (re)shape the rule of law in radical assertions over “state sovereignty.”

In this scenario of complex and contesting forces of power operating through the state, the “sovereign” power of the state has several “valences.” In the first instance it arises as the sovereign power of the colonial state over its “subjects,” that finds salience in the current applications of eminent domain. In the second instance, post-independence, it is the sovereign state’s right to self-determination in the international arena, as a guard against “aggression.” State sovereignty in the international arena can also be valued as relative “autonomy” for “states” to determine policy in unequal fora such as the World Trade Organization (negotiations over India’s new food security law have arguably benefited from implicit “state sovereignty” claims). In the third instance in Indian jurisprudence, especially since Keshavanand Bharti, it exists as a somewhat tenuous balance between “popular sovereignty” and the “basic structure” doctrine (see Krishnaswamy 2010). In the fourth instance, it arises in the context of “rights” secured by social movements, such as the Right to Information, the Rural Employment Guarantee or the Forest Rights Act. Sovereignty is thus a vexatious concept that shifts its source in complex ways but especially assumes greatest force against more vulnerable “citizens.”

When forcible acquisition by the state is challenged, the state’s assumption of “sovereignty” is challenged as well, and this is a significant problem for democratic principles governing rule of law. It may be argued that under the Indian constitution eminent domain is not “exceptional power”
Chapter Two

given that the “right to property” is not a “fundamental right.” However, is it worthwhile to retain this inherently contradictory concept that allows the state to presume “public interest” and use “absolute” force depending on the vagaries of the forces and ideologies that influence it? Thus we find an expanded scope of eminent domain in recent growth infrastructure policies working towards capitalist growth and private interest. Powerful interests and their allies within “the state” find ways of trumping “consent” processes (see discussion in the next chapter) by invoking “eminent domain.” If the acquisition for development projects must make prior consent mandatory as part of the process of “development,” the “overproduced sovereignty” of eminent domain must be pared with clear principles, if not done away with. And if equitable redistribution of land and resources may not include consent, the power to forcibly acquire land for redistribution must be specified through clear constitutional and legal principles and mechanisms, different from the “inherently sovereign” power of eminent domain. What existing provisions might egalitarian regimes for land- and resource-use draw upon in India? Questions of appropriate principles for redistributive and economic justice are considered more fully in the conclusion of this study. I turn below to an examination of relevant legal provisions and principles for curtailing the sovereign power of eminent domain.

**Eminent Domain vs. the “Third Tier of Democracy”**

The federal political structure of India envisages the union or center, the states and village bodies or *Panchayats* as the “three tiers of democracy.” While a specific principle of subsidiarity (or hierarchy) between these tiers has not been legally promulgated, there are several legal provisions that enable powers for the third tier of *Panchayats* and institutionalize “local self-determination,” but these are consistently superseded by invoking eminent domain.
a. The Fifth and Sixth Schedules:

The recognition of community as a social unit requiring enabling provisions for protection and for social, economic and political justice was envisaged for states with scheduled areas (predominantly indigenous) and for states with scheduled tribes (but no scheduled areas) through the Vth and VIth schedules of the Constitution (see GoI 2012d). The Vth schedule refers to scheduled areas in all states other than Assam, Meghalaya, Tripura and Mizoram, which are covered under the VIth schedule.

Under the Vth Schedule, in each state with scheduled areas or tribes, a Tribes Advisory Council advises on welfare and advancement matters. The Governor of the state can direct that particular central (federal) or state laws may not be applicable or applicable with qualifications in these areas and may make regulations for peace and good government in the area with the President’s assent and upon consultation with the Council for: a) prohibiting or restricting the transfer of land by or among the members of the scheduled tribes; b) regulating allotment of land to members of the scheduled tribes; and c) regulating money-lending.

The tribal areas in the VIth schedule are administered as Autonomous Districts or Autonomous Regions (determined by the Governor) with District and Regional Councils for the exercise of certain legislative and judicial functions. Laws with respect to inheritance, land revenue and other matters relating to village or town administration, social customs, marriage and divorce can be made by the Councils, with the Governor’s assent. Central and State Acts may not apply to these areas or apply with qualifications provided it is directed by the President with respect to the union and the Governor with respect to the state. The Councils possess civil and criminal judicial powers specified by the Governor. Interestingly, royalties accruing from mining licenses or leases for prospecting or extracting minerals in a VIth schedule district are to be shared with the District Council under agreement between the Council and the state government, with the Governor as the
Chapter Two

final arbiter in a dispute. The councils also have the power to make laws regarding the management of forests and the allotment or use of land (except reserved forests) with the significant caveat “…that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes in accordance with the law for the time being in force authorizing such acquisition…” (Constitution of India 2012). The Vth and VIth schedules potentially offer substantive limits to the power of eminent domain with significant local decision-making powers, if given primacy.

b. The 73rd and 74th Amendment Acts:

Two of the more progressive laws in the country for decentralized governance, the Panchayati Raj 73rd Amendment Act of 1992 and Urban Municipalities 74th Amendment Act of 1993 entitle the right of the residents of Panchayats (elected village bodies) or urban municipal wards to determine their own development and function as local self-governing units. These provisions have significant scope and include features like the constitution of the gram and ward sabhas for the preparation and implementation of economic development and social justice plans; the constitution of elected bodies at village, municipal ward and other levels with direct elections and reservations for Scheduled Castes, Scheduled Tribes and women; local body finance through grants-in-aid and state and central development schemes; and revenues through designated taxes, duties, tolls, and fees (GoI 1992; GoI 1993).

c. PESA 1996 and FRA 2006:

Following quick on the heels of the 73rd and 74th Amendments and going further, the Panchayat Extension to Scheduled Areas (PESA) Act 1996 stipulates that the legislature of a State shall not make any law which is inconsistent with the customary law, social and religious practices and
traditional management of community resources and the right of the *gram sabha* (village assembly) to safeguard and preserve traditions and customs, cultural identity, community resources and customary modes of dispute resolution (GoI 1996). It provides for the mandatory approval of plans, programs and projects for social and economic development by the *gram sabha* before they are taken up for implementation and mandatory consultation (albeit not consent) with them before the acquisition of land for development projects or for R&R. Recommendation of the local bodies prior to grant of prospecting licenses, mining concessions or leases for minor minerals is mandatory. PESA endows the local bodies with powers to prevent alienation of land in a scheduled area and to take appropriate action to restore any unlawfully alienated land (ibid.).

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA) 2006, in addition to securing the right to forest land and produce for forest dwellers along similar lines, further vests the *gram sabha* with the powers of determining the nature of individual and community forest rights and pass resolutions to such effect. It also stipulates that any resettlement of forest dwellers on account of conservation activity will not be undertaken unless free prior consent of the dwellers has been taken, and provides for penalty provisions against officers that violate the forest dwellers’ entitlements.

The power of eminent domain contradicts the spirit of the body of legislation effecting significant local governance and decentralization of power. This is not to argue that all is well with the implementation of the Vth and VIth schedules, the 73rd and 74th Amendments or the PESA and FRA. Indeed, there is a mountain of evidence that discloses the weaknesses and failures in the implementation of these laws that allow vested interests within and outside local rural and urban communities to prevail over decision-making. The implementation of the 74th Amendment in urban areas is considered a failure in even constituting effective ward *sabhas* (assemblies). Eminent domain
Chapter Two

claims sovereignty over PESA areas and the rights of indigenous communities are flagrantly violated. Implementation of FRA is rife with failures in recognizing the rights of forest dwellers. However, arbitration by the state and law is important to ensure social justice. It also needs constant reinforcement with political organization on the ground, a vibrant culture of activism unfettered by interest groups, conscientious media engagement, the judicial system and other avenues for justice like commissions for human rights, religious minorities, scheduled castes and tribes and women.

In principle and in limited practice the Vth and VIth schedules, the 73rd and 74th Amendment Acts and the PESA and FRA accord a fundamental “third tier” to governance that has the potential to bring the affairs of the state and governance more directly under the control of “citizens.” A principle of subsidiarity among the tiers of governance has not been promulgated in the constitution though, and time and again, local body resolutions are thwarted in confrontation with the state’s power of eminent domain. The Pohang Steel Company (POSCO) SEZ area in Orissa where Panchayat resolutions against the project are being consistently disregarded is a case in point. The referendum for Mumbai SEZ (MSEZ) in Raigad in Maharashtra conducted in 2008 by the district authorities was an unprecedented effort in ascertaining consent, albeit post sustained opposition to the project. Yet even here the results were never disclosed to the public, rendering the legitimacy of the process itself suspect. The “third tier of democracy” needs to be explicitly enabled to effectively curtail eminent domain.

Judicial Activism: Missing the Wood for the Trees

Some higher courts have recently been taking a stronger position in upholding the rights of local bodies and in dismissing land acquisition. In Surendra Singh vs. the State of U.P. (2011), the high court of Allahabad struck down the use of the urgency clause for acquisition for a prison, noting:
Chapter Two

…the concept of public purpose in land acquisition has to be viewed from an angle which is consistent with the concept of a welfare State. …The Courts must examine these questions very carefully when little Indians lose their small property in the name of mindless acquisition at the instance of the State. If public purpose can be satisfied by not rendering common [people] homeless and by exploring other avenues of acquisition, the Courts, before sanctioning an acquisition, must in exercise of its [sic] power of judicial review, focus its [sic] attention on the concept of social and economic justice. While examining these questions of public importance, the Courts, especially the Higher Courts, cannot afford to act as mere umpires (3-4).

In Jagpal Singh vs. the State of Punjab and Others (2011), the Supreme Court noted that common lands of villages have been:

…grabbed by unscrupulous persons using muscle power, money power or political clout, and in many States now there is not an inch of such land left for the common use of the people of the village, though it may exist on paper. …This was done with active connivance of the State authorities and local powerful vested interests and goondas [thugs].

The case was regarding the acquisition of a village pond in Rohar Jagir village of Punjab where despite the Gram Panchayat’s notice to illegal occupiers, they continued with construction on the pond. When the villagers appealed to district authorities, the Collector held that to evict the occupiers would not be in “public interest” and directed the Panchayat to seek compensation, thus colluding in the regularization of an illegal occupation. The Supreme Court, while dismissing the acquisition in this instance further directed:

…all the State Governments in the country that they should prepare schemes for eviction of illegal/ unauthorized occupants of Gram Sabha/ Panchayat/ Poramboke [grazing lands]/ Shamlat land and these must be restored to the Gram Sabha/ Gram Panchayat for the
common use of villagers of the village. …The said scheme should provide for the speedy eviction of the illegal occupant, after giving him [sic] a show cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession. Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of scheduled Castes/ Scheduled Tribes… (ibid: 4).

In these instances, the higher courts have questioned the procedural irregularities and the application of “public purpose,” but the principle of eminent domain per se remains unchallenged. Judicial activism is found wanting in this regard. Singh (2006) argues that the erosion of the right to property is an outcome of a bargain of power in favor of the legislature and executive over the judiciary that violates the doctrine of the separation of powers ensuring judicial review, and has created a unitary center of power with the state. As such, compensation based on legislated formulae of small private transactions at market value of land regularly undervalue the loss of entire ways of life for affected communities and the state’s liability towards these, overproducing the “public purpose” of a project. As public purpose is solely determined by the executive, it is vulnerable to rent seeking capture (ibid.). Thus we find, in Sooraram Pratap Reddy vs. District Collector, Ranga Reddy District (2008) the Supreme Court upheld the decision of the High Court regarding the acquisition proceedings for an information technology park through a Public Private Partnership as permissible stating: “Development of infrastructure is legal and legitimate “public purpose” for exercising power of eminent domain. Simply because a company has been chosen for fulfillment of such public purpose does not mean that the larger public interest has been sacrificed, ignored or disregarded. It will also not make exercise of power bad, mala fide or for collateral purpose vitiating
Chapter Two

the proceedings.” Here, the conflation of public purpose and private interest, backed by the power of eminent domain was upheld by the court.

While some judgments cite mounting instances of inequality and dispossession, they reinforce the state’s sovereignty and its power of eminent domain. In Mahanadi Coal Fields Ltd. vs. Mathias Oram (2010) on the matter of compensation that was not paid to villagers in over 20 years of the acquisition of land by Mahanadi Coal fields, the Court ensured a scheme by which the compensation could be speedily awarded to people and added: “Most of the mineral wealth of India is not under uninhabited wasteland. It lies mostly under dense forests and areas inhabited by people who can claim to be the oldest dwellers of this ancient country. Any large scale mining, therefore, needs not only huge investments and application of highly developed technology but also en masse relocation of the people… But then we have the laws to handle such situations… The law [of land acquisition] is based on the twin sound principles of the eminent domain of the sovereign and the largest good of the largest number” (emphases added).

The divergent views expressed in these judgments converge in safeguarding the power of eminent domain. The lack of a clear framework for rights to land- and resource-use (or even property narrowly defined) and effective safeguards against dispossession add to jurisprudential unevenness over the rights of people and communities faced with forcible acquisition. These rights cannot be restricted to compensation or the appropriate determination of public purpose and must include prior informed consent. Unless such a framework is elucidated, clearly the power of eminent domain cannot be challenged in a court of law.

Eminent Domain, Continued
The question of “sovereignty” remains unsettled in law. Recent conceptions of “multiple” and “overlapping sovereignties” (see Randeria 2007) draw on older debates of “dual sovereignty” and
obscure the inherently fraught nature of “sovereignty” under conditions of liberal democracy and neoliberal reforms. Rather than “fix” or delimit sovereignty along various “overlapping” domains, it is worthwhile to consider that law, like “the state,” works at the behest of social forces, ideology or interest groups (cf. Abrams 1982). Eminent domain is a pre-democratic relic of colonial power that “overproduces” sovereignty over “vulnerable citizens,” or “subjects.” Existing substantive restraints to the doctrine in India are weak and clearly do not restrain arbitrariness in the interpretation of “public purpose.” In the absence of clear egalitarian principles, jurisprudence is inconsistent in protecting minimal collective or individual land- and resource-use rights, let alone adjudicating redistributive economic justice.

The limits of legality (or rule of law) are broached at the point of resistance. As peasants’ and citizens’ groups mobilize against dispossession, their resistance can be overcome through special force (repression), or through deliberative (cognitive) and self-restraining (juridical) “revisions” to rule of law. Threat of electoral reprisal, as we discover in the subsequent chapters, can at times also effect “reversals” in rule of law. In some contexts, overt resistance to dispossession may not arise and may not be successful (see for instance Borras and Franco 2013). Safeguards against dispossession along clear legal principles are thus necessary. I turn next to two laws, the SEZ Act 2005 and the 2013 land acquisition law, and a discussion of their “stake-losers.”
Chapter Three

“Bare Law” Provisions
Chapter Three

The text of the law or “bare law” appears as a fixed legal artifact. Analyses of its provisions in their broader social context reveal the forces shaping it, and their constantly evolving character. “Rule of law” then appears as an unsettled terrain, thick with negotiations of power. In this chapter I trace the evolution of the SEZ Act 2005 and the 2013 land acquisition law. Resistance to land acquisition for SEZs influenced both laws and political “conciliations” (re)shaped their provisions and at times “reversed” them. I critique the “revisions” to these laws from the perspective of their “stake-losers,” and conclude the chapter with a synoptic account of the “successful” resistance to the Mumbai SEZ in Maharashtra that underlines the limits of “revision.”

The SEZ Act 2005

The SEZ Act 2005 was introduced in the lower house of the Parliament of India on June 13, 2005, and passed by both houses of the Parliament within two days with little discussion and zero dissent. Introduced as policy by the Hindu-nationalist BJP Party-led Alliance in 2000, the SEZ law was enacted by the center-right Congress Party-led Alliance which was at the time supported by the Communist Party of India (Marxist). The new law found unequivocal support across the political spectrum. Like Free Trade or Export Processing Zones (FTZs and EPZs) in the Americas, South-East Asia or China, SEZs in India aimed at creating export-led enclave economies with competitive tax and duty concessions. Ostensibly modeled on the Chinese model that comprises seven large state-owned SEZs, the 2005 SEZ law went much further, ambitiously superseding and expanding the scope of the existing 11 EPZs in the country. By April 2011, in a span of six years, the (federal) Government of India (GoI) had formally approved a whopping 584 (with 377 notified) SEZs (GoI

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69 The Left parties withdrew their support to the ruling United Progressive Alliance government in the summer of 2008 over the signing of the Indo-US nuclear deal but the UPA alliance succeeded in maintaining an overall majority. The UPA was reelected to power in the 2009 general elections.

70 The approvals process of SEZs is in three stages. Initially, an In-principle Approval is given to a proposed SEZ by the BoA upon recommendation of the state government or on a projects own merits directly. Once partial land has been
2011d). This number surprisingly rose from 366 (142 notified) in August 2007 (GoI 2007a; see Figure 2 below)—the “global financial meltdown” did evidently little to dampen the enthusiasm for SEZs in India.

Figure 2: Growth of Notified SEZs and Trends in Investment Related Investment, Employment and Exports

Note: 1 Crore is 10 million.
Source: GoI 2011e

In stark contrast, in less than two years of enactment, tenacious resistance against SEZs erupted across the country from peasants’ and citizens’ groups, forcing the central and state governments to respond variously with violent repression, tactical reversal, negotiation and secured and the process of implementation is demonstrably underway, Formal Approval is given. Notification comes after the Formal Approval when all or minimum required land is secured for a project along with necessary approvals and the developer is ready to start developing the SEZ. Once the SEZ is sufficiently developed and investing units are ready to start operations, the SEZ is then deemed Operational.
deference. In Gujarat, Maharashtra, Goa, Karnataka, Tamil Nadu, Andhra Pradesh, Orissa, West Bengal and Haryana states, land and resource acquisition for SEZs emerged as a central focus of contention between the state, corporate developers and peasant and citizens groups—the protests erupting ferociously in left-ruled, center-right and Hindu right-ruled states alike.

In the ensuing furor, in March 2007, 14 people died in police firing, while protesting land acquisition of 25,000 acres for Indonesian Salim SEZ in Nandigram in West Bengal. As the violence escalated in November 2007, with an unclear number of additional people dead (accounts vary from 7 to 100), the state government eventually moved the SEZ out of the area. Similarly, under immense pressure from widespread protests by peasants’ and citizens’ groups, the Goa government announced as a “new year gift” on December 31st, 2007, the cancellation of all 15 SEZs in the state, three of which had already begun construction, and proceeded to revoke the state’s SEZ policy. By November 2009, one of the most ambitious SEZs on the outskirts of Mumbai city in Raigad district of Maharashtra state, the Mumbai SEZ, failed to secure even a quarter of the 11,300 hectares of land approved for it in the face of staunch peasant resistance, and officially ceased operations (although it still shows up in the list of formally approved SEZs). The resistance to SEZs as it unfolded across the country from 2007-2010, sent the message loud and clear to the policy establishment—SEZs were bad policy, people would not give up their lands; SEZs had to go.

As they became political “hot potatoes,” the year 2011 saw a near freeze on the enthusiasm for new SEZs; there were hardly any new proposals and requests for withdrawal of approved SEZs registered a rise (see Indian Express 2012; ET 2013b,c; Financial Express 2013). Today the number of approved SEZs has not just stagnated but reduced from 584 in 2011 to 576 (GoI 2013c; 2014a) and every Board of Approval meeting for SEZs receives requests for more withdrawals from developers. SEZs are now widely portrayed as failures and victims of “unstable policy environment” by industry representatives and in the media. Partly, this is because of the new Minimum Alternate
Chapter Three

Tax levied by the Finance Ministry (see next chapter). Significantly, the Commerce Ministry’s decision to disallow forcible acquisition of land for SEZs in 2007, and the decision by several state governments to discontinue any land acquisition for SEZs has been a big blow for developers.

Not all SEZs are large projects. It can be roughly inferred from the latest sectoral breakdown provided by the Commerce Department that of the total 576 formally approved SEZs (with 392 notified)\(^1\) as of May 2014, at least 353 are definitely small IT-related SEZs of around 10-40 hectares each; 16 are definitely large multi-product SEZs ranging upward from 1000 hectares each; and the remaining 207 are likely sectoral SEZs of 100-500 hectares each (see GoI 2014a; GoI 2014b). The land acquisition controversies have been around the medium and large SEZs. Additional figures recently released for the land utilization of notified SEZs show that of the total land area of 47,803.77 hectares comprising the 392 notified SEZs, 21,310.03 hectares of the processing area\(^2\) of SEZs are laying vacant (GoI 2014c). “Processing area” is 50 percent of the entire land area of a zone. Subtracting the vacant area from half of the total zones area shows that only 2591.85 hectares are currently producing export-related economic activity in zones across the country.

The legal framework for SEZs has evolved with considerable changes since its inception. The “formal” SEZ law-making process involved consultations among several Ministries, but its “line” Ministry is the Commerce and Industries Ministry and the Commerce Secretary (the highest ranking bureaucrat) presides over the Board of Approval (BoA) for SEZs. The BoA is an inter-Ministerial body comprising senior and mid-level bureaucrats from the Ministries of Finance (Revenue and Excise Departments) and Commerce and Industry, the SEZ Commissioners (see administrative structure below) and academic representatives from business schools. The Commerce

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\(^1\) The drop from 584 in April 2011 to 576 currently is presumably on account of withdrawals and denotifications. While the actual list is too long to attach here, the list shows canceled SEZs crossed out in red.

\(^2\) As explained below, 50 percent of SEZ land is considered its economic processing area and the other 50 percent its social infrastructure or non-processing area.
and Industries Ministry oversees the SEZs operational framework of rules, approvals, withdrawals and administrative tasks like the appointment of Commissioners and other SEZ officials.

What have the provisions and concessions for Indian SEZs entailed?

a. Scope:

The SEZ Act remains comprehensive in its definition of economic activities, including agriculture, mining, manufacturing and services within its purview. It defines manufacturing to mean an astonishing array of activities from production and assembly to processes ranging from refrigeration, cutting, polishing, blending, repair, aquaculture, animal husbandry, horticulture and more; and defines services to include all services covered under the General Agreement on Trade in Services of the WTO and any others prescribed by the Central Government (GoI 2005). There are no limits to the numbers of SEZs or their regional concentration.

b. Land Requirements:

The SEZ law envisioned “floors,” but had no “ceilings.” Initially, there was a “minimum requirement” of 1000 hectares for multi-product SEZs, with no ceiling on additional land acquired, 500 hectares for sector specific SEZs and 100 hectares for service sector SEZs. Amid increasing pressure from peasant and citizens groups against land acquisition, notably in the 11,300 hectare Mumbai SEZ area (see discussion below), a ceiling of 5000 hectares was introduced in October 2007, but was later removed. In 2013, after deliberations with developers in light of “land acquisition problems,” the Commerce (and Industries) Ministry reduced minimum land requirements to 500 hectares for multi-purpose SEZs; 50 hectares for sector-specific SEZS; 10 hectares for agro-based food processing SEZs; with no minimum requirement for IT SEZs.
Land for SEZs was initially acquired by the state governments under the Land Acquisition Act 1894 (then in force). As protests escalated, the BoA passed a resolution in April 2007 and sent a letter to all state governments stating that no forcible acquisition should be undertaken for SEZs by any state government. It added that if any land was found to be acquired forcibly for any SEZ after April 5, 2007, the BoA would not approve the SEZ (GoI 2007b). This letter was later backed up by a circular to all states in October 2009 (GoI 2009b).

A major part of the growth envisaged in the SEZs is through real estate and “infrastructure” development. Only 50 percent of land in a SEZ is required for “economic processing activities,” and the rest can be used for additional “infrastructure” like townships, entertainment services including malls and golf courses, or hospitals and educational institutions. The 50 percent figure has an interesting trajectory since according to the SEZ Rules notified on February 10, 2006 the minimum processing area was initially 25 percent; amended to 35 percent with a relaxation clause to 25 percent on August 10, 2006; and further amended to the current 50 percent on October 12, 2007 along with the introduction of the 5000 hectare ceiling for multi-product zones. These figures changed as protests against land acquisition raged against large SEZs across the country (the large Mumbai SEZ was particularly controversial). The land is transferred to the developer in a long-term lease of 35 years (extendable) and thus the ownership remains with the state. The developer can transfer assets to a co-developer and lease to units, but cannot sell any plot.

c. Concessions:
SEZs are deemed foreign territory for all economic purposes including trade. Incentives to both, units and developers include a wide range of tax concessions and duty exemptions to attract investment in these zones. These include duty free imports into the SEZs; Income Tax exemptions spread over 15 years, with complete exemption for the first five years, followed by 50 percent
exemption for the next five and 50 percent on profits “ploughed back” into investment over the subsequent five; and exemptions from Central Sales tax and Service Tax. The Finance Ministry has been opposed to the 15-year tax concessions and introduced the Minimum Alternate Tax (MAT) effective 2012. The Direct Tax Code (DTC) proposes to shift the profit-based incentive regime into an investment-based regime by 2014. However, a recent news item indicates that the Commerce Ministry is likely to pursue the removal of MAT and DTC provisions for SEZs under the NDA government (Seth 2014).

While environmental laws are applicable within zones, these can be modified by the state governments and SEZs themselves are exempt from environmental clearances. Labor laws are also applicable within zones but there is flexibility for state governments to modify them and the Zone Authority (see below) is empowered to arbitrate in case of labor action, to call off strikes and disband any labor unions.

Once they are “net foreign exchange positive” (exporting at profit), SEZ units can technically sell surplus products and services in the domestic area. There are considerable customs duties for sale into the domestic area however, rendering such sales unviable. In industry conclave[s] attended during 2011-12 several developers argued for duty relief in sales to the domestic market given the “global crisis” and “slow” demand in the international market. Domestic sales, they argued, would help them attract more investment in the SEZs. But this would also amount to units availing tax benefits inside the zones and rendering production in the Domestic Tariff Area (DTA) unviable, and the proposal was not accepted in the 2013 SEZ rules. Developers also requested allowing domestic area customers access to the entertainment, health and education services in the “non-processing area” of SEZs. The Commerce Department seemed more sympathetic to this proposal although this was also not accepted in the 2013 rules.
d. Administration:

Administratively, each zone is to have an Authority comprising the Development Commissioner, three central government officers and two industry representatives. The local governance bodies at the village level and, through a recent intervention, town municipalities, have no influence on the administrative structure of the Zones. By law, only identity-bearing persons are to be allowed entry into the zones and each zone is to have its own private security apparatus, making SEZs public-private “city-states” (Gopalakrishnan and Shrivastava 2008).

Section 31(9) of the Act gives considerable immunity to the Authority and states: “no act or proceeding of an Authority shall be invalidated because of any vacancy or defect in the constitution of the Authority.” It adds that this immunity will apply to “any irregularity in the procedures it [the Authority] adopts that don’t affect the merits of a case.” Section 48 of the Act adds that no law suit, prosecution or other legal proceeding shall lie against the Central government or any chairperson, member, officer or other employee of the Board of Approval or the Authority or Development Commissioner for anything done or intended to be done “in good faith under this Act” (emphases added; for details of the law see GoI 2005; GoI 2010).

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013

The framework of the 2013 land acquisition law (RTFCTLARRA) has evolved over a decade. The first post independence central policy on rehabilitation and resettlement was drafted in 2004, and was subsequently replaced in 2007 (see GoI 2007c). At the height of controversy around SEZs (with the violence in West Bengal as a backdrop), the UPA government introduced the “twin bills,” also in 2007—the Amendment Bill 2007 and the R&R Bill 2007 in the Parliament. The bills expanded the scope of “public purpose” to “infrastructure projects” and the “provision of land for any other purpose
useful to the general public, for which land has been purchased by a person under lawful contract to the extent of seventy percent but the remaining thirty percent of the total area of land required for the project as yet to be required” (emphases added, GoI 2007d). The “twin bills” were eventually dropped, but the expanded scope of “public purpose” was retained and elaborated in all the drafts of the new land acquisition law.

As controversy over inadequate compensation erupted in the northern states of U.P. and Haryana in 2011, the Land Acquisition Rehabilitation and Resettlement Bill 2011 was introduced. Going further than the Amendment Bill, it sought to replace the Land Acquisition Act 1894 and bring rehabilitation and resettlement for the first time within the ambit of the land acquisition law. Subsequent versions of the bill and the eventually enacted law in 2013 retained rehabilitation and resettlement provisions, although they have changed dramatically in the process (see GoI 2012b; GoI 2013d).73 The 2013 land acquisition law (RTCTLARRA) is historic in the mere fact that it repeals the colonial 1894 law after 119 years, and provides for rehabilitation and resettlement measures.

The Evolution of the 2013 land acquisition law

a. Scope:

The law emphasizes the new policy trinity of “infrastructure, industrialization and urbanization” in its preamble, stating that it is:

A Bill to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and

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73 For accounts of the land acquisition law deliberations see Goswami 2012a, 2012b, 2012c; Ramadorai 2012; Vohra and Das 2012; ET 2012; Firstpost 2012; PTI 2012a, 2012b; Reuters 2012; NDTV 2012; Sampat 2013b,c.
urbanisation with the least disturbance to the owners of the land and other affected families… (emphases added; GoI 2013d).

It includes acquisition by “appropriate government” (state or central departments) for own use, hold and control (including Public Sector Undertakings); for strategic defense purposes; infrastructure projects as notified by the center (federal government); agriculture related projects; industrial corridors, mining and National Investment and Manufacturing Zones; water and sanitation, educational, sports, health-care, tourism, transportation and space program related projects; and housing and development plans of various categories (ibid.).

b. Consent:

The 2013 law envisages Social Impact Assessments with participation of affected communities and a public hearing\(^{74}\) to determine the efficacy of the “public purpose” of a project. The SIA recommendations, however, are non-binding and the ultimate determination of legitimate public purpose lies with the same “appropriate government” that approves the project in the first place. Objections to acquisition or social impact reports can be heard by the district collector who will then make recommendations to the “appropriate government” for final decision on “public purpose.” Objections to compensation awards can be made to a duly established “authority.”

Violating the spirit of the corpus of laws protecting scheduled areas and tribes (see previous chapter) however, the 2013 law allows for the acquisition of scheduled lands, but with “prior consent” of gram sabhas (village assemblies).\(^{75}\) In non-scheduled areas, the “consent” of 80 percent of

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\(^{74}\) Environmental Impact Assessments under the Environmental (Protection) Act 1986 mandate Public Hearings as part of the environmental clearance required for certain category of projects. However, the proceedings of these hearings have no legal force and are merely to be taken into account while granting clearance to a project.

\(^{75}\) “Prior informed consent” was significantly debated in India with the anti-displacement struggle in the Narmada river valley and the World Commission on Dams process refined the concept (see WCD 2000). The 2007 United Nations Declaration on the Rights of Indigenous Peoples established the principle of Free Prior Informed Consent (FPIC) internationally. In this case this international norm, intended to protect, is providing the language of “prior consent” to justify acquisition of protected areas. Experience from the Americas suggests that the principle is manipulated by pro-
land-owners is required for private projects; and of 70 percent for Public Private Partnership projects (the difference seems arbitrary). No clear procedure for consent is clarified in the law however, and while gram sabha and urban local bodies are to be “consulted,” resolutions taken by these bodies find no clear role. The procedure to be followed if there is no consent is also not clear.

Consent is not required for government acquisitions. By leaving out the corpus of land acquisition undertaken by the state from the purview of consent, the law ignores the fact that in several areas, Nandigram or Singur in West Bengal, Raigad in Maharashtra, or in villages in Goa, Andhra or Odisha, people agitated against the state, and against acquisition itself, and not for better rehabilitation and resettlement. The law sidesteps this fundamental issue of “consent” and focuses instead on compensation, rehabilitation and resettlement.

c. Compensation:

Legal entitlements for rehabilitation and resettlement for land-owners and landless laborers, artisans, fisherfolk, tribal and traditional forest-dwellers dependent on land are welcome measures covered by the law. Landless people who do not work on land directly but are dependent on land-based and other rural communities, such as barbers, ironsmiths and other rural service providers are left out of the compensation framework.

The 2011 draft increased compensation with four times the prevailing market rate of land in rural areas and twice in urban areas (although whittling down of these factor multiples was in the offing, see Ghildiyal 2012), with annuity and additional compensation benefits. The 2013 Law dilutes compensation and leaves it to the appropriate government to determine whether

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business lobbies to serve their own interests (see Americas Quarterly May 8, 2014 special feature issue on consulta previa or “prior consent”). Thanks to Marc Edelman for pointing out this resonance with the Indian experience.
Chapter Three

compensation should be at market value of the land or twice that in rural areas, depending on distance from an urban area. Compensation in urban areas is fixed at “market value.”

Market value is to be determined by calculating the average market value of land transactions in the area for the previous three years, from half the highest sale transactions. Sale deeds however, never reflect the real sale price of land as transacting parties “depress” official prices to avoid stamp duties (see discussion in Chapter four). Besides, the significant escalation of land and property prices in project areas once a “development” project is announced is unaccounted for, as awards are to be determined on the transactions of prior years.

The initial draft of the Bill was to have retrospective effect for five years. With public criticism and resistance from industry and the business press, the subsequent versions dropped the retrospective clause. The 2011 draft also imposed rehabilitation and resettlement coverage on land purchased by private parties for any project over 100 acres in rural areas and 50 acres in urban areas. This was a significant sore point in the business press in the debates over the land acquisition law. The 2013 law, at already lower rates of compensation, extends this rehabilitation and resettlement coverage for private purchase only above an area “specified by the appropriate government,” or if the “appropriate government” was approached by the private party for land acquisition, to the entire area. This is claimed to safeguard federalism, but competitive bidding by states to attract investment can potentially raise such limits arbitrarily (see also Levien 2012). Without ceilings on the extent of land that can be acquired, unlimited acquisition can intensify inequalities of ownership, access and wealth.

Historically oppressed Scheduled Caste (SC) and Scheduled Tribe (ST) communities (see note 33 in chapter two) and other agriculturists displaced in irrigation projects are to be given land for land, but whether commensurate quality can or will be guaranteed is questionable. Similarly, 20 percent of the land acquired in urbanization projects can be developed and given to original owners;
the original owners are expected to share their land with others who can presumably afford larger plots.

d. Agricultural Land:
The initial draft of the law allowed no acquisition of multi-crop irrigated land, but the second version altered this with the qualifier that it could be minimally acquired and never above five percent of the state’s total cultivable area. The 2012 version stated that such land would be acquired only under “exceptional circumstances,” as a “last resort” and would not exceed limits notified by the “appropriate government” (state or central depending on jurisdiction), nor exceed the total net sown area of the district or state. It stipulated that an equivalent area of culturable wasteland would be developed or an amount equivalent to the value of such land shall be deposited with the “appropriate government,” for investment in agriculture to enhance food security. The 2013 law retained these provisions to “safeguard food security,” but exempted all linear projects such as highways, railways and irrigation canals.

Given population densities and the paucity of fertile land, the second option of depositing an amount with the “appropriate government,” rather than developing additional culturable wasteland seems more likely. This raises possibility for irreparable loss of agricultural land, even as land and resources get alienated from local producers for “public purpose.” With the propensity to encourage agribusiness, “food security” can be conflated with “food production.” The limits for acquiring agricultural land are to be determined by the “appropriate government,” which is also responsible for “sanctioning” the project in the first place. The disregard for any ceilings potentially facilitates highly unequal concentration of land and resources. With the scale of appropriation underway, the clauses of the 2013 law are inadequate for protecting, let alone enhancing the food or
livelihood security of the people who stand to lose their access to land and resources. I turn below to a discussion of the “stake-losers” of these laws.

The “Stake-losers”

Iyer (2007) argues that in the case of people threatened with dispossession due to “development” projects, it is a cruel irony to call them “stake-holders.” Considering that many SEZs required hundreds of hectares of land, the dispossession of land, resources, livelihoods and communities were not even a matter for initial policy consideration. Recall that in 2008, then Commerce and Industries Minister Kamal Nath claimed that SEZs have nothing to do with displacement.

Repeated demonstrations, blockades, marches, petitions and gram sabha (village assembly) resolutions in the SEZ areas, often spanning several years in which hundreds and thousands of people spent money, energy and time, are marked features of the resistance to SEZs (and other growth infrastructure and urbanization projects) across the country. Alliances between citizens groups, peasants, fisherfolk, indigenous people, and other concerned persons have emerged over the course of these struggles. The resistance to land acquisition in several large and medium SEZ areas has had significant extra-legal influence on the law-making processes of the SEZ and land acquisition laws.

For instance, land acquisition for SEZs was initially undertaken by the state by the exercise of eminent domain (under then in force LAA 1894), and transferred to “developers” in long-term extendable leases of 35 years. By April 2007, with the escalation of SEZ conflicts, the Commerce Department sent out the circular to all states stating that no forcible acquisition for SEZs should be taken and backed it up with an order in 2009.

As the Mumbai SEZ controversy festered over 11,300 hectares of proposed acquisition, the Commerce Ministry introduced a ceiling of 5000 hectares for SEZs in 2009. Although it was never
clarified which 5000 hectares were subsequently sought by the Mumbai SEZ; the question became irrelevant as the SEZ ceased operations by 2009. The 5000 hectare ceiling was later withdrawn. Around the same time as the ceiling issues related to the Mumbai SEZ, questions around the “non-processing area” emerged. The initial figure of 25 percent for processing and the rest for “social infrastructure” including malls and swimming pools indicated real estate interests factored into SEZs. The non-processing area was subsequently raised as allegations of real estate scams grew, especially in SEZ areas on the outskirts of urban areas.

Another major policy arena that the resistance to SEZs influenced was the repeal of the Land Acquisition Act 1894 and its eventual replacement with the 2013 law. The new law brought compensation, rehabilitation and resettlement within the purview of a land acquisition law for the first time. It also secured “consent-based” acquisition for private and Public Private Partnerships and other private “infrastructure” projects. It introduced higher compensation at two times the market rate in areas far from the urban periphery. It also introduced Social Impact Assessments. While the limitations of the 2013 land acquisition law are many, these significant features were a direct result of the “politicization” of land acquisition, to a great extent around SEZs.

These limited “concessions” to agitations also came at a high price. Through the course of agitations, the stonewalling and/ or repression of “stake-losers” were and continue to be a consistent feature, in stark contrast with the “stake-holder consultations” held by state actors with developers (see discussion in the next chapter). I describe below the resistance to the Mumbai SEZ briefly, as a study in contrast with the privileged “stake-holder” discussions, and the general lack of accountability of “the state” towards “stake-losers.” The agitation also underlines the limits of “revisions” as peasants’ and citizens’ groups opposing SEZs and other growth infrastructures refuse higher compensation and struggle, at great risk, to retain their access to land and resources.
Chapter Three

**Resistance in the Rice Bowl**

Traditionally called *bhatyacha kotha* (rice bowl), large parts of Raigad district in Maharashtra lie along the coast of the Arabian Sea, making them fertile areas for rice production, fish and salt pans, mostly for subsistence or local markets. A large majority of the land owners are small peasants with two or three acres of land and also have at least one person in the family with a job either in government departments or small-scale enterprises; although farm-land forms a crucial part of the local livelihood strategy. The land owners also employ landless indigenous communities from the area who work on the fields for daily wages during the rainy season. A majority of the small farmers of the region are from the *kobli* or *agri* castes, traditional fisherfolk and cultivators, who received land for cultivation ironically under the land reforms undertaken by the state in the 1960s.

Located strategically close to Mumbai city with its ever expanding real estate market, with four ports (existing and planned) in the surrounding area and a proposed bridge across the sea connecting downtown Mumbai, the “multi-product” Mumbai SEZ was to come up on 11,300 hectares of land in the Raigad district of Maharashtra. Panvel, Pen and Uran *tehsils* (administrative blocks) of the district where the 45 villages to be displaced by the MSEZ are located, are along the outskirts of Mumbai city, making them prime targets for real estate and industrial development. The project was promoted by Reliance Industries, one of the most prominent Indian corporate houses, which was also proposing to build a bridge over the sea connecting the SEZ area to downtown South Mumbai (South Mumbai real estate prices compare with the highest real estate markets globally). Local residents alleged that the Mumbai SEZ was in effect a “real estate zone” to serve the urban elites of Mumbai.

As I conducted fieldwork in the area in the summer of 2008, resistance had been brewing for three years since the intention to create an SEZ in the area had become publicly known in 2005 (the

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76 This narrative is constructed from field-notes and interviews conducted in the MSEZ area in June-July 2008. See also Kale 2010; Sampat 2010; The Hindu 2008.
state had introduced its SEZ policy under the 2000 Export-Import policy before the central law came into effect). Villages in different tehsils organized independently and adopted different strategies for mobilization and resistance.

Ganesh Thakur, a small entrepreneur from a peasant family in Vadav village in Pen was reportedly contacted by an “agent” of the Mumbai SEZ to help secure land for the company. At the time, he had no information regarding the proposed SEZ. As he began facilitating the sales, section four notices (disclosing preliminary interest in the land to be acquired) under the LAA 1894 were released by the tehsil in August 2006. The notices indicated the scale of the intended acquisition of 11,300 hectares covering 45 villages for the MSEZ. This revelation raised alarm in the area, and Ganesh Thakur soon emerged as one of the foremost opponents of the project.

Rajan Jemse, a middle-class professional also of peasant background from Vashi village in Pen, made extensive use of the provisions of the Right to Information Act 2005 to unearth project-related documents from a number of state departments and offices. Documents revealed that the Hetavne (small) dam irrigation scheme, which peasants had been waiting for nearly twenty years, was to be diverted to the Mumbai SEZ. By law, irrigated land could not be acquired for any public purpose. Official records showed that the land in question was “unirrigated,” and even “barren,” despite standing crops of rice at the time of fieldwork.77 People from the area asserted that their lands were fertile and that their villages were to be covered under the Hetavne scheme, and hence their land ought to be considered irrigated. Residents from the villages in the Hetavne catchment area organized themselves into the Baavis Gaon Sangharsh Samiti (22-Village Struggle Committee). Jemse and other residents argued that “the state” was facilitating a transfer of commons and “public investment” to the “private sector” and that all investments with agricultural support schemes in the area over the years stood to be similarly appropriated for the use of a private entity. The information

77 See Borras and Franco (2013) for a discussion of the justifying narratives of “marginal” and “available” lands deployed by state actors to facilitate appropriation.
Chapter Three

regarding the diversion of the Hetavne dam proved critical in catalyzing resistance in the 22 villages of Pen.

For Kasu Mhatre of Vadav, losing her three acres of land meant the loss of a crucial source of livelihood support. While her husband was employed in a “government job” as a clerk, the rice from the fields was critical for feeding her family, with two young children. The loss of homestead land was an additional fear as prices in the area would become prohibitive if the project came up. MSEZ claimed that the habitation sites in the villages would be left untouched. This was perceived as a facetious argument by residents, as the habitation sites fell within the boundaries of the proposed SEZ. The low-lying SEZ area was to be “developed” by land filling to secure construction from flooding through nearby creeks. Residents claimed this would create havoc with access to habitation sites as well as increase threatened flooding as a result of land fills. Mhatre emerged as a critical organizer in the struggle, and was arrested and jailed for seven days in the course of protests.

This was not an easy battle. Series of protests, road blockades, petitions, marches and tense negotiations with the state in local tehsil headquarters and Mumbai followed. The 22-Village Committee was joined in this effort by a local political leader from the Workers and Peasants Party, N.D. Patil, and other local and regional political leaders and social activists. They networked with other groups opposing SEZs, and made contacts in the local and national media. The area’s proximity to Mumbai and the involvement of Reliance Industries, helped with media attention. Mumbai SEZ reportedly used a variety of tactics. Indirect pressure through “agents” who tried to persuade the residents to give up the struggle and accept a relatively more generous compensation package that promised jobs to local families and public relations campaigns by the developer failed to win local sympathy. The 22-Village Committee waged an effective campaign for three years and eventually pressured the Maharashtra government to exempt these villages from the MSEZ area in July 2008.
Chapter Three

The remaining twenty-three villages in Uran (22) and Panvel (1) tehsils did not come under the Hetavne irrigation scheme. Sanjay Thakur of Khopta village in Uran tehsil had discovered the MSEZ plans in a newspaper announcement of section 4 of the LAA 1894 in December 2005. When the formal notices were released in the tehsil in early 2006, people from the area organized and submitted formal objections to the land acquisition officer in Uran. In August of 2006, 5000 people from these villages demonstrated in front of the Uran tehsil office. Forming the Shetkari Sangharsh Samiti (Peasant Struggle Committee), they contacted lawyers and senior legal experts to file a Public Interest Litigation (PIL) in the High Court of Maharashtra.

Dr. Subhash Gharat, a medical doctor and resident of Chirner village in Uran active in the local resistance to MSEZ, summed up the predicament of the residents. He said that the need of the hour in the area was “development,” but this forced acquisition of land and resources and their transfer to the private sector belied claims of any local development for residents and fundamentally threatened their livelihoods and homes. The residents of the area repeatedly raised concerns regarding their survival as they were ill-equipped with skills to survive outside of cultivation, and pointed to the limited utility of cash compensation.

The fate of the litigation remained undecided with Mumbai SEZ lawyers requesting that the case be clubbed with all other SEZ-related cases in the country and be transferred to the Supreme Court of India for a single hearing on the SEZ Act. The existence of the April 2007 BoA letter asking states not to acquire land forcibly for SEZs was not known among the residents even in the summer of 2008. Even as the popular struggle continued with relentless agitations and demonstrations, Mumbai SEZ attempted to buy land in the area. Residents complained of “middle-men” hired by the developer to alternatively heckle or persuade them into selling. Mumbai SEZ instituted fellowships in schools for students to “buy” legitimacy, and promised employment to one
person from each family. Local residents claimed that the only jobs they would be provided were blue collar service jobs like security or cleaning and that this did not amount to “development.”

In April 2008 the Raigad district administration conducted an unprecedented Referendum on the Mumbai SEZ in the area. While the results of the Referendum were never officially released, local organizations claimed that 96 percent of the residents had voted against the project. This would be hard to verify, but the fact that MSEZ failed to acquire more than 20 percent of the land it sought in the area, bears testimony to the extent of resistance. The state-led land acquisition process was abandoned around this time. The ceiling of 5,000 hectares for large SEZs was introduced in 2009, but in the summer of 2009, during follow-up interviews, there was no clarity among local officials and residents if this meant the Mumbai SEZ would be split into two contiguous SEZs or sized by a little over half, and which part would be retained, despite the earlier assurance by the state government that the Heta vase irrigation area would not be included in the SEZ. By the end of 2009, the “in-principle approval” period of three years for the Mumbai SEZ began to lapse and it ceased acquisition operations.

As the developers applied for an extension of the period, the central (federal) Board of Approval of SEZs rejected its appeal and advised the developer to submit a fresh proposal if the Mumbai SEZ wished to continue attempts at developing a SEZ in the area. In the latest approval lists of the Board of Approval however, the Mumbai SEZ still shows in the list of “in-principle approvals” (see GoI 2013c).

Resistance strategies straddled a multiplicity of approaches, from direct confrontation to legal recourse as people in the area negotiated their lives amid extreme uncertainty and insecurity. Accessing and sharing information regarding the project was critical to catalyzing resistance and forging alliances for both, the 22-Village Committee and the Peasant Struggle Committee. Irrespective of the “concessions” made to agitations in the legal frameworks of SEZs, and the
relatively generous land acquisition compensations in this case, what stands out clearly is the unwillingness of peasants and other local residents to give up small holdings of land and homestead. The Mumbai SEZ will likely not be able to acquire land in the area without considerable repression, but given the proximity of the area to Mumbai with its coastal access, its powerful promoter and continued listing in the “approvals list,” the threat of dispossession for local residents has not entirely disappeared. I examine next the workings of power in the “behind-the-scenes” SEZ law-making process, and the resistance to SEZs from the unlikely candidate of the Finance Ministry.
Chapter Four

The Domain of the State

Infrastructures of Growth, Corridors of Power
Chapter Four

Corridors of Power

The Revenge of Finance

“Liberty will not descend upon a people. A people must raise themselves to liberty that must be earned before it can be enjoyed.” It was a muted Delhi winter afternoon in November 2011 as I made my way up the wide red sandstone steps to the North Block. As I walked towards North Block’s entrance, I was greeted by these words inscribed along its arched stone entrance. With the Rashtrapati Bhavan (President’s House) in the center, the North and South Blocks flank either side of the expansive driveway leading up to the Bhavan.78 Together, the two Blocks host several important Ministries such as Finance, Home, and the Prime Minister’s Office. I was there to meet the Joint Secretary Finance, second in the Finance Ministry’s bureaucratic hierarchy. He had chanced to answer my call intended for his personal secretary, and I “luckily” landed an interview with him without circuitous protocol. As I entered the corridors of the Ministry, I wondered if, somewhat ironically, the inscription was an unwitting invitation to all “people” across time. I later learned that these were Queen Victoria’s words, likely inscribed upon direction of the main designer of the palatial premises and much of colonial New Delhi, Edwin Lutyen, after whom many parts of what is now central Delhi are called “Lutyen’s Delhi.”79

In his budget speech in March 2011, the Finance Minister had announced a Minimum Alternate Tax (MAT) of 18.5% on booked profits, bringing within the tax net all industries that otherwise enjoyed blanket concessions (hence the title, Minimum Alternate). This had severely

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78 This was formerly the British Viceroy’s palace.
79 Herbert Baker, attributed with designing many significant buildings in Cape Town around the time, assisted him on this assignment, especially for the North and South Blocks. The Bhavan itself was built in the early 20th Century by clearing the Rasina and Malcha villages of a few hundred families, under the Land Acquisition Act 1894. This incredibly powerful elite area of Delhi subsequently came to be called Rajśina Hill, in obvious allusion to the ruling caste connotations of the name, when the syllable i is added to Rasina.
Chapter Four

distressed industrialists and developers of Special Economic Zones (SEZs).\(^{80}\) I was eager to understand why the central (federal) government was seemingly “axing its own foot” with the MAT and other proposed measures like the Direct Taxes Code (DTC), that was to replace the Income Tax Act 1961 and among other things, link tax incentives to the scale of investments made by industries, rather than give them tax concessions on profits.

What I got from the Joint Secretary Finance, Ashutosh Dixit, was a lesson in “revenue foregone” (or lost) by the central government as a result of existing tax concessions. He explained that the diversion of export-oriented industries from the Domestic Tariff Area (DTA) to SEZs\(^{81}\) was the reason behind the zero growth of exports from the domestic area in recent years, and the 100 percent growth of exports from SEZs. I also learned that the SEZ “model itself was flawed.” Instead of promoting manufacturing, he asserted, the “model was catering too much to the services sector, [and] services never needed a boost since they were anyway doing well.” He argued that it was sufficient to reduce taxes for units in SEZs, but the country could not afford to give up revenue from SEZs altogether (interview November 24, 2011).

This interview clinched my interest in the deeply divided motives and arguments of the Ministry of Finance (MoF) and the Ministry of Commerce and Industry (MoCI) over SEZs, which several sources were alluding to in the course of my research. As I dug deeper, interviews with bureaucrats and developers, as well as bureaucratic paper trails between the two Ministries revealed that the differences were entrenched, pointing to intense rivalry, mistrust and policy divergence.

The Finance Ministry then released a “harmonized” definition of infrastructure in March 2012. The new definition created consistency across various laws and Ministerial departments for

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\(^{80}\) Under the SEZ Act 2005, until then, SEZ developers and units enjoyed blanket tax concessions for the first five years of operations, 50 percent concessions on booked profits for the next five years and an additional 50 percent concession on profits “ploughed back” into investment in the SEZ for the subsequent five. The 18.5 percent MAT reduced tax benefits in SEZs (see previous chapter).

\(^{81}\) SEZs are deemed “foreign territory” by law for commercial purposes.
Chapter Four

smoother implementation of “infrastructure” projects. A “master list” deemed as “infrastructure” *all public and private* undertakings for transport, communication, energy, water and sanitation and social and commercial infrastructure; commercial infrastructure included private investments in health, education, SEZs, industrial parks and tourism facilities (GoI 2012c; see Table 1 below). SEZs were not liable for forcible acquisition under a departmental order from 2007 (GoI 2007b; 2009a), but their inclusion in the list seemed to open a possibility for doing this.

**Table 1: List of sub-sectors for Infrastructure Lending**

<table>
<thead>
<tr>
<th>Category</th>
<th>Infrastructure sub-sectors</th>
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<tbody>
<tr>
<td>Transport</td>
<td>1. Roads and bridges</td>
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<tr>
<td></td>
<td>2. Ports&lt;sup&gt;1&lt;/sup&gt;</td>
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<tr>
<td></td>
<td>3. Inland Waterways</td>
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<td></td>
<td>4. Airport</td>
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<td></td>
<td>5. Railway Track, tunnels, viaducts, bridges&lt;sup&gt;2&lt;/sup&gt;</td>
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<tr>
<td></td>
<td>6. Urban Public Transport (except rolling stock in case of urban road transport)</td>
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<tr>
<td>Energy</td>
<td>1. Electricity Generation</td>
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<td></td>
<td>2. Electricity Transmission</td>
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<td></td>
<td>3. Electricity Distribution</td>
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<td></td>
<td>4. Oil pipelines</td>
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<td></td>
<td>5. Oil/Gas/Liquefied Natural Gas (LNG) storage facility&lt;sup&gt;3&lt;/sup&gt;</td>
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<td></td>
<td>6. Gas pipelines&lt;sup&gt;4&lt;/sup&gt;</td>
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<tr>
<td>Water &amp; Sanitation</td>
<td>1. Solid Waste Management</td>
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<td>2. Water supply pipelines</td>
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<td>3. Water treatment plants</td>
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<td>4. Sewage collection, treatment and disposal system</td>
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<td></td>
<td>5. Irrigation (dams, channels, embankments etc)</td>
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<td></td>
<td>6. Storm Water Drainage System</td>
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<td></td>
<td>7. Slurry Pipelines</td>
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<tr>
<td>Communication</td>
<td>1. Telecommunication (Fixed network)&lt;sup&gt;5&lt;/sup&gt;</td>
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<tr>
<td></td>
<td>2. Telecommunication towers</td>
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<td></td>
<td>3. Telecommunication &amp; Telecom Services</td>
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<tr>
<td>Social and Commercial Infrastructure</td>
<td>1. Education Institutions (capital stock)</td>
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<td></td>
<td>2. Hospitals (capital stock)&lt;sup&gt;6&lt;/sup&gt;</td>
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<tr>
<td></td>
<td>3. Three-star or higher category classified hotels located outside cities with population of more than 1 million</td>
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<td>4. Common infrastructure for industrial parks, SEZ, tourism facilities and agriculture markets</td>
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<td>5. Fertilizer (Capital investment)</td>
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<td></td>
<td>6. Post harvest storage infrastructure for agriculture and horticultural produce including cold storage</td>
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<td></td>
<td>7. Terminal markets</td>
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<tr>
<td></td>
<td>8. Soil-testing laboratories</td>
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<td></td>
<td>9. Cold Chain&lt;sup&gt;7&lt;/sup&gt;</td>
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<tr>
<td></td>
<td>10. Hotels with project cost&lt;sup&gt;8&lt;/sup&gt; of more than Rs.200 crores each in any place in India and of any star rating; Convention Centres with project cost&lt;sup&gt;8&lt;/sup&gt; of more than Rs.300 crore each.</td>
</tr>
</tbody>
</table>

1. Includes Capital Dredging
2. Includes supporting terminal infrastructure such as loading/unloading terminals, stations and buildings
3. Includes strategic storage of crude oil
4. Includes city gas distribution network
5. Includes optic fibre/cable networks which provide broadband / internet
6. Includes Medical Colleges, Para Medical Training Institutes and Diagnostics Centres
7. Includes cold room facility for farm level pre-cooling, for preservation or storage of agriculture and allied produce, marine products and meat.
8. Applicable with prospective effect from the date of this circular and available for eligible projects for a period of three years; Eligible costs exclude cost of land and lease charges but include interest during construction.

Chapter Four

On the one hand, Finance\textsuperscript{82} had deliberately stymied the SEZ model by introducing the Minimum Alternate Tax and the Direct Taxes Code, and on the other it sought to facilitate the smoother implementation of “infra” projects. I learned over the course of research that the differences between the Commerce and Finance Ministries modeled divergent policy imperatives for the (central) Government of India; Finance oriented towards an “inclusive” model of “economic growth” with revenue collection for state expenditures, while Commerce took a more “hardline” approach of “minimal government,” allowing capital a freer run with subsidies and concessions. But what constituted “infrastructure,” and its significance for “economic growth,” was undisputed between the two.

The institution of the SEZ model in India met two key sources of resistance that transformed its implementation trajectory. One was the intense peasants and citizens’ resistance to land acquisition, especially for large and medium SEZs; and the other, somewhat unlikely, was the Ministry of Finance, which objected to their scale, scope and tax and duty concessions from the word go. While resistance highlighted dispossession, corruption and real estate scams in the institution of SEZs, Finance consistently warned of their potential for “land-grabs,” speculative investment in real estate, transfer of existing industries to SEZs and the “revenue foregone” by “concessions.” These two arenas of resistance effectively dampened the SEZ model and changed the rules of the SEZ law (or game), and influenced the formulation of the new land acquisition law.

This chapter analyzes the “behind-the-scenes” law-making process of SEZs. The “formal” SEZ law-making process has involved several Ministries, predominantly Commerce and Finance,

\textsuperscript{82} In the interests of readability I refer to the Finance Ministry as simply Finance and to the Commerce and Industries Ministry as Commerce or Ministry of Commerce through the text.
that have been at loggerheads over them. “Soft law”\textsuperscript{83} settings (by which I refer to industry-bureaucrat conclaves and recommendations by industry in the form of submissions or reports), were also powerful influences on the policy framework. Extra-legal influences, like the protests in SEZ areas, influenced political “course-correction” and I discussed them in the previous chapter, but beyond the pale of evidence and shadowing “formal” and “soft law” circuits, rumors and gossip point to bureaucratic “turf wars,” Ministerial rivalries and high-level corruption as major extra-legal forces shaping the law. These “circuits of power” have determined the trajectory of SEZ infrastructures in India. Their analyses offer insights into the motivations and forces driving other “growth infrastructures,” like the ambitious Delhi Mumbai Industrial Corridor (DMIC).

The materiality of infrastructure allows for the possibility of exchange and circulation of goods, ideas, waste, power, people and finance, among other things; and also signifies aesthetic and affective desire and possibility (cf. Larkin 2013). Infrastructure also signifies paradigms of development. In the post liberalization period in India there has been a marked shift from the post-independence model of state-led investments in infrastructure, to private investments or Public Private Partnership models (see also Nilsen 2010; Goldman 2011). The institution of what I call the “infrastructures of growth,” facilitates the circuits of capital with a deeply embedded (if hackneyed) model of “trickle-down” development.

At the scale envisioned in the policy framework, investments in “growth infrastructures” fundamentally reconfigure relationships with land and resources\textsuperscript{84}—moving people away from agrarian mores and other possibilities of “development” or “infrastructures,” and engendering deeper dependence on capital’s investment circuits. Unwittingly for public and private and investors,

\textsuperscript{83} Zurillo (2010) refers to “soft law” as non-binding but coercive processes of closed-door consultations and recommendations that result in non-binding directives, declarations, resolutions, which inevitably come to be enacted as law. This interpretation is disputable, as coercion renders these processes more appropriately in the realm of “mixed” or “private governance.” Here I refer to “soft law” as arguably non-coercive closed-door consultations and recommendations from private bodies that influence law-making (see discussion later in the chapter).

\textsuperscript{84} This is an underrepresented relation in recent anthropological analyses of infrastructures; see Larkin (2013) for an overview.
the institution of growth infrastructures by private entities is also allowing (often) successful opposition movements of peasants’ and citizens’ groups challenging takeovers of land and resources for private interest. An ongoing dialectic of “institution-opposition” is creating contingent “revisions” in legal frameworks, but the impact of “revisions” on resistance is minimal as people resist dispossession. Any analysis of these significant transformations then, behooves examination of policy-making processes: the who, what, why and when of law-making that despite ostensibly democratic frameworks, are invariably obscured in bureaucratic practices or rendered invisible in “corridors of power.”

The materials for this chapter were obtained from interviews with senior and mid-level bureaucrats in the Ministries of Commerce and Industry and Finance; SEZ Commissioners and administrators; SEZ developers and unit owners; legal experts; journalists; and academics in and around Delhi, Mumbai and Goa. I also attended four industry-bureaucrat conclaves on SEZs organized by industry and state bodies. I tracked archival records of communications, agendas and minutes of meetings, reports and documents available on Ministerial websites as well as industry, media and academic archives on SEZs. Contentious communications between the Finance and Commerce Ministries were especially hard to come by, and I describe below how I came upon them, which also offers a glimpse into the exclusive policy-related infrastructures of information.

Archival Tra(va)ils and Infrastructures of Information

Then Prime Minister of India Manmohan Singh convened a meeting in April 2005 with several Ministers of his Cabinet, to intervene in the matter of Ministerial differences over SEZs, particularly between the Finance and Commerce Ministries. A number of issues were resolved in the meeting and Finance had to back off on its objections to the SEZ framework proposed by Commerce on several counts, most notably on tax concessions that Finance viewed as its legitimate turf. A decision
Chapter Four

was taken to constitute an Empowered Group of Ministers (EGoM) with special cabinet powers to resolve further differences (F.No.149/61/2003/TPL), and the documents related to EGoM meetings shed important light on how the SEZ policy framework evolved. The EGoM comprised Ministers of Commerce and Industry; Finance; Agriculture; Consumer Affairs, Food and Public Distribution; Home Affairs; Law and Justice; Labour and Employment; Defence; and Communications and Information Technology.

The intervention of the Prime Minister underlines the significant political status the SEZ policy enjoyed at the time. A corollary to this status however, is that documents related to issues under deliberation by the EGoM are considered “confidential” and inaccessible to “ordinary citizens,” even under the wide entitlements of the Right to Information legislation.85 Once an issue is resolved and no longer under the EGoM’s deliberation however, related documents can theoretically, by law, be accessed upon request.

After trying in vain for several months to access EGoM meeting-related documents through simple requests and applications with officials in the Commerce Department, I finally consulted the Director SEZs (third in the bureaucratic hierarchy of the Commerce department) and filed a Right to Information application requesting access to EGoM documents in September 2011. The reply to my application came in October 2011 and revealed that nine EGoMs had been convened over SEZs until then (and to date), from 2006-08. I had also asked for photocopies of minutes, agendas and file-notings86 related to all EGoM meetings in my application. In his reply, the Director SEZs (the designated authority responsible for providing information related to SEZs) denied all EGoM

85 As explained in the introduction, the Right to Information (RTI) Act 2005, gives wide entitlements to citizens for accessing public documents and information. An application is typically made to the designated information officer in a department, to which the officer must reply in writing within 30 days with the requested information or reasons for its denial.

86 These are hand written notes of various bureaucrats and Ministers on their file correspondence that reveal “who said what” on a particular issue and are crucial to establishing the decision-making process and accountability.
documents I had requested under provisions exempting access to information affecting “national security.”

I was keen to not ruffle feathers and jeopardize access to other relevant information (like tips and invites for business conclaves on SEZs). It was only in February 2012 that I broached the issue again in an interview, this time with Joint Secretary Commerce (second in the Ministerial bureaucratic hierarchy). I mentioned my previous application and suggested that relevant rules indicated that I could be given copies of documents related to EGoMs that were no longer under deliberation. I explained that these documents were significant for my research, as I was studying the SEZ law-making process. Since the last EGoM had been convened in October 2008, I suggested that the grounds for denial may not be valid. He congenially recommended I approach the Cabinet Secretariat as it had begun servicing EGoMs from 2010.

When I contacted the Cabinet Secretariat, they asked me to file an application with the Commerce Ministry as it had been the “line” Ministry servicing SEZ EGoMs during the period I sought documents for (2006-08), and the Cabinet Secretariat had only begun servicing EGoMs from 2010. I contacted the Joint Secretary and the Director SEZs again, updating them regarding the Cabinet Secretariat’s response and once again requesting the information I sought. The Director SEZs promised to process my request and get back to me. When I got no reply from him for nearly a month, I went to meet him again. He suggested that I file a fresh RTI application with the same request. I immediately did so, asking for some other relevant information as well. The additional information I sought was clarified in April (albeit after the 30-day stipulated period and another reminder from me), but the EGoM documents were left unaddressed in his reply. I then appealed to the Appellate Authority (typically the next higher official), in this case, the same Joint Secretary who had advised me to go to the Cabinet Secretariat.
The greater the difficulties I encountered in gaining access to EGoM documents, the more I was convinced that these documents would reveal important information. In the meanwhile, a journalist I knew put me in touch with a colleague from an important business daily who had previously filed an information application on SEZ-related documents with the Commerce Department. The said journalist gave me all his documents in soft copy format. A scan through the 1500 page set of documents revealed that they contained at least some EGoM-related documents. Perhaps they had accidentally come in with the rest of the SEZ-related documents the journalist had requested, or a journalist was not someone to be messed with. Another journalist I knew additionally agreed to give me hard copies of all the SEZ-related documents he had previously procured from the Finance Ministry through a reliable “contact.” I sensed that I may have had enough material for my research, but pursued my information application to ensure that I had all the relevant documents in one place, and also out of a sense of intrigue regarding the denial of information.

In response to my appeal, the Appellate Authority again denied the information I sought, citing the same national security exemption in his May 2012 reply. By then, my fieldwork in Delhi had already drawn to a close and I had relocated to Goa. I decided to file a second appeal with the Chief Information Commission\(^8\) in Delhi. Alas, the Information Commission’s backlog is huge and by the time my appeal came up for hearing in 2013, I was in New York writing my dissertation and unable to attend. A delay in getting the date of hearing notification meant that I could not request that a representative attend the hearing. Nevertheless, the Director SEZs had to appear for the hearing, and in his explanation claimed that EGoM issues were still under consideration and hence confidential (after nearly five years of the last convened EGoM, and having provided such information to at least one journalist earlier). He said he would need to verify which documents

\(^8\) The RTI Act has a two-tier appeal mechanism, the first comprising a higher official within the concerned department and the second with an independently established Information Commission at the state and federal level depending on the office the information is sought from. All GoI offices come under the federal Chief Information Commission.
could be shared with me and his response was recorded in the Information Commissioner’s order. The Information Commissioner gave him 30 days to determine the relevant documents I could be given access to (Preeti Sampat vs the Department of Commerce 2013). The last communication on the matter was another request from the Director SEZ requesting the Information Commissioner for extension of the time period to ascertain which documents could be given to me.

The bureaucratic paper trail I cite below proved critical to analyzing the SEZ law-making process. This critical information was thus accessed from the documents that two journalists had procured and passed on to me. While I could not gain access to the EGoM documents on the merit of my requests and Right to Information applications, the long and winding road that was then left abandoned because of my relocation to New York City was instructive. It underlined the extent to which bureaucratic privilege can derail entitlements and rights (and I was privileged in many ways, including that I knew the bureaucratic procedures relating to information applications and could eventually secure access to the documents through other sources). It indicated that what the refusal of disclosure was protecting may indeed point to significant issues in the law-making process. It also reinforced the exclusion of “ordinary citizens” from policy-making arenas. I was never meant to be trespassing in the “corridors of power” between the Ministries in New Delhi.

Policy Imbroglio (Hotel Le Meridien, July 2011)

An industry-bureaucrat conclave on SEZs was organized by the influential Associated Chambers of Commerce (ASSOCHAM) in the post-MAT (Minimum Alternate Tax) period of “uncertainty” in July 2011. The meeting, held in the plush five-star Le Meridien Hotel, anticipated the growing “policy imbroglio” with SEZ investor “withdrawals” and “surrenders.” I reproduce below excerpts from the presentations of two key actors, then Commerce Secretary (highest ranking bureaucrat of the Ministry) Rahul Khullar, and a prominent Delhi-based SEZ corporate lawyer from Vaish
Chapter Four

Associates, Hitender Mehta. Their arguments capture the hedging by the Commerce Department over MAT and land acquisition, on the one hand, and the growing disquiet among investors over SEZ “policy reversals,” on the other.

The day-long panels at the ASSOCHAM convention were held in a large convention hall of the hotel and featured a range of talks, from the Commerce Secretary, the (next in line) Joint Secretary Commerce, Commissioners from various SEZs, representatives of Free Zones from Turkey and Oman, SEZ developers, industrialists and legal and taxation experts. Unrest in the SEZ industry in the aftermath of the MAT and land acquisition issues shaped the proceedings of the day.

a. The Bureaucrat:

Then Commerce Secretary Rahul Khullar was moved up the agenda as the first speaker, as he had “to leave soon after for another meeting” (industry’s palpable unrest was possibly factored into his schedule). His speech revealed the Commerce Ministry’s disposition around the MAT and land acquisition at the time, and indicated the agenda items Commerce was open to discuss, and those that it would not. He highlighted two related issues, the concentration of SEZs in a few states around metropolitan centers and the need to reach the “hinterlands.”

In an obviously “educated abroad” accent, he started with a reprimand:

...Most of your SEZs are concentrated in about six states. Those six states also account for 92 percent of total exports from the SEZs. Which means it’s not merely the number of SEZs but the concentration is complete, almost total in terms of exports emanating from Maharashtra, Gujarat, Tamil Nadu, Andhra, Kerala and Karnataka. Even within those states, by and large, you would be spot on if you just looked at the major cities and looked around them. That’s the second problem [that] within the states where they’re coming up, the concentration is in highly selected areas.
Adding that the main motivation behind SEZs was a “hassle-free environment” with “infrastructure provision” to facilitate production, he said, tax concessions were secondary, the first priority was a “good environment for producers.” “Labor, land and infrastructure” he said, are “pan-India difficulties, with power and water shortages, inadequate roads, connectivity and ports.” SEZs were to take care of “infrastructural bottlenecks that are worse now than at the time SEZs were envisaged in 2004.” For a businessperson outside zones, he said “wage rates are going up and I may lose my edge, and I may need to get out of the business.” Land he added “is a major issue in the country. It is just no longer possible, given the agitations that have taken place over the last 4-5 years, and the very complicated politics that is involved in all of this, to get hold of large parcels of land, and say this is an SEZ.”

Snapping his fingers then:

You know, there may have been a time when you snap your fingers and you could get a 1000 hectares. It’s not gonna happen now. And if its not gonna happen now, what are we gonna do? Are we just gonna sit around and do nothing about it, or do we need to start having a second look? At both the SEZ Act and the rules?

This concentration of SEZs all along metropolitan hubs, has got to end. Simply because the price of land has reached astronomical levels [in these areas]. Now, if you’re real-estate developers, it doesn’t matter. You buy land at astronomical levels, you sell it on at astronomical levels. But you’re not real estate developers, you’re manufacturers. Land, is only an instrument in your [business]. That regional concentration has to end. You have to get out of the Bangalores and the Hyderabad's and the Kolkotas, you have to go into the hinterland. Because you’re going to get land cheaper there. And you’re going to get labor cheaper there, you’re not going to get labor cheaper in Bangalore. If you don’t [move] it won’t happen. I assure you, it is far more difficult to get land in a village near Noida [suburb of Delhi], then it
would be in a land [sic] in the boonies. I understand the concern of the DTC [tax concessions being linked to investments] and what have you. But, even if you fix the MAT and all those issues, you will have these three big problems to cope with. And the quicker you guys, collectively, think about what needs to be done on those matters and tell us, the better it would be to deal with the problems that may arise in the next five years (emphases in original, speech July 27, 2011).

After his speech, a developer raised a question about the cooling of investor interest in SEZs post MAT. Khullar assured the participants that the taxation concerns of industry would be given “fair hearing with the Parliamentary Affairs Committee” constituted for the issue. He urged again that industry focus on the three issues of “land, labor and infrastructure” for the long term (and forget about MAT). After this, he left the meeting.

His attempts to deflect developer and industry concerns over MAT and the proposed Direct Taxes Code (DTC) however, failed. It became clear over the day’s proceedings that the convention had been convened primarily for SEZ developers and units to gauge how “serious” the central government was about revoking their promised tax benefits with the MAT and DTC. The Secretary’s suggestion of focusing on “investment in the hinterlands” was not enticing, and ignored for the rest of the day.

b. The Lawyer:

Towards the end of the day, Advocate Hitender Mehta, a legal expert on SEZs, spoke on the two “burning issues,” MAT and land acquisition. I juxtapose below the concerns he raised as a counter to Secretary Khullar. His presentation highlighted the agitation within industry circles with the “policy instability” unleashed by the MAT, the DTC and increasing activism by the higher judiciary in land acquisition cases.
Chapter Four

Advocate Mehta began by exhorting developers to petition the Supreme Court against the MAT. He noted that in a recent interview he had heard Commerce Secretary Khullar argue over the reduction of the MAT from 20 percent\footnote{Developers consistently referred to the 18.5 percent levy of MAT as 20 percent.} to 10 percent. This he said, meant that the Commerce Ministry was “resigned” to the MAT and only willing to “bargain” over it. He pointed out that the SEZ Act had its own tax regime and its “rules of business” clearly mandated that any change in fiscal incentives to SEZs was to be initiated by the Commerce Ministry. He added that “Personally I am seeing this as a backdoor amendment which Finance Ministry has chosen to do.” Only three petitions had been filed in the courts thus far he said, and he felt that others needed to step up: “unless they [other developers] take action, they initiate some sort of resistance process, Ministry of Finance may not actually then come down to [renegotiating] the terms.”

On land acquisition, stressing that no compulsory acquisition is allowed for SEZs, he added, “but now issue comes up, previous acquisitions done by the state governments are being questioned. And there are some court rulings, one by Supreme Court in Noida case, [of] 156 acres. They ruled down the acquisition by the state government! They said now this is to be restored!” Similarly raising alarm over a High Court order of the demolition of the DLF SEZ in Gurgaon\footnote{The Punjab and Haryana High Court ordered the demolition of the DLF SEZ in Silokhera village in Haryana in February 2011 because of an illegal transaction between the company and the state government. Petitioners from the village had challenged the acquisition of over 200 acres of land from their village by the state government and its sale to private companies. The SEZ land had first been sold to another developer for a hospital who in turn sold it to DLF. DLF challenged the order in the Supreme Court and managed to get a stay on the demolition by July 2011 (Sura 2011; Ohri 2011).} he added:

Another thing is coming. In Gurgaon, my friend from DLF is sitting, 22-year old acquisition by the state was reopened. And Punjab and Haryana High Court, they passed an order to demolish a functional SEZ! I don’t know whether they’ve [judges] visited this SEZ or not, the kind of infrastructure that has come up, whether they’ve seen this or not, but it is scary, to see what kind of jurisprudence is evolving! Luckily, this decision has been stayed by the Supreme Court, but still, the final outcome is awaited.
Chapter Four

He continued, “And in Noida we are now hearing that cases of 1976 onward, they are contemplating to reopen. So where is the stability of law?” Highlighting the Jagpal Singh vs State of Punjab judgment of January 2011 (also discussed in chapter two) he explained:

The Supreme Court, what they’re thinking I’m just trying to bring out to your notice. They’re actually questioning state government acquisitions. This [case] was in particular reference to the *gram sabha* [village assembly] acquisitions. And they come down very heavily and they cited this in their judgment. That in U.P., [the] consolidation of land holdings Act is widely misused and with the connivance of consolidation authorities. And surprisingly U.P. government has not chosen to object to this, so let us say that they have accepted it. And Supreme Court goes on, saying that ‘similar [acquisitions] may have been practiced in other states. The time has come to review all these orders by which the common village land has been grabbed by such fraudulent practices.’

Pausing for a dramatic moment he then exclaimed:

It, it actually leaves me in a shivery condition! And before parting with this case what they’ve said, it’s even more scary! They give direction to all the state governments in the country, that they should prepare scheme of eviction of illegal unauthorized occupants of *gram sabha*, *gram panchayat*, *perumboke* [village commons], *shamalat* [grazing lands] land and these must be restored to the *gram sabha*. This is quoted from the Supreme Court Judgment! And then they say the political connections, or, huge expenses incurred in construction, these are no excuses.” He concluded, “Now I leave it to you to just, think about this, review this and what kind of jurisprudence is evolving. And it would be a message for investors also, if they want to invest in the SEZs, particularly developers, they need to take care of this situation also (presentation July 27, 2011).
Chapter Four

Needless to add, legal developments and fresh litigation are great foraging grounds for lawyers and tax experts and his alarm may well be motivated by enlightened self-interest. Regardless, while Secretary Khullar tried to deflect attention from the MAT, Advocate Mehta advocated a frontal confrontation. Both highlighted the tax and land issues to very different ends. These presentations captured the widening gap at the time between Commerce’s ability to deliver industry’s expectations and the sundering of the “consensus” between capital and the state over SEZs. After the July convention, several “stakeholder” discussions were held by the Commerce Department in an effort to soothe industry unrest, and while changes in operational rules were subsequently made, the major issues of MAT and land acquisition remained unresolved and festering.

The backlash was potent. As industry had to “bite back,” there was growing and frequent industry decrual of “unstable policy” or “policy paralysis” engendered by then ruling Congress-led UPA. Though not confined to SEZ issues, this decrual especially intensified in the last two years leading up to the 2014 election year.90 The endorsement of the controversial then-Chief Minister of Gujarat, Narendra Modi as an ideal Prime Ministerial candidate by major Indian business houses; their support for his spectacular high-tech “Presidential-style” election campaign; and the BJP’s resounding victory under his leadership with his elevation to Prime Minister in the 2014 elections, have also to be seen in this context of capital’s dissatisfaction with the previous regime.91 The “surrender” of the Reliance Haryana SEZ Ltd. (RHSL) in the commercial and residential suburb of Delhi near Gurgaon in Haryana state is illustrative.

90 Other factors fueling industry ire have included the number of crony capitalist deals busted by the Central Bureau of Intelligence and subsequently the Supreme Court in recent years.

91 Modi has been known to facilitate big business through land and tax concessions in Gujarat state where he was elected for three consecutive terms as Chief Minister in the face of an extremely weak opposition. See also Varadarajan 2014 for a trenchant analysis of how the judicial fallout of “crony capitalism” scandals during the UPA regime have added fuel to industry’s (f)ire in supporting Narendra Modi as an ideal administrator. Support by big capital has added to the spade-work of the Rashtriya Swayamsevak Sangh, the ideological caucus of the BJP, in the BJP’s electoral campaign, and urban popular frustration with the UPA manifested in recent anti-corruption agitations.
Chapter Four

The RHSL “Surrender”

Promoted by one of the biggest Indian corporate houses, Reliance Industries Limited, the proposed Reliance Haryana SEZ Limited was announced in 2006 by the Haryana government and was to cover over 20,000 acres in Gurgaon and Jhajjar districts. A total of 1,383.68 acres had been “acquired” by the project, which it sought to surrender in 2012. In 2003 (before the SEZ law was enacted), about 1,700 acres of fertile agricultural land was proposed to be acquired by the state government in five villages of Gurgaon by the Haryana State Industrial and Infrastructure Development Corporation (HSIIDC) under the Land Acquisition Act 1894 then in force. In 2004, amid protests from farmers, the state government scaled down its target by 100 acres and issued a final notification for about 1,600 acres. Some landowners petitioned the state’s high court challenging the “public purpose” for which the land was being acquired. With unrest growing, the government constituted a “high-powered committee” to reevaluate its decision for acquiring the land (Ohri 2014).

In May 2005 (again, before the SEZ law was enacted), Reliance Industries proposed an SEZ in the adjacent Jhajjar district of Haryana over about 450 acres which was notified soon after. In May 2006, the high-powered committee released its decision to drop an additional 50 acres from 1600 acres. A week later the company proposed to the government that the Gurgaon land (1550 acres) be included in the SEZ project in Jhajjar. The Haryana industrial corporation soon passed a resolution, in which it expressed its “incapacity” to come up with an SEZ on its own, stating that since “world players” had come into the picture, a Public Private Partnership project would be prudent (ibid.).

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92 Reliance Industries also promoted the failed Mumbai SEZ on the outskirts of Mumbai city discussed in the previous chapter.
93 Haryana is one of the “green revolution” states in Northern India with large areas of fertile irrigated land.
In 2007, some landowners from the area filed petitions in the Punjab and Haryana High Court against the government’s decision to hand over their land to the company for an SEZ. By 2009, the high court ordered a stay on the creation of third-party rights (SEZ developer) on the disputed land. The state government subsequently challenged this order in the Supreme Court. The Supreme Court adjourned the matter until recently when it remitted the matter back to the high court for fresh adjudication.

By January 2012, Reliance offered to return the Haryana industrial corporation 1,383.68 acres of land given to it by the state government and abandon the SEZ project in Gurgaon, and petitioned the Board of Approval for SEZs for a “withdrawal,” without stating any reasons. An official Haryana government release said the SEZ Project at Gurgaon had “been rendered economically unviable due to the mid-term corrections in the SEZ Policy viz. imposition of the Minimum Alternate Tax, withdrawal of the Tax holiday, slowdown in the global economy, prohibitively high prices of land and other problems associated with aggregation of land through private negotiations” (PTI 2014b).

RHSL had requested “refund” of the amount paid by them to the Haryana industrial corporation and reimbursement of expenditure incurred on the site, apart from interest on the said amount aggregating to Rs.1,172 crore (approximately $195.3 million). In February 2014, the Haryana Cabinet approved the return of the land to the Haryana industrial corporation, in lieu of payment of an amount of Rs 343.51 crore ($57.3 million) to RHSL as against Rs 399.85 crore ($66.6 million) paid by RHSL at the time of transfer of land, stating: “The claims on account of Administrative charges forming price of the subject, refund of the Stamp Duty, reimbursement of development expenditure and interest amount have not been accepted. The refund amount has been worked out strictly as per the terms of the Joint Venture Agreement date 19th June 2006 signed…”

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94 The two states share a High Court and the capital city of Chandigarh.
95 At August 2014 dollar rate of Rs. 60 = $1.
Chapter Four

(PTI 2014b). The decision to denotify Reliance Haryana SEZ Ltd, was taken by the SEZ Board of Approval in June 2014.

In May 2014, the High Court questioned the Haryana government “for taking no action against Reliance Industries while taking back nearly 1,400 acres of land allotted for developing one of the country’s biggest special economic zones under the public private partnership or PPP model” (Ohri 2014). The division bench sought an explanation from the state government for not levying any penalty despite the company’s failure to develop the SEZ even after eight years (for more details on the case see Ohri 2014; PTI 2013, 2014b).

When I met a senior representative of the Reliance Haryana SEZ Limited in Delhi in September 2011 in the company’s Gurgaon headquarters (before the SEZ withdrawal) located in the premises of the Ambience Mall, he explained to me that RHSL was “waiting and watching.” His frustration was palpable. Enumerating the problems with land acquisition and “policy instability,” he described the UPA regime as “governance with crutches” that “walks slowly” and is constantly “falling.” He declared that India needs a “single party” with a “political focus on growth” and the “huge Indian market” with “300-400 million middle-class consumers.” Elaborating on schemes like the National Rural Employment Guarantee Program,96 he said, “Why is the government doing it? Teach the guy to fish; allow industry to teach [him]. [let] industry come in.” He went on to add that there was “too much democracy” in the country, and described the need for a “strong administrator” to set it right. I sensed what was coming, and he soon added, we need a “strong leader, we need someone like Narendra Modi” (interview September 20, 2011). As I disciplined my smile in place to allow the moment to pass, I experienced firsthand, for the first time, the meaning of the expression, “feeling the hackles rise at the nape of my neck.” (It was one thing to know intellectually how the interests of capital allied with authoritarianism, but another to hear firsthand,

96 A hard-won, albeit limited victory of social movements in 2005 ensuring 100 days of employment a year for each rural family and unemployment compensation in case of failure to provide employment.
and in silence, the endorsement of an authoritarian right-wing Hindu-nationalist accused of abetting and overseeing mass murder.)

**Making the SEZ Law**

The Indian economy was relatively insulated from the “global” financial crisis in 2008-11 by a combination of monetary policy, expanding domestic market and capital, and a mixed-bag of stimulus and welfare entitlements (see Subbarao 2009; UNDP 2011). As a result, Indian capital invested enthusiastically in the initial SEZ promise of land, resources, “infrastructure” (water and power were to be supplied 24x7 to the SEZs) and potentially, the labor of dispossessed peasantry. As is evident from the jump in the numbers of SEZs from 2008 to 2011 (366 to 584), while the SEZ model was to facilitate India’s global economic integration, this was not necessarily at the “behest” of “global” capital seeking to come in, although global investors were certainly on the “invitation list,” for instance the Indonesian Salem SEZ in West Bengal or the South Korean POSCO SEZ in Odisha. The interest of global capital influenced the development of the SEZ framework, with the involvement of consultancy firms like McKensie in SEZ policy formulation. The SEZ model as it bore out however, was more in keeping with the aspirations of domestic capital with its growing global reach and interest in real estate (this also becomes evident from the low number of operational SEZs, only 143 SEZs were operational in 2011 out of 381 notified and 584 total approved).

I discuss below the SEZ law-making process that has involved frequent inputs from business interests that also partly explain their sense of “betrayal” with the “reversals” of concessions.
Chapter Four

“Soft Law”

Zerillo (2010) argues that to understand how legality works in social settings we need a more open definition of what law is. He refers to “soft law,” as “non-binding coercions,” those specific procedures and mechanisms aimed at obtaining compliance despite their non-justiciable character. He argues that it is a practical necessity to look at particular sites and locations where soft law originates and takes shape. In the increasing proliferation of law-making procedures and sites and in the privatization of legal regimes, which then draw upon the power of the state for enforcement, soft law becomes “hard law.” However, coercive settings are more aptly described as “mixed” or “private governance” settings; my use of “soft law” here refers to non-coercive settings that influence law-making. The milieu of liberalization and export-led growth facilitated the SEZ policy framework through its genesis and evolution. The Commerce Ministry’s “hard line” approach to promoting the interests of SEZ capital meant that the law itself evolved in frequent and ongoing consultations with industry “stake-holders.” The Commerce Department actively championed industry concerns and needs. These consultations, reports and recommendations, became the “soft law” settings that fed the making of the SEZ “bare law.”

In 2000, under the leadership of then Commerce Minister late Murasoli Maran of the BJP-led National Democratic Alliance (NDA), a new SEZ policy was declared. Deeply impressed by a visit to China’s Shenzhen SEZ in early 2000, Maran soon incorporated SEZs in the Export-Import policy announced later that same year, calling for “a significant break with the past” through the introduction of a “simple and transparent policy” without “inspector-raj” and with “100% FDI” (The Hindu 2000).

In 2001, a report of the global management consultancy firm McKinsey & Company (2001) prepared at the initiative of then Prime Minister of the BJP-led NDA, Atal Behari Vajpayee, recommended, “Over the next 5 years India could attract FDI of over US $11 billion in the exports
Chapter Four

sector. Major action required for doing so is the creation of SEZs offering world class infrastructure and other facilities.” A 2003 press release issued by the Commerce Minister cited this report and its call for SEZs (GoI 2003a), as did the 2003 proposal of the Commerce Ministry to enact a new SEZ law (GoI 2003b). The proposal also referenced interactions held with Indian financial institutions, leading to the establishment of a committee under the leadership of the Industrial Development Bank of India. The committee recommended provisions for a legislative framework for SEZs that would promote greater confidence among financial institutions.

In 2004 then, a joint McKinsey—Chamber of Indian Industry (CII) report (2004) recommended that the government needed to remove barriers to export-led growth, two key recommendations asking for simpler administrative procedures and flexibility in employment of contract labor to encourage SEZs. Indeed, a “single-window clearance mechanism” for approvals, and flexibility for state governments to relax labor and environment laws found their way into the legal framework of SEZs. Reports and submissions by global and domestic corporate consultants and interest groups found voice in the SEZ policy and legal framework as it evolved.

Ongoing engagement with “stake-holders” is reflected more recently in conclaves addressing industry concerns over SEZs organized by government and industry bodies. These conclaves like the ASSOCHAM one discussed earlier are organized by important industry lobby groups and Commerce Department affiliated bodies. One conclave I attended was organized by the Chambers of Indian Industry (CII); two by state-led bodies, the Export Promotion Council for EOU’s and SEZs (EPCES), and the Santacruz Electronics Export Processing Zone (SEEPZ) in Mumbai. Along with key developers, most of these conclaves had senior bureaucrats from the Commerce and Finance Ministry (particularly the Revenue Department) in attendance. At least two of them, the one organized by ASSOCHAM and the other by the Export Processing Council, were held in plush
hotels and three accompanied with lavish meals. The three were day-long meetings and one was a half-day consultation.

The first “stake-holder consultation” in post MAT scenario was organized by the Export Processing Council in September 2011 at The Hans Hotel in central Delhi. Here again, officials flagged the issues of the concentration of SEZs near urban areas (see Figure 3 below released at the time by the Commerce Department in a “discussion paper”), while developers complained about MAT. Revenue department officials in attendance felt obliged to explain that there was clear rationale for taxation and that Revenue was not against SEZs per se. Officials requested suggestions for improvements in the investment environment for SEZs, and developers asked for reductions in duties for sale in domestic areas given the slow global demand, and relaxation of norms for servicing domestic customers in SEZs. Other issues discussed at The Hans, such as the relaxation of “minimum land” and “contiguity of land” requirements, the “broad-banding” of sector-specific SEZs to allow additional sectors into an operational SEZs had also come up in the ASSOCHAM convention. By November 2011, based on recommendations from the first consultation and other submissions by developers and industry bodies, the Commerce Department had come up with a draft discussion paper to further facilitate discussions, identify “problem areas” and resolve them through new rules for the law.

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97 I note the settings of these consultations here as they contrast sharply with the settings of the areas where SEZs come up, the “underdeveloped” countryside. These “stake-holder” consultations also contrast with the intense agitations and strain that people opposed to SEZs (and similar projects) undergo to before they can get the representatives of the state to even acknowledge their grievance, often by repression, let alone negotiation.
Chapter Four

The discussion paper identified several issues raised by developers previously, like: a) the minimum area requirements for SEZs; b) contiguity of land parcels; c) “broad-bandaging” of sector specific SEZs to attract investors; d) allowing domestic customers to be serviced in non-processing areas; e) the increasing unattractiveness of SEZ fiscal incentives; and, f) leveraging domestic sale entitlements for manufacturers to attract more investment (GoI 2011e).

It identified four “adverse perceptions” of SEZs “on account of a few black sheep” that were “causing damage to ‘Brand SEZ:’” i) that SEZs are about “garnering control of land;” ii) they were “tax havens leading to loss of government revenue;” iii) that there were coordination issues
between various government departments undermining the Single Window Mechanism of SEZs; and iv) that the fiscal policy environment for SEZs was “unstable.” It acknowledged that as a result of these “perceptions,” there was significant reduction in the number of SEZ proposals; withdrawals of approved proposals and requests for denotification with a reduced interest in setting up new units in SEZs (ibid.).

The Commerce Department then used the discussion paper to facilitate “stake-holder discussions” in 2011-12 in Mumbai (SEEPZ), Bangalore, Kolkata and Kandla. The discussion paper was also posted on the official SEZ website inviting comments from “stake-holders.”

At the SEEPZ meeting in December 2011, a developer proposed the reduction of minimum land requirements to 250 hectares for multi-product SEZs and 40 hectares each for sector-specific and IT SEZs. Representatives of the real estate body CREDAI (Confederation of Real Estate Developers Associations of India) and several other developers raised the issue of “relaxation of norms” for schools, hospitals and residential areas or non-processing areas in SEZs so that people not working in SEZs are also allowed access to these areas. Easier “exit options” for developers wanting to quit, or develop and transfer SEZs were also raised. With marked efficiency, the discussion paper on the official SEZ website reflected these fresh proposals within two weeks of the Mumbai meeting, ready for the subsequent stake-holder consultations.

Many of these recommendations found their way into the changes proposed to the SEZ rules by the Commerce Department. Commerce was clearly attempting to revive the flagging fortunes of the model, although it could not address the core issues of MAT and land acquisition. In August 2013, the Commerce and Industries Ministry finally released new rules, presumably after Ministerial deliberations. The new rules were not as comprehensive as the discussion paper proposals of Commerce. The reduced minimum area requirement was 500 hectares for multi-purpose SEZs and 100 for sector-specific, 10 for food processing and none for IT SEZs (as
Chapter Four

opposed 250, 40 and 40 hectares respectively suggested in the discussion paper). “Broad-banding” of sectoral SEZs was allowed among industries related to each other and “exit norms” for investors wishing to withdraw were made more flexible. Domestic sale concessions, access to domestic area customers and contiguity norms were not allowed. It appears that the writ of the Finance Ministry held on attempts at the “dilution of the original SEZ concept” by the Commerce Ministry.

I met Commerce Secretary Khullar one afternoon in February 2012, in his smart office at Udyog Bhawan (Commerce House) near the Central Secretariat in Delhi. A popular upbeat bollywood number was playing on the large led screen hooked up to the wall by one side: “dooom macha le, dooom macha le, dooom macha le, dooom” (let’s create an uproar, let’s create an uproar, uproar). As I was shown in, he looked up from the files on his table, nodded in terse acknowledgment, lowered the volume and resumed signing the papers in front of him. After a few minutes, he set his files aside and matter of factly proceeded to explain the prevailing SEZ scenario. He explained that there were two to three main issues. The “ politicization” of land acquisition “was not envisaged” at the time of the law’s drafting. There was “ consternation” with MAT among industry circles as benefits had indeed been taken back. He added that there were “ things that can be fixed and we’re doing it.” Issues that could be fixed included procedural simplification, fixing rules of business and allowing the servicing of domestic customers in the SEZ “ non-processing area,” although not for “ multi-story apartments and hotels” but “ super specialty hospitals and schools” on a “ case to case basis” (interview February 29, 2012).

“ Soft law” practices in the form of industry recommendations consistently informed the legal evolution of the SEZ framework and eventually found their way into “ hard law.” The leverage of the soft law settings suffered greatly from 2011 however. As I show below, the Finance Ministry’s compliance was coercively obtained through the highest political intervention of the state, the Prime Minister, in 2005. The subversion of Finance’s opposition to the SEZ model by Commerce was
critical to the evolution of the SEZ legal framework until 2011. The tables were turned by Finance in 2011 with the introduction of the MAT and the proposed DTC. I discuss the standoff over SEZs between the two Ministries in the next section.

Shadowing (Soft) Law

How did the Commerce Ministry establish its writ over the SEZ Law in the initial years? The bureaucratic paper trail gives ample evidence of the turf war that played out between the Ministries of Commerce and Finance over SEZs. But there is more to the SEZ law-making process than meets the eye, even more than the “secret” EGoM and other bureaucratic files reveal. Max Gluckman (1965) in his work on “law as process,” showed how gossip and scandal revealed the role of shame, social pressure and suasion in legal processes. Here I extend this wider interpretation of legal processes. Analyses of the paper trail and bureaucratic and developer grapevines reveal the role of bureaucratic and Ministerial rivalries and possibly high-profile corruption in determining the legal trajectory of SEZs.

A member of the SEZ Board (of Approval) I interviewed revealed that each Board meeting approved over 25-30 proposals in a sitting of 2-3 hours. The decisions seemed already taken and there was little deliberation discussing the merits of the projects being considered for approval. This rendered the approval process a mere formal exercise.

The Finance Ministry has such complaints on record. In a letter to then Director SEZ on August 7, 2006, a day before the Board meeting was to be held, the Revenue Department raised issue that its representatives had not received copies of the proposals made by applicants that were to be discussed in the meeting. Relevant documents concerning several other agenda items were also

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98 When citing sensitive information I have not disclosed the date of interview or other details that may compromise the informant. This informant was not from the Ministry of Finance however, though Finance representatives on the Board additionally noted similar objections.
not furnished. Revenue asked for the deferral of these agenda items until all relevant documents had been made available, with sufficient time for scrutiny. It cited and enclosed an intriguing December 2005 missive by the Finance Minister to the Revenue Secretary. The missive asked the Secretary to ensure that the Revenue representative in the SEZ Board (and other approvals committees of the Commerce and Industries Ministry), “be a high-level representative who can speak his [sic] mind and assert his views” and is “fully prepared with the agenda items.” The letter added, “If the agenda papers have reached him [sic] late, and he has not had time to examine each item, he should insist on postponement of the meeting or at least some items of the agenda on which he has not had adequate notice or time to prepare” (F. No. 178/141/2006-IT.1; RTI document available with author).

The August 7 letter from Revenue also raised issue with the total number of SEZ approvals until then. An initial limit of 150 SEZs had been fixed in a previous EGoM meeting, after which a review of already approved SEZs was to be undertaken. Finance pointed out that the agenda items indicated that the approvals were expected to go well over the limit. The letter recommended waiting for already approved SEZs to become operational before approving any fresh proposals.

The concerns raised in the letter were subsequently noted by the senior bureaucracy. Additional Secretary Revenue followed up with a letter to Special Secretary Commerce the day after the Board meeting. The letter raised concerns that “about 100 cases (6th item of the agenda) were considered by the BOA during the 3rd meeting in a matter of about an hour a [sic] quarter and formal as well as “in-principle” approvals were given. Important factors like the financial health of the Developers and their capacity to carry out capital-intensive projects were not discussed. In some cases Developers with lesser area of land were given approvals ignoring those who had bigger areas.” He further raised the issue of the BoA going over the 150 mandated SEZs. (D.O. No. Member(IT)/SEZ/R-683/06; RTI document available with author). In his reply, the Special
Chapter Four

Secretary Commerce refuted all of the Revenue Secretary’s charges adding that the “internal” limit of 150 approvals was reserved for final and not in-principle approvals.

An Empowered Group of Ministers meeting (EGoM) was convened within the same month to discuss Commerce’s claim of distinction between in-principle and final approvals for SEZs and the “internal guideline” of 150 approvals. A case was made by Commerce that the limit had been an internal one, and referred to final approvals, with no bearing on in-principle approvals. The Finance Minister (FM) again raised concerns of “revenue loss” from the additional SEZs being allowed to escape the tax net, urging that the limit of 150 SEZs be adhered to. The Commerce Minister (C&IM) countered the Finance Minister with figures of potential revenue generated from additional SEZs. Most EGoM members rejected the distinction between in-principle and formal approvals but all save the Finance Minister were in favor of removing the “internal” limit of 150 SEZs. The FM had to give in. A national daily carried a news item the following day citing sources that claimed that the FM “waged a lone battle” against more SEZs (see Badarinath 2006).

At the same EGoM, the FM had also raised issue requesting suitable guidelines for SEZ approvals with clearly recorded reasons for approval, rejection or deferral. The approvals procedure could not be discussed in the EGoM, but was taken up by him through subsequent letters to the Chair of the EGoM (the Defence Minister) and the Commerce and Industries Minister. A series of communications over guidelines for approval followed between the Ministries, primarily between Commerce and Finance. The guidelines for approval were eventually drafted and approved two months later, in October 2006 (this series of events constructed from F.No. F.1/3/2006-EPZ; RTI document available with author). The pitched battle between the FM and the Commerce Minister over SEZs interrogates claims of a coherent ideology or interest within “the state;” in the SEZ contest, “cunning” was maneuvered between the Finance and Commerce Ministers.
a. Ministerial Rivalries and Corruption:
A senior developer I interviewed claimed that the tug of war over SEZs between the Finance and Commerce Ministers was a result of the Finance and Commerce Ministers’ personal stand-off with each other. He claimed that the “rush” for SEZ approvals came with many developers lining up to meet then Commerce Minister with bribe money to get their projects approved. This “income” from SEZ approvals went to ruling party coffers, keeping the party favorably disposed towards the model, and the Minister. This, he argued, did not go down well with then Finance Minister, who felt threatened by the success of the Commerce Minister (interview December 6, 2011). While the veracity of these allegations of corruption and Ministerial rivalry is difficult (if not impossible) to ascertain with evidence, there was clearly a struggle between the Commerce and Finance bureaucracies and Ministers over SEZs, as indeed, the paper trails and interviews with bureaucrats, developers and others established.

b. Bureaucratic Turf Wars:
Ex-bureaucrat G. K. Pillai was Special Secretary Commerce during the initial years of the SEZ law’s enactment (and subsequently served as Commerce Secretary) and widely acknowledged as a sincere promoter of the SEZ model. When I met Pillai, he spoke passionately of the model and shared brochures and other material with me. He openly accused Finance of being against the SEZ model and creating problems for it with a “vicious campaign about SEZs being a big scam.” Finance “insisted” on three representatives in the BoA, he said, and that all decisions in the Board be made by consensus and not majority. Commerce, he added, “compromised” on these demands (interview February 20, 2012). Another ex-bureaucrat of the Commerce Ministry subsequently working in the corporate sector accused Revenue bureaucrats of waging a “turf war” as Commerce was getting all

99 Mr. D. K. Mittal, who was then Secretary Commerce and is now Secretary Finance, was considered the visionary force behind SEZs, but I could not secure an appointment with him despite several attempts.
the “credit” for SEZs (interview September 20, 2011). A senior academic extremely sympathetic to
the SEZ model similarly accused the Finance Ministry of derailing the SEZ model, but put its
perceived need for revenue in perspective, adding that such a large part of the Indian economy is
“informal” that any loss of revenue threatens the Finance Ministry. Given the “drag” on resources
by welfare schemes such as the employment guarantee law, Finance, the academic explained, feels
the need to secure revenue (interview March 1, 2012).

Joint Secretary Finance and the Customs representative from the Revenue Department in
the SEZ Board on the other hand, insisted that the loss of revenue with tax concessions for SEZs,
their potential for real estate speculation and the diversion of existing industry into SEZs to avail
concessions were the prime reasons for raising issue with SEZs (interviews November 24, 2011;
February 14, 2012). Indeed, the paper trail reveals that Finance raised these concerns consistently,
from the time the present SEZ model was conceived, in 2000.

All legal provisions related to taxation and fiscal incentives in India come under the purview
of the Finance Ministry. Journalist Suresh points out that Commerce acquired full powers to frame
the fiscal and economic policy of SEZs without any responsibility to collect revenue, through an
amendment to the Allocation of Business Rules 1961 in November 2002. This was a “unilateral”
decision by Commerce, without consulting the DoR. Revenue discovered this amendment only in
September 2003 when a proposal for the SEZ law was sent to it. A previously sent draft Cabinet
note on the SEZ Bill in February 2003 also did not mention this amendment. Revenue soon raised
issue with this encroachment over its turf (unpublished notes shared September 8, 2011).

Documents reveal that the disagreements that developed between the two Ministries were so
profound that it was only just before the law was to be introduced in the parliament of India in June
2005 that a meeting of a group of Ministers was convened at the initiative of then Prime Minister, in
April 2005, to prevail upon Finance’s misgivings and retain the considerable incentive structure of
Chapter Four

SEZs (F.No. 149/61/2003-TPL; RTI document available with author). This was the same meeting in which the decision on constituting EGoMs was taken. These reservations over tax incentives likely laid the foundation for what would later develop into a full fledged war over SEZs between Finance and Commerce, with the 2011 introduction of the MAT and DTC only a latest twist in it.

To backtrack a little, amid records of Ministerial communications, I chanced upon a January 21, 2005 letter to the Prime Minister’s Office (before the SEZ law was enacted later that year) by Rajendra Singh, Chairman, Sea King Infrastructure Limited, forwarded on his behalf by the Commerce Ministry. The letter indicated the substantial leverage of big capital in the formulation of the SEZ law beyond the more visible soft law settings discussed previously. It also indicated Commerce’s alliance with big capital. The letter described the predicament of the Mumbai Integrated SEZ (as the Mumbai SEZ was initially called). It claimed that Sea King Infrastructure had been working on designing and planning its SEZ from 2000, since the policy was initiated and had already spent over Rs. 3000 million ($75 million at then approximate rate of Rs. 40 = $1) towards it. It added, “We have been following up with the Commerce Ministry for the last three years for this vibrant policy to be converted into reality through the SEZ Act. However the investors and users from all over the world are now feeling very shaky due to the unexpected delay in enacting the SEZ Act. This may not send healthy signals among the investing community within and outside the country. ...Developers, users and investors of SEZ [sic] from all over the world are now getting restive as they have been eagerly waiting to make large investments. We therefore have taken the liberty to request you for your kind intervention so that sound legal framework can be provided through an SEZ Act at the earliest possible” (PMO U.O. No. 130/31/c/4/2005; RTI document available with author).

A subsequent letter by the Prime Minister’s Office dated February 3, 2005 to the Commerce Secretary requested that action towards finalizing the Cabinet Notes for the SEZ Bill be initiated
“very urgently,” so that they can be considered by the Cabinet meeting scheduled for 9th and 16th February 2005. While it cannot be clearly established that the Sea King letter had influenced this letter, it is significant that these letters were included in the same file by the Ministry of Finance (these were files I accessed from the second journalist). The subsequent meeting convened in April by the Prime Minister with several Ministers approved the draft Bill, overriding many of Finance’s concerns. The Bill was finally introduced in the Indian Parliament in June 2005, and enacted in a matter of two days, with little discussion and no dissent.

However, Finance raised cudgels immediately after the enactment of the law, airing concerns now in the EGoMs. Repeatedly through the drafting of the rules for the SEZ law, Finance raised concerns that given the incentives all existing productive export units would relocate to SEZs doing little for fresh investment. No explicit provision was made in the law for preventing this shift until Finance prevailed upon the Ministerial deliberations. Finance additionally raised concerns regarding distortions in land, labor and capital resulting from uneven development of SEZs with a bias towards urban locations and industrialized states. The Ministry unsuccessfully pushed for the cap of 150 SEZs. It raised concerns of land and resource diversions for real estate speculation in SEZs. And it made repeated threats to Commerce that in the interest of a stable fiscal regime, the latter should desist from meddling in fiscal affairs (F.No. 149/61/2003-TPL; RTI document available with author). The threats of Finance were finally made good in 2011 with the introduction of the MAT.

c. Ministerial and Bureaucratic Personalities:
How did Commerce initially secure and subsequently lose its leverage over SEZs towards 2011? The academic mentioned earlier alluded to another facet of law-making, that of bureaucratic “ownership.” Once the initial team of people driving a model or project is gone, through routine transfer, promotion or retirement, a model loses momentum. Thus, the academic explained, in the
initial years there was a lot of passion behind the SEZ model, but once the initial team moved out, the subsequent Minister and bureaucrats were either not strong enough to confront Finance, or did not particularly care about the model, allowing it to falter (interview March 1, 2012). I recalled the Bollywood song playing on television when I had met then Commerce Secretary a few weeks earlier, and wondered.

Ministerial personalities may have also played a role here. At the time of UPA 1 (2004-09), when the SEZ law was being finally drafted, the standoff between Ministers of Commerce and Finance were equal political heavyweights of the Congress party, P. Chidambaram was Finance Minister from 2004-08 and Kamal Nath was Commerce and Industries Minister from 2004-09. In 2009, there was a change of guard with UPA 2 and while the Finance Minister’s portfolio went to another Congress political heavyweight, Pranab Mukherjee (currently the President of India), the Commerce and Industries Ministry went to relatively junior, Anand Sharma. In 2011, it was Pranab Mukherjee who introduced the MAT in his budget speech. From 2007 onwards, as outlined earlier, the SEZ environment also became increasingly vitiated with several controversies over land acquisition raging across the country. Finance had also been pushing for a limit to the number of SEZs from the beginning, and by 2011 there were already 584 approved with 377 notified SEZs in the country. This combination of factors may have pushed back the leverage Commerce had over the SEZ model and allowed Finance to reestablish its turf by 2011.

There is, of course, no proof to substantiate the allegations of corruption and Ministerial and bureaucratic rivalries but the paper trail clearly reveals that the Commerce and Finance Ministries have been at loggerheads over SEZs from their inception. I flag these allegations here as that arena of law-making process that lies beyond both “hard” and “soft” law but “shadows” them, present in “word of mouth,” gossip and rumor, but beyond adequate evidentiary grasp. Analyses of paper trails and interviews, indicate their plausible influence over the SEZ law-making process. If the
vicissitudes of bureaucratic and Ministerial interest indeed determine the fate of critical laws and policies, there is an even greater case for more robust and transparent systems of accountability and transparency in policy-making.

Legacies of a Mixed Economy: Revenue, Welfare and “Inclusive Growth”

The Ministry of Finance has fought a battle over SEZs from the inception of the policy in 2000, the enactment of the law in 2005 and down to current deliberations. The issues it has raised do not only pertain to fiscal incentives that Finance considers its turf, but also to concerns over “land-grabs,” “real estate speculation,” the diversion of industry from the domestic area to SEZs and the predominantly service-oriented investment in SEZs when its stated goal was manufacturing. There is thus an argument to be made for Ministerial and Departmental bureaucratic dispositions and cultures here.

India adopted a “mixed economy” model upon independence that sought to combine a centrally planned economy with capitalist growth (see chapter one). Finance has traditionally been an extremely powerful Ministry with revenue collection, budget and disbursement functions. Poverty has historically been an overarching policy concern (Ray and Katezenstein 2005) and as result welfare measures have been important policy strategies in dealing with poverty. The emphasis on public spending and ongoing welfare measures like the public distribution system (for subsidized food grains); rural and municipal development works; public health centers; public primary and secondary schools; disability and old age pensions; more recently the employment guarantee program; and numerous such old and new state-led welfare initiatives may have historically engendered the Finance Ministry’s dispensation towards revenue collection. It may also explain its deep suspicion of those trying to avoid its jurisdiction, or evade taxes, in this case SEZ developers and investors.
Chapter Four

How then did Commerce go so far out on a limb in the context of SEZs? In the post-liberalization period, the Commerce and Industries Ministry is cast in a role of supporting and facilitating capital expansion and accumulation. As Commerce attempts to aid capital and its demands on “the Indian state” for concessions, Finance is still rooted in a model of revenue collection for the exchequer with an orientation towards “inclusive growth.” The two Ministries are thus cast in contradiction with each other at this conjuncture, despite an overarching commitment to capitalist growth. The “policy instability” that industry decries in the reversal of SEZ concessions, in this sense does not emerge from Finance, but from Commerce’s “break from the past” tax and other concessions granted to capital in the SEZ model.

A Note on “Consultations”

Recall the years and processes of struggle in the Mumbai SEZ area discussed in the previous chapter. The infrastructure of consultations with “stake-holders” is in stark contrast with the stonewalling and often violent repression of the “stake-losers.” Unabashedly skewed in favor of capital, there is no system of hearing or redress for the “stake-losers,” or even a mechanism to record complaints or objections by the “stake-losers” under the SEZ law-making framework. For formal approval of a SEZ from the Board of Approval, all that is required is partial acquisition of land by the developer and an undertaking to acquire more land, with the endorsement of the state government in question. The state government deals with issues over land acquisition, including opposition, since land is a state subject. Despite a three-year maximum stipulated period of approval however, SEZs proposals are regularly renewed on request, keeping people opposing them in constant stress and abeyance. For instance, in the case of the controversial South Korean-owned POSCO SEZ in Odisha, the developer has not managed to fully acquire land for seven years, but approval has been repeatedly renewed (see GoI 2013e; 2009d). Residents of the POSCO area
resisting acquisition have been fighting for as many years against the project. The persistence of the Mumbai SEZ in the approvals list of SEZs as well, underlines the stone-walling of “stake-losers.”

**Infrastructures of Growth**

The evolution of the SEZ legal framework has been a multi-layered process now spanning nearly a decade and a half, starting in 2000. Formal, “soft law” and other law-making processes in the shadows of the corridors of power have shaped SEZs, through their inception as policy, implementation as law and evolution in rules. Opposition in the SEZ sites has also influenced their policy framework.

Through the creation of SEZs, capitalists of largely Indian origin attempted to take control of large parts of the most valuable opportunities the large domestic economy offers the global market: land, resources, and arguably some freeing reserves of cheap labor, or dispossessed peasantry (although I argue that there is indifference towards the dispossessed; see also Levien 2012). SEZ concessions were not just in the form of tax incentives, but also over administrative and other legal measures for creating “quasi-corporate city-states.” Disingenuously invoking exceptional legislation, in their scale and scope SEZs in reality sought to establish a normative paradigm of infrastructural development for economic growth. As the ambitious model unfolded, capital and allied forces in Commerce were forced to beat retreat. The state’s repressive apparatus unsuccessfully attempted to counter resistance on the ground and bureaucratic and ministerial disagreements between Ministries of Commerce and Finance resulted in policy imbroglios. The grand vision of proliferating urban, gated global enclave economies with state of the art infrastructure and 24/7 services is today in a considerable state of impasse.

In the current ruling dispensation of the far-right Hindu nationalist BJP, Commerce may well find its favors restored over Finance. Going by Ministerial hierarchy, the current Finance
Chapter Four

Minister Arun Jaitley overshadows the Commerce and Industries Minister Nirmala Sitaraman quite starkly. In his election campaign, Prime Minister Modi was often heard announcing that he would abolish the income tax when he came to power. As regimes and influences shift, the framework will potentially evolve further. For the moment, interest in SEZs remains low, and the baton has passed on to other “infrastructures of growth.”

What emerges from this critical analysis regarding “the state” is that it is not a coherent “cunning” entity (Randeria 2003), or “vertical and encompassing spatiality of power” (Ferguson and Gupta 2002). It is also not more specifically a “speculative” (Goldman 2011) or a “land-broker” (Levien 2012) state. “The state” is instead rife with contestation and meanings that diverse actors occupying its offices bring to it. It is an arena of competing ideologies and interests.

Postscript

Around the same time as SEZs, the Delhi Mumbai Infrastructure Corridor (DMIC) was initiated in 2006. Overseen by the Industries Department100 of the Commerce and Industries Ministry, the DMIC maps a complex policy terrain recently schematized by the new National Manufacturing Policy (NMP) in 2011. As discussed earlier, the NMP envisages National Investment Manufacturing Zones of 250 square kilometers (about 61,700 acres) each. Under the DMIC, these “mega zones” comprise designated Investment Regions and Industrial Areas with SEZs and industrial townships. The projects within the investment and industrial areas are to be developed through Public Private Partnerships101 along the 1483 km stretch between Delhi and Mumbai cities, spanning six states (see Figure 4 below).

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100 The Department of Commerce (DoC) and the Department of Industrial Policy and Promotion (DIPP) are the two main departments of the MoCI.
101 Recall that forcible acquisition for such partnerships is possible if 70 percent consent of land owners of the area is established.
Unlike the SEZ model, the DMIC does not promise extra tax concessions to developers (except where SEZs are being developed along the DMIC), but land and resource concessions are matters of course. Investors are also guaranteed assured rates of return for the first few years for the sum of investment in the partnerships. Given the scale of operations, it is unsurprising that where operations have begun, in Maharashtra, Gujarat and Haryana states, these Investment Regions are running into growing resistance from peasants and citizens groups over land acquisition. The DMIC is presumably premised on the template of the Bangalore Mysore Infrastructure Corridor discussed in chapter one. It also forms the template for several other infrastructure corridors, such as the Amritsar Kolkata Industrial Corridor, the Chennai Bangalore Industrial Corridor and the larger one linking all the southern corridors, called the Peninsular Region Industrial Development (PRIDe) Corridor.

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102 These rates of return are called Internal Reserve Ratios (IRRs). A senior developer from Unitech I interviewed revealed that given that interest rates in advanced capitalist countries like Japan are so low, assured rates of return on investment to the tune of 4-12 percent in PPPs are incredibly attractive returns for investors (interview February 28, 2012). In a study on the privatization of water supply in Delhi, a colleague and I discovered that the IRR was amounting to 12 percent for the potential private partner to the Delhi Jal (water) Board (see Koonan and Sampat 2012).

103 In the Delhi water supply public private partnerships framework for instance, 12 percent assured rate of return is guaranteed to private investors for the first five years of investment (see Koonan and Sampat 2011).

104 The name PRIDe also invokes the politics of desire and affect for “world class” infrastructures.
In December 2006 the Department of Industrial Policy and Promotion (DIPP) of the Commerce and Industries Ministry signed a memorandum of understanding between Vice Minister, Ministry of Economy, Trade and Industry of the Government of Japan for areas of “mutual cooperation” and setting up a Delhi Mumbai Industrial Corridor (DMIC; see GoI 2007e). During Premier Shinzo Abe’s visit to India in August 2007, a final project concept prepared by the well-known Indian corporate Infrastructure Leasing & Financial Services (hired as consultant by the
Commerce and Industries Ministry) was presented to both Prime Ministers. According to the DMIC website, "[The] Delhi-Mumbai Industrial Corridor is a mega infra-structure project of USD 90 billion with the financial & technical aids from Japan, covering an overall length of 1483 KMs between the political capital and the business capital of India, i.e. Delhi and Mumbai." The website continues, "A band of 150 km (Influence region) has been chosen on both sides of the Freight corridor [...] The vision for DMIC is to create [a] strong economic base in this band with [a] globally competitive environment and state-of-the-art infrastructure to activate local commerce, enhance foreign investments, real-estate investments and attain sustainable development. ...DMIC would also include development of requisite feeder rail/road connectivity to hinterland/markets and select ports along the western coast."

It adds, "Approximately 180 million people, 14 percent of the [Indian] population, will be affected by the corridor's development... This project incorporates Nine Mega Industrial zones of about 200-250 sq. km. [20-25,000 hectares], [one] high speed freight line, three ports, and six air ports; a six-lane intersection-free expressway connecting the country’s political and financial capitals and a 4000 MW power plant. ...Funds for the projects would come from the Indian government, Japanese loans, and investment by Japanese firms and through Japan depository receipts issued by the Indian companies." Further, it explains, "High impact/ market driven nodes - integrated Investment Regions (IRs) and Industrial Areas (IAs) [...] have been identified within the corridor to

106 The Freight Corridor also runs almost parallel to the Delhi—Mumbai leg of the Golden Quadrilateral National Highway. The Golden Quadrilateral was the much touted 6-lane highway instituted by the BJP-led National Democratic Alliance government in 1999-2004 between the four metropolises, Delhi (north), Mumbai (west), Chennai (south) and Kolkata (east).
107 Ex-CEO of DMIC, Amitabh Kant (now Industries Secretary to the GoI in the Commerce and Industries Ministry), in a meeting with top Japanese investors and bureaucrats at the India Japan Global Partnership Summit in 2011 exhorted Japanese investors for greater partnership in India and especially in the DMIC, “...to counterbalance in many ways to the growing influence of the Chinese penetration of markets across Africa and Asia…” (http://www.youtube.com/watch?v=p1wtrQ3n8).
108 IRs are expected to have a minimum area of over 200 square kilometers (20,000 hectares), and IAs over 100 square kilometers (10,000 hectares).
provide transparent and investment friendly facility regimes... 24 such nodes - 9 IRs and 15 IAs spanning across six states have been identified after wide consultations with the stakeholders i.e the State Governments and the concerned Central Ministries. It is proposed that 6 IR and 6 IAs would be taken up for implementation in the First Phase during 2008-2012 and rest of the development would be phased out in the next 4 years.”

The Mandal-Becharji Special Investment Region (SIR) in Gujarat was one of the first “nodes” to begin implementation; and faced immediate resistance from the 44 villages whose 50,884 hectares of land were sought for it (Indian Express 2013; ToI 2013). When agitations intensified, then-Chief Minister of Gujarat (and future Prime Minister) Modi, likely fearing electoral repercussions in a sensitive election year, canceled of notification for 36 villages for the Special Investment Region (Indian Express 2013). The remaining eight villages are still resisting the acquisition of their villages for the Investment Region and opposing the institution of a Maruti Suzuki automobile plant in the region on the pasture lands of the traditional cattle-rearing Maldbari community (Chauhan 2013; Thakkar 2013; JAAG 2014a,b).109 The Maldbaris, along with other landless communities had been given this land in 1954 under land reforms.

In Dholera Special Investment Region with 22 villages (920 sq km) slated for acquisition (also in Gujarat), agitations have been continuing (Indian Express 2014); 100 people were detained and 22 arrested in February 2014 when protesting land acquisition (JAAG 2014b; ToI 2014). Similarly, land acquisition of around 75,000 acres for Dighi port in Maharashtra state’s Raigad district (also the district that evicted the MSEZ) was dropped by the central government in the face of farmers’ protests and the Maharashtra government’s inability to acquire land (Shivadekar 2013).

The ambitious “smart-city” plans of the SIR are worth noting and its promotional video shows a city that looks like a sci-fi set with towers, bridges, a “global business hub,” “multi-model transport

109 Maruti Suzuki is facing immense agitation and has seen frequent strikes and confrontations from contract workers in Manesar and Gurgaon in Haryana state and regularly threatens to shut down and relocate to Gujarat.
systems,” airport, sea ports, “entertainment zones,” “smart homes” and more to the accompaniment of an eerie techno drumbeat. The video ends with the smiling face of Modi and ends with the promise: “The city of Dholera will come up, this is as true a fact that the sun will rise tomorrow...”\(^\text{10}\) (see Figure 5 below; also Datta 2014).

**Figure 5: The Proposed Dholera Smart City**

Source: Datta 2014.

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\(^\text{10}\) The video can be accessed here: https://www.youtube.com/watch?v=jOFpWFLSqqU#t=58
Chapter Five

The Domain of Capital Perilous

Geographies of Indifference (Where
Once We Sowed Paddy
Now Real Estate Grows)
300 million Indians currently live in towns and cities. Within 20-25 years, another 300 million people will get added to Indian towns and cities. This urban expansion will happen at a speed quite unlike anything that India has seen before. It took nearly forty years for India’s urban population to rise by 230 million. It could take only half the time to add the next 250 million (GoI 2013b).

Prologue: On January 4, 2014, “Ruby Residency,” a five-story building under construction in Canacona town of Goa, collapsed with over 50 workers working on different floors. In rescue operations over the next two days 22 injured workers were pulled out alive, but the toll of the dead kept rising. As operations continued, adjacent buildings began developing cracks because of the impact and debris clearance. On the third day, operations suddenly stopped—an adjacent building had started collapsing. Some of the remaining trapped workers were local Goans111, and the suspension of rescue sparked immediate protests. Operations resumed, and two villas on the block had to be demolished to access the area. When operations finally ended 10 days later, the count stopped at 32 dead workers and 22 injured but alive. Three directors of the realty firm from Mumbai, Bharat Realtors and Developers, were absconding, as was the Municipal Engineer responsible for issuing a clearance certificate to the building. The Deputy Collector of South Goa district112 was arrested for signing the Occupancy Certificate for the building (a week before it collapsed) and the Deputy Town Planner for not following due procedure before issuing its license.

The Chief Minister of the state, Manohar Parrikar of the Hindu-right Bhartiya Janata Party (BJP) arrived on the scene the day the building collapsed and issued “new” construction norms in two days: soil testing for buildings constructed on soft land; quality inspections for ready-mix concrete factories113; and greater checks on private

111 Given high human development indicators, construction and other low-wage earning workers in Goa are generally migrant workers from rural Bihar, Jharkhand and Karnataka.
112 Canacona is a taluka or administrative block in South Goa district. A Collector is the administrative head of a district.
113 These sell cement-sand ready mixes that can be used for construction without the otherwise more cumbersome process of mixing and soaking the materials.
contractors. On January 12, BJP’s controversial Prime Ministerial candidate Narendra Modi\textsuperscript{114} arrived in Goa for a rally in the lead up to the 2014 general elections. His party announced that the proceeds from his ticketed election rally would be given to the families of the victims of the Canacona building collapse.\textsuperscript{115}

The Canacona building collapse in Goa adumbrates some of the complex dynamics of the growing “real estate economy” (REE) in India. As inequality, corruption, dispossession and electoral opportunity-mongering dog “business as usual,” the REE creates a “perilous geography of indifference.” Its indifference is perilous not just for workers, peasants, other residents and the environment from where it extracts and where it grows, but for accumulation itself. Threats of “collapse” and resistance “interrupt” (cf. Gidwani 2008) its unfolding landscape.

By the real estate economy or REE, I refer to the massive urbanization-real estate assemblage (cf Mcfarlane 2011)\textsuperscript{116} exerting an organizing pull on several resources and sectors in the Indian economy. I stumbled upon the significance of the REE while studying the successful resistance to SEZs in Goa. Discussing SEZs meaningfully required an examination of the real estate economy’s remarkable growth over the last decade in the country, and the state. With Goa’s popularity as a tourist destination, SEZs in the state were deeply implicated in “land-grabs” for real estate. This was the case in other SEZ areas as well, especially those on the outskirts of large metropolitan cities like the Mumbai SEZ. As I became more mindful of real estate-related

\textsuperscript{114} Modi was then Chief Minister of Gujarat for 14 years and is widely held responsible by domestic and international human rights organizations for allowing the pogrom that killed over 2000 Muslims in Gujarat state in 2002. The US administration has consistently denied him a visa as a result of human rights advocacy although there have been some recent signs of a thaw.

\textsuperscript{115} This type of political gimmickery is not exclusive to the BJP, of course, or to Modi, but its nefariousness is linked with the indifference to dispossession in Modi’s promise of “100 smart-cities.”

\textsuperscript{116} Mcfarlane (2011) brings the theory of assemblage into dialogue with a conception of dwelling in making a wider ontological argument about the city as assemblage; creating processual, relational, mobile and unequal assemblages. He argues that if housing is a doing, that it is dwelt or inhabited as much as built, this dwelling is a form of assembly through practices of gathering, composition, alignment and reuse. Assemblage then usefully grasps the spatially processual, relational and generative nature of the city where generative refers to historical processes and political economies and to the eventful, disruptive, atmospheric and random juxtapositions that characterize urban space.
developments, I realized that at stake were not just SEZs or other “infrastructure” and real estate projects, but a refashioning of “the Indian” economy and society “from above,” through large-scale urbanization integrated with circuits of capital. In terms of scale, it is useful to recall here that 70 percent of India’s billion plus population is rural and 60 percent dependent on agriculture and allied activities. The quote from a Planning Commission of India document above suggesting the movement of 300 million people to cities should be seen in this light. This chapter takes me furthest from SEZs, but also drives home the significance of some of the larger forces driving SEZs.

What is the REE and how is it consolidating in India? What are the implications of the growth of the REE for changing relations to land and resources, and to development? How is its development in Goa particular to the state, and how does it resonate with the broader shifts in the Indian economy? How is resistance to the REE shaping an impasse over land rights and relations to and around land and resources?

In this chapter I discuss the growing REE in India, with a particular focus on developments in Goa. The first section of the chapter is set up as an “assemblage” and pieces together the REE. I discuss policy measures around the REE that are leading to its consolidation; the developers, financiers and other interests driving it; and the growing income inequality and endemic corruption fueling the REE. I then focus on the REE in Goa; the influence of the state’s tourism industry on real estate; and the politics around the Regional Plan (RP) that sought to convert many green and eco-sensitive areas (protected areas) in villages to “settlement” areas (where construction was permitted) and caused a ferment of resistance. The final section discusses the implications of the REE for relationships with land and resources and conceptions of “development.”

Available official data, private developers’ reports and information from interviews with developers, officials, journalists and activists in Delhi, Mumbai and Goa are the sources for the analyses that follow. Land and real estate transactions in India are highly obscure and rigorous
research on them is nascent or fragmented.\textsuperscript{117} Media reportage and available analysis points to inadequate regulation with frequent “underhand” deals and corrupt nexus of politicians, bureaucrats and developers. Official data regarding the volume of transactions, growth in built units or accurate sale prices is disparate and unclear. Short of going through unsorted individual land transaction and sale deed records village by village maintained in block offices in hand-written files, even a near accurate picture of land-use change and square feet of commercial and residential property built is tough to create. Developers too are loath to part with information for fear of competition. Confounding analyses further is the fact that sale deeds of transactions often do not reflect the real price of land or property; these are often suppressed in official records by transacting parties to avoid stamp duties. While I was successful in obtaining some relevant and indicative materials, the sheer scale of the task makes an accurate analysis and representation of data beyond the scope of this work.

\textbf{What is the Real Estate Economy?}

\textbf{Framing the REE}

My reference to the \textit{real estate economy} is not to imply that it is organizing the entire Indian economy in a Lefebvrian “urban revolution” (2003), but to suggest that it is forming major axes of accumulation, and resistance.\textsuperscript{118} Policy, land and property markets, developers, realtors, financiers, labor, resources like iron ore, sand, stone and water, and resisting peasants’ and citizens’ groups; are equally drawn into creating its dynamic in India. The policy impetus for urbanization encompasses outskirts of existing and new cities and townships envisaged as “infrastructures of growth.” It also

\textsuperscript{117} See Chakravorty (2013) for a recent pro-market analysis of land and property markets in India; Levien (2012) for a study of agrarian change in the wake of the Mahindra World City near Jaipur city in Rajasthan state; Weinstein (2008) for the role of the underworld mafias in Mumbai’s real estate market.

\textsuperscript{118} While Finance and Insurance have accompanied the rise of Real Estate in the US since the 1980s, in India, they form less significant sectors.
encompasses commercial growth infrastructures such as SEZs and industrial corridors. The diversification of several large business houses into housing, infrastructure and retail construction indicates its scale and “fix” for the “absorption of surplus value” through urban investments (cf. Harvey 2001; 2012). While the REE remains regulated, global finance is unable to directly invest in housing, commercial and retail real estate per se, but is fueling the REE through “urbanization and infrastructure” projects like “smart cities” and “industrial corridors” that envisage “integrated townships.” Smaller-scale, regional, state and district level developers are abundant in India, and fly-by-night operators join their ranks. Its growing share in employment underscores its significance. The REE is playing a critical role in refashioning relationships with land and resources.

The REE draws upon ideologies and aesthetics of “waste” and “value” as well as “backwardness” and “modernity” to “develop” land for accumulation. In the policy primacy for urbanization, eminent domain is often used to forcibly acquire land for “development.” Growing “differential rent” from “conversion” of agricultural land to real estate is also reconfiguring the political economy of land in urban peripheries. Thus, with appreciation of land prices as “infrastructure and development projects” are announced, some farmers “give up” land without resistance for immediate returns, as agriculture is less profitable or valuable.119 Investors and builders from the REE may or may not have direct stakes in potential “productive linkages” emerging from real estate creation and the few numbers of operational SEZs discussed in the previous chapter are instructive, but policy emphases on “industrialization and infrastructure creation” complement the REE logics of accumulation.

The “creative destruction” the REE unleashes is often officially unacknowledged or obscured, and ranges from direct and induced dispossession of people, lands, resources and livelihoods (see also Harvey 2009; Smith 2002); to the debris and contamination around stone and

119 In discussions of primitive accumulation or accumulation by dispossession using “extra-economic” force, such voluntary “conversions” of land that nevertheless impoverish peasants in the longer run are left out (see Hall 2013).
sand quarries; the “accidentally” injured and dead bodies of workers; or the “illicit” finance circuits that range from illegal mining profits in the case of Goa to “underworld” financing in the case of Mumbai (Weinstein 2008). The corruption endemic in the REE (exemplified in the Canacona building collapse) often belies collective developmental goals, and discloses a “free-for-all” grab of land and resources by political and economic elite. The REE thus produces “perilous geographies of indifference,” as its promoters attempt to focus on value creation and ignore, obscure or erase—illegalities, accidents, dispossession and ecological destruction. This indifference is perilous to their goals, as at times the social forces that are expected to absorb these impoverishing processes join in alliances of successful resistance and takeover. The Goan agitations against RP 2011 and SEZs are emblematic of such alliances, perilous to the consolidation of the REE, and generative of conditions of impasse. I turn below to a discussion of these various elements forming the REE.

Scale

A recent report by Cushman & Wakefield ranks India 20th among the current top 20 real estate investment markets globally, with an investment of $3.4 billion in 2012 (ET 2013d). A study by Global Construction Perspectives and Oxford Economics further predicts that India will become the world’s third largest construction market by 2025, adding 11.5 million homes a year to become a $1 trillion a year market (Sen 2013). In 2011-12 the shares of real estate and construction together accounted for 19 percent of the Indian economy, growing from 14.7 percent in 2000-01 (GoI 2013f; see Table 2 below). More remarkably, in 2009-10, the construction sector formed the second largest employer of workers in India, employing 11 percent of the workforce after agriculture, which employed 36 percent (Soundararajan 2013).

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120 Conditions of impasse and their possibilities are discussed more fully in subsequent chapters.
Table 2: Share and Growth of Real Estate and Construction Sectors

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<td>Real estate, ownership of dwellings &amp; business services</td>
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<td>Construction</td>
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Source: Adapted from Central Statistics Office in GoI 2013; Shares are in current prices and growth in constant prices; Figures in brackets indicate growth rate.

Several builders I interviewed in the course of my research point out that Real Estate has around 250-270 “backward and forward linkages” with other sectors of the economy. While enumeration and discussion of all of these is beyond the scope of this study, some obvious backward linkages are mining (iron ore, stone and sand quarries), brick-making, cement and steel manufacture, transport and contract labor. Forward linkages include services like architectural design, engineering, plumbing, electricity provision, water supply, furnishings, fittings, carpentry, tiling and interior designing. Developers frequently describe Real Estate as a “major catalyst” in the economy; one developer called it the “mother of the development of a particular locality;” and several point to its “cascading” or “multiplier effects.”

India’s real estate as a sector began to consolidate in the mid-2000s. In housing, large-scale projects for various income categories (low, middle and high) were previously undertaken by the state. Developers I interviewed frequently pointed out that the state could not keep up with “growing demand” towards the turn of the century and private players were allowed entry into the housing sector. The REE today includes a plethora of private builders that range from local, small-scale builders in small towns or what are called “rurban” areas\(^{121}\) like Goa, to those with regional and national projects. Regional and national developers also cater to a variety of commercial and retail real estate and infrastructure related construction, the latter often through group or subsidiary companies. DLF, one of the most prominent national realty firms in India has a diverse portfolio of

\(^{121}\) Villages in Goa are typically described as “rurban” because of the urbanized infrastructure and amenities available to residents, especially in comparison with rural areas in other states.
residential and commercial operations. Its Red Herring Prospectus\textsuperscript{122} describes the diversity of its projects and gives a sense of the expanding REE:

Our operations span \textit{all aspects of real estate development}, from the identification and acquisition of land, the planning, execution and marketing of our projects, through to the maintenance and management of our completed developments. In our \textit{residential} business line, we build and sell a wide range of properties including plots, houses, duplexes and apartments of varying sizes, with a focus on the \textit{higher end of the market}. In our \textit{commercial} business line, we build and sell or lease commercial office space, with a focus on properties attractive to \textit{large multinational tenants}. Our \textit{retail} business line develops, manages and mainly leases \textit{shopping malls}, which in many cases include \textit{multiplex cinemas}. We are also expanding our business by entering into the \textit{infrastructure, SEZ and botel businesses} (emphases added;\textsuperscript{123} DLF Limited 2007: 1).

The Indian REE is largely dependent on the Indian upper class elite and is forging transnational connections as the country gradually liberalizes its real estate regulations. The DLF report continues:

With the growth of the Indian economy and the resulting increase in corporate and consumer income, as well as foreign investment, we see significant opportunities for growth in our three primary businesses. …In order to ensure the high quality of our projects, we have entered into joint ventures with WSP [UK-origin transnational William Sale Partnership] to provide us with engineering and design services and Laing O. Rourke [UK-origin transnational] to provide construction expertise… (ibid.).

Unitech is another well-known national realty firm and boasts 100 residential, commercial, retail and hospitality projects across the country. I met a senior representative of the company in

\textsuperscript{122} Red Herring reports are submitted to Securities and Exchange Board of India prior to a public issue and detail all business undertakings and assets of a company.

\textsuperscript{123} The emphases indicate the creation of residential, commercial and retail real estate for wealthy elite and hence the implication of the REE in circuits of wealth.
Chapter Five

Gurgaon, a south western suburb of the NCR that falls in Haryana state. Gurgaon was initially a predominantly agrarian rural area. It has now emerged as a major commercial and residential hub, with several malls, office and residential complexes, well-connected by the recently installed Delhi Metro. Unitech has developed several high-rise buildings and residential complexes including villas, in Gurgaon. En route to Unitech’s office buildings in the Delhi Metro, from a portion of the metro that is elevated, Unitech’s distinct red logo can be clearly seen about a mile from the train. The representative I met explained to me that the overall economic growth in the country in the past two decades complemented strong growth in the real estate sector. He said prominent realty firms now go for campus placement to premier management and engineering institutes, which was not the case even a decade ago. He added that realty firms are also one of the largest sources of advertising revenue for the media, and almost every newspaper now has a property supplement (interview February 28, 2012).

Similarly, Director General of the National Real Estate Development Council (NAREDCO) (Retd.) Brigadier Singh, pointed out in another interview that the growth of the real estate market has meant that not just construction industry but many big domestic industrial houses like “the Tatas and Birlas have now jumped into it [Real Estate],” opening a real estate arm with mass housing construction to “cash in on the profitability of the sector.” Thus, the Tata Housing Development Company, Tata Realty and Infrastructure, Infiniti Retail, Trent and the Indian Hotels Company are some examples of Tata Sons’ wholly or partly owned residential, commercial and retail real estate, and infrastructure companies (see Tata Steel 2010).

124 The Delhi Metro began operations in 2005 and is financed in large part by the Japan International Cooperation Agency (JICA) that now has major infrastructure investments in the form of PPPs across India. These range from urban transport, water supply and management, large dam and “smart city” (compact, vertical and technologically superior cities) projects.

125 Tata and Birla groups of companies are two of the oldest and biggest Indian business houses comprising several concerns over many sectors.
But these are the large-scale developers. A number of small-scale local real estate developers are part of the REE as well. Many of them are organized in the state chapters of the CREDAI (Confederation of Real Estate Developers’ Associations of India). In Goa alone, according to the list provided to me by Commonwealth Realtors in 2012, there were 62 Goan builders who were members of CREDAI Goa. CREDAI Goa President, Nilesh Salcar revealed that several builders preferred not to become members of the CREDAI because it entailed sharing information with competitors (interview April 30, 2012). Fly-by-night operators such as Bharat Realtors and Developers, responsible for the Canacona building, are particularly notorious in the smaller-scale real estate market. Larger and more organized developers, such as members of the CREDAI, expressed hope that with greater consolidation, such operators who bring a “bad name” to the business would eventually get weeded out (interviews with Unitech representative February 28, 2012; Advalpalkar builders January 9, 2014). The REE at this conjuncture encompasses multiple actors at the national, regional, state and even district levels, making for a wide net of operations and linkages.

Policy

As discussed in previous chapters, several recent policy and market mechanisms promote urbanization. The 2013 land acquisition law sanctions forcible land acquisition for industrialization, infrastructure development and urbanization. The National Manufacturing Policy envisages “integrated industrial townships.” Industrial corridor projects between several cities such as Delhi-Mumbai or Kolkata-Amritsar envisage “integrated industrial townships” and “smart-cities.” Land is being acquired for investment zones in several states along proposed corridors. The Bangalore-Mysore Infrastructure Corridor alone is likely to displace 200,000 people living in rural areas
Chapter Five

between the two cities (Goldman 2011). Special Economic Zones Act similarly reserve 50 percent land for townships and related “social and recreational infrastructures.”

Growing agrarian distress caused by Market Led Agrarian Reforms (cf. Borras and Franco 2010) environmental stresses and consequent indebtedness of farmers (see Vakulabharanam and Motiram 2011) is adding to the pull away from agriculture.

Apart from recent policy mechanisms, other policy developments related to liberalization are influencing the push towards real estate. Noida,\(^{126}\) a growing real estate hub in the south eastern National Capital Region (NCR) flanking Delhi is divided into several sectors teeming with multi-story buildings (the construction of multi-story buildings is restricted in many parts of the capital itself for security reasons but allowed in its suburbs). The Delhi Metro operations are still expanding into the suburb, and some sectors are harder to reach through public transport. In some areas, the entire landscape is filled with concrete, eight-to-ten-story buildings one after another, with paved sidewalks and scarcely a tree for relief. I met Noida-based ASSOTECH builders Director Mahendra Goel in his eighth floor suite in one such building in Noida. Mr. Goel pointed out that from 2000, the Indian share market expanded from an index of 8-9000 to 14-17000. The growth in speculative money gains, greater money supply, housing needs, people seeking to park and diversify investment, all together worked in favor of growing real estate investments (interview March 29, 2012).

Similarly, a representative of a prominent Goan real estate builder, Devashri Builders (a subsidiary of prominent Goan mining group Dempo\(^{127}\) pointed out that the reduction of savings account rates by banks in the early 2000s made gold and real estate attractive investments for middle-class Indians, the latter being particularly attractive given appreciation rates over time. He said that while gold prices have risen at 10-12 percent per year, he added, property prices have risen

\(^{126}\) Noida is a suburb of Delhi and falls within the National Capital Region, but is in Uttar Pradesh state.

\(^{127}\) Dempo Group is owned by a prominent mining family from the state that enjoyed historic mining concessions from the Portuguese.
15 percent year-on-year, making it a lucrative investment for the middle and upper classes and fueling the growth of the real estate economy. Investment in shares and stocks require “a thinking cap” and bank savings rates don’t keep up with inflation, hence, investment in property offers a sure return (interview with Devashri Builders, April 25, 2012). Thus, the impetus for real estate investment has come from expanding money supply among the middle and upper classes in India.

Unsurprisingly then, there is a mismatch between existing housing needs and affordability. Figures from the National Housing Board indicate that 39,621,322\(^\text{128}\) households officially needed housing based on the 2001 census, which already seems on the conservative side. NAREDCO’s Brig. Singh pointed out that urbanization and industrialization has seen growing migration to the cities and increase of “non-formal workers.” This has resulted in the development of slums as there is no affordable housing for the poor. Housing is available mostly for the well-off middle and upper classes. With the realization of this “mismatch” and “lacunae,” new integrated townships are required to reserve low-income housing to promote “inclusive integrated growth for townships” and financial incentives (see section below) are being given for housing “economically weaker sections” and “lower income group” people (interview March 27, 2012). Goa’s Milroc Development representative pointed out on the other hand, that while higher interest subsidies exist for low income groups, “very few builders cater to that group… land and costs are so high that we… cater to… only middle class” (interview April 25, 2012). This is a particularly entrenched phenomenon in the growing real estate economy that caters to the middle and upper classes with the resources to invest for housing, or as remunerative property. I turn below to a discussion of land prices and income inequality that are creating this skew in real estate construction.

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\(^{128}\) Figure arrived at by adding state-wide NHB figures.
Chapter Five

Rent

In his analysis of Indian land markets, Chakravorty (2013) argues that land prices in India have risen phenomenally and growing real estate prices reflect the rise in the price of land, given construction costs have risen stably along the consumer price index. He points out that current urban land prices range from $833 to $33 million per acre\(^2\) and the price of urban land has increased five-fold in 2001-11.\(^3\) He further argues that agricultural land prices in some rural areas may have increased by a factor of five to 10 over the past decade and that agricultural land price is higher in the urban periphery than in interior districts. Prices vary, he suggests, along productivity and income from land; how active local land markets are; and the scarcity of land supply and fragmentation (ibid.). He argues that the rising price of land is caused by expansion of money supply in the post liberalization period: expansion of credit markets; income growth for some sections who in turn invest in land and property as status markers; rise in “black” money; foreign investment from Non-Resident Indians; and the scarcity of land with respect to location and intense fragmentation (ibid.).

With an international comparison of real estate price to income ratio he argues that while in the world’s most expensive land markets (Hong Kong, London, Paris and Tokyo) 62 to 69 years of the national average income is needed to buy housing in the highest end of the property market, in New York and Singapore this is 47 years, and in Mumbai and Delhi the ratio is a whopping 580 and 180 years of national per capita income respectively. This underscores the post liberalization inequalities in wealth and income distribution in India (pp. 147-8). While his study reveals the extent and role of income inequalities in activating land markets and in the current money supply, he does not make enough of the insight that rising income inequalities are the drivers of land and real estate markets in India.

\(^2\) The current dollar-rupee rate is at Rs. 60 = $1.
\(^3\) Devashri Builders representative argued that the price of land has gone up 900 percent in the past decade, fueling the cost of RE. This he claimed can be addressed by releasing more land so that prices come down or fueling growth so incomes increase (interview March 25, 2012).
Chapter Five

To illustrate, in his study of agrarian change around the Mahindra World City (MWC) on the outskirts of Jaipur city, Leven (2012) found that the MWC paid $22,679 per acre for 3000 acres for land acquired by the state agency. While their development costs amounted to $66,000 per acre, they were selling industrial land at $224,000 per acre and residential land at an estimated $554,420 per acre; making whopping profits of $135,000 per acre of industrial land and over $465,000 per acre for residential land. The fact that there are buyers at these prices indicates large disposable incomes or wealth, or access to credit, seeking profitable investment and driving land and property prices phenomenally upward.

A representative of Gera Builders, a Pune-based realty firm with operations in Goa (and now expanding into Bangalore) revealed in an interview that in 2010, if the local price of property was $300 per square meter and $30 per square foot, non-Goan property buyers were ready to pay up to $300 per square foot (interview January 1, 2014). Other Goan developers added that the entry of national-level builders in the Goan market in 2004 fueled price rises in local markets so that land (and property) became unaffordable for local residents. Income and wealth inequality, in other words, is not just a factor fueling land prices but the driver of real estate investments. Growing disposable incomes of some sections of the country’s population thus fuel unequal and often illegal land and property markets and provide the impetus for the growing real estate economy in India.

It is worth noting that Goan builders I interviewed repeatedly claimed that their clientele is 60-70 percent Goan, given local population growth and intra-state migration for livelihoods, and that in the case of non-Goan builders the figures may be reversed. This assertion is hard to verify and may also be presented in view of the controversy generated over real estate-related land conversions for “outsiders” in the wake of the Regional Plan agitations against land conversions for real estate in the state.131 The question of local affordability of housing in light of rising prices and

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131 For a discussion of the politics around “Goan identity” see the next chapter; also Sampat 2013a.
the discrepancy between what local and metropolitan buyers are willing and able to pay for property has been a critical issue in Goa. There are thus two levels of housing needs; one is more organic and related to population growth; and the other is related to investment in property with the latter frequently trumping the former in developers’ desire for higher rents.

**Finance**

Financing for real estate is a mixed bag. The Unitech representative I met explained that the Reserve Bank of India typically views real estate with skepticism and fears the creation of “real estate bubbles.” Consequently bank financing for the construction of real estate projects is non-existent. For large developers, financing from foreign private equity has increased in the last decade, after the liberalization of Foreign Direct Investment (FDI). But there are considerable restrictions for foreign investment in real estate projects. Insurance and pension funds, for instance, are not available for realty, although this is the case, he argued, “globally.” Arguing for deregulation to allow pension and insurance funds, he also cautioned against the introduction of “derivative products” to avoid volatile speculative investment. He called real estate a “major growth driver” because of its “linkages,” and advocated that it be “viewed from this lens” (of a growth driver) and not just as “a risk” for banks. Prior to the FDI liberalization, he explained, funding for housing projects was largely from state agencies which could no longer “keep up with the demand” (interview February 28, 2012). Unitech, he explained, also has its own fixed deposit scheme (see Table 3 below) with investment options ranging from six months to three years and interest rates from 11.5 to 12.5 percent at Rs. 25,000 (approximately $420) minimum investment. This is significant within India, as the highest bank deposit rates in the country range from 6 to 9.5 percent.

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132 Recall that DLF mentioned its partnerships with transnational realty firms in the excerpt from its *Red Herring* quoted above.
FDI and bank finance for individual real estate projects is limited but foreign investment and other debt-finance options for “smart-cities” or SEZs are ongoing, as these are designated “infrastructure projects” (and not real estate). With the growing demand for real estate and greater consolidation of real estate developers, it is likely that more avenues for foreign and bank investment will open up.133

Table 3: Unitech Fixed Deposit Scheme

| About FD Scheme - Types of Scheme |
|------------------|------------------|------------------|
| Scheme (A) - Non Cumulative* |
| **Period**               | **Minimum Amount (Rs.)** | **Rate of Interest (%p.a.)** |
| 1 Year                   | 25,000/-            | 11.50%            |
| 2 Years                  | 25,000/-            | 12.00%            |
| 3 Years                  | 25,000/-            | 12.50%            |
| *Interest would be paid on a quarterly basis |
| *Additional amounts in multiples of Rs. 1,000/- |

| Scheme (B) - Cumulative** |
|------------------|------------------|------------------|
| **Period**               | **Minimum Amount (Rs.)** | **Rate of Interest (%p.a.)** | **Payable on Maturity (Rs.)** | **Yield (%p.a.)** |
| 6 Months                | 25,000/-            | 11.50%            | 26,438/-                 | 11.50%            |
| 1 Year                  | 25,000/-            | 11.50%            | 28,031/-                 | 12.13%            |
| 2 Years                 | 25,000/-            | 12.00%            | 31,743/-                 | 13.49%            |
| 3 Years                 | 25,000/-            | 12.50%            | 36,304/-                 | 15.07%            |
| **Interest compounded monthly on deposits of one year or more and payable on maturity** |
| **Additional amounts in multiples of Rs. 1,000/-** |

Source: http://www.unitechgroup.com/unitechfd/158

Delhi-based Raheja Builders representative in another interview echoed the Unitech representative’s views that with the liberalization of FDI into real estate, it consolidated as a sector, becoming more organized, now contributing 6-7 percent to the country’s GDP (interview March 5, 2012). NAREDCO’s Brig. Singh further explained that there is greater liberalization of “external commercial borrowings” for the sector. Drastic changes in financing patterns since 1999-2000, he pointed out, have meant lots of incentives to developers and “incentivization of loans for buyers” so that now every bank has housing loan schemes that are cheaper than those for industry (interview March 27, 2012).

133 In her study of interactions between foreign financiers (excluding pension and insurance funds) and Indian developers struggling to form partnerships to create an “internationally familiar” real estate market in India, Searle (2014) finds that conflicts over issues like land valuation, power, prestige and business practice also form critical stumbling blocks for international financing in infrastructure projects.
Developers typically announce a project, raise money from customers and use it to finance construction and buy other properties. This often leaves consumers at risk since schedules are rarely followed, and costs of construction rise over time (interview with Advalpalkar builders January 9, 2014). A proposed real estate law seeks to appoint a regulator for projects to protect consumer rights. Nevertheless, growing disposable incomes in the post-liberalization period are a key driver of real estate growth. According to Raheja Builders representative for instance, a person earning $750 salary annually in 2001 is now typically earning $2,500 and the growth in disposable income is sought to be invested in property.

Apart from these “official” sources, a lot of funding for realty projects is from “unofficial” domestic channels. Weinstein (2008) points out that the flow of “underworld” mafia funds in the Mumbai real estate economy for instance peaked in the 1990s and maintains an entrenched presence. “Crony capitalism” with patron linkages between state and corporate representatives additionally ensures prominent deals for certain developers. Representatives of the CREDAI argue for greater transparency in approvals processes to mitigate crony capitalism, although developers confess that this is not likely to go away overnight. Interestingly, a senior journalist with a prominent English-language national financial daily alleged that the reason for Mumbai SEZ’s (MSEZ) failure in Raigad was because of a high-level Maharashtra state politician’s significant stakes in the extremely high-end south Mumbai real estate market. The development of the MSEZ, along with the new Shewdi bridge connecting Raigad to south Mumbai over sea would have significantly depreciated south Mumbai prices.

In Goa, on the other hand, financing comes from other sources as well. Mining of lower grade iron ore saw a boom in the 2000s in the state, with growing demand from China. As a result,

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134 I have calculated these approximate figures at Rs. 40 = $1 for 2001 and Rs. 50 = $1 for 2012.

135 MSEZ was promoted by Reliance Industries Limited, a prominent business house and whose owner Mukesh Ambani is reportedly the wealthiest man in India and lives with his immediate family in a 47-story apartment building in south Mumbai.
there was rampant illegal mining and miners, transporters and other ancillary concerns became flush with money.\textsuperscript{136} Given the rise in profitability from real estate, this money has found its way into the state’s real estate economy. Goan builders confirmed this linkage in several interviews and even point to a recent slump in investment as a result of the current ban on mining in the state (as noted earlier, Devashri Builders in Goa is a subsidiary of the Goan mining corporate Dempo).

For “economically weaker sections” again, NAREDCO’s Brig. Singh explained that micro-finance institutions are being encouraged to provide housing credit at affordable rates of interest, along with government sponsored mortgage guarantee and interest subsidy schemes for limits of $10,000.\textsuperscript{137} In the year 2012, for example, loans up to $30,000 were being given for $50,000 houses with five percent interest subsidy. Incentives to developers include no service tax for floor area of 60 meters and below. He argued however, for the need to first create jobs through industrial development and necessary infrastructure and “planned scientific development” like the DMIC, given cities’ contribution to GDP is far more than rural areas, from 40-60 percent (interview March 27, 2012).

The radical transformation of urban and rural landscape in India is currently underway through domestic capital and funding sources. Illicit channels, customer advances and housing finance form a bulk of the funding for real estate projects, except when they are large-scale city-making projects. I turn below to the issue of land conversions, appropriation of water resources and corruption endemic to the REE.

\textsuperscript{136} Extensive lateritization with rich iron oxides that give Goan soil its deep red color have turned the state’s mountainous region into a controversial mining belt. Rampant illegal and ecologically destructive mining has destroyed many water sources and adversely impacted agriculture. Diligent litigation by environmental activists, reports of judicial commissions and inquiries however, have resulted in suspending all mining operations in Goa since 2012 until all operations are comprehensively investigated. Recent reports suggest that partial mining activities are likely to be resumed by January 2015.

\textsuperscript{137} At then prevailing rate of approximately $1 = Rs. 50.
Chapter Five

**Resources**

Again, “developing” land through real estate is increasingly lucrative for political and economic elites, while the cost of housing and land is spiraling beyond local affordability as residents whose lands are coveted get priced out of their homes and often livelihoods. Real estate-related land acquisition and transfers of agricultural and common land are also giving rise to what has been called a “land-broker state” (Levien 2012) or “speculative government” (Goldman 2011). Interests within or allied with state representatives purchase land from farmers or the state forcibly acquires them using eminent domain at cheap rates. These lands are then sold or leased to developers at higher rates, with the middle persons, or the state, making profit. The transformation of rural economies into urban real estate has thus become highly remunerative for rent-seeking state actors and developers, even where such projects are not explicitly promoting “world-cities” or involving foreign finance capital (cf. Goldman 2011).

The threat of diversion of resources and public investments to private entities was explicit in the Mumbai SEZ area (see chapter three). The increasing conversion of land for settlement facilitating real estate growth is exerting pressure on local water sources in Goa as well, as ground water gets pumped and used for construction and sometimes, water bodies are included within the enclosures of such projects. An ice-cream shop owner and activist from popular tourist village Colva in South Goa, Judith Almeida, notes that ponds have been taken over by builders through illegal conversion to construct swimming pools for residential projects (interview April 30, 2012). In 2004, about 30,000 square meters of a creek were given to a hotelier for a multi-purpose playground, facilitated by a prominent local politician. Almeida and others challenged the conversion and allotment of the creek in court and eventually the project was scrapped. Judith Rebello from Verna recounts that a neighbor who runs a special needs school for children had created a garden for them for which she used water from her well. As she noticed the water table drop drastically one month,
she decided to clean the well with alum and potassium permanganate, which when thrown into a well dissolves organic debris and restores the water level. The following day, the water level was not restored, but construction workers at a nearby housing construction project were heard yelling that the color of the water they were pumping for construction was red, which is when she realized why her water table had fallen (interview, June 12, 2012). While the scale and clientele of the project were unclear, such local stresses on resources resulting from rampant construction have fueled the ire of a cross-section of local residents against land conversions and resulted in the agitation against the RP 2011 (discussed below).

The acquisition around the proposed Mopa airport in Goa also exemplifies the land conversion rush in Goa. While the airport at Mopa is considered investment in infrastructure, several political and economic elites have invested in properties around the proposed airport in anticipation of land appreciation and future gains. Several farmers from around Mopa village in North Goa have been adamantly refusing acquisition and are against the new airport with its attendant consequences on land, resources, livelihoods and environment. A number of politicians have already purchased land in the area surrounding the proposed airport in anticipation of appreciation in land and property prices. While the Government of Goa (GoG) intends to acquire land to facilitate a Public Private Partnership with a developer for developing the airport, infrastructure projects thus facilitate speculative investments by those with “inside information” about the project. Eminent domain is used for the airport, and facilitates market based transfers of land and resources. The investors in land now form a lobby promoting the airport and allied infrastructural development in the area even as several local residents oppose the project in ongoing agitations. Activists point out that the existing airport at Dabolim meets the current needs of about three million travelers annually and has room further expansion. Mopa on the other hand, seeks to cater to southern Maharashtra and Goa and expects to raise capacity to 25 million travelers, creating
a further push for infrastructure, real estate and tourism related development in both states (interviews with environmentalist and Goenkarancha Xetkari Ekvott activist Abhijeet Prabhucesai, January 6, 2014; Fr. Eremit Rebello, December 29, 2013). This raises critical questions for local development needs, pitting them directly against the paradigm of growth.

Labor

Construction workers, in Goa and across the country are migrant workers. According to the Goan Milroc Development representative, each new project creates “multiple problems” and frictions relating to on-site accommodation of workers and related pressures on local (interview April 25, 2012). Mr. Suctancar of Prudential Group in Goa similarly lamented that labor keeps shifting and every six months brings a change (interview April 26, 2012). Unitech’s representative argued that a stable labor force is required for construction work so that skills training can be imparted to workers. The construction industry, he added, needs to be “incentivized” so that it becomes a permanent source of employment rather than just “off-season” (from agriculture) work for labor. These interventions required government support he claimed, and could not be undertaken by the private sector alone (interview February 28, 2012).

The growth of the REE has serious implications for both ecological sustainability and labor. The intensification of illegal stone quarrying in the ecologically sensitive Aravalli mountain range in Rajasthan and Haryana states or in the Ghats of Karnataka, Tamil Nadu and Andhra Pradesh, accompanied by historically prevalent appalling working conditions of miners and construction workers (Indian Express 2012a; Mishra 2012) are illustrative. Devastation of agriculture in mining areas and the impact on water sources is established. Mines and construction workers, often employed through a contractor or sub-contractor, lack formal contracts and benefits, and their migrant status makes it harder for them to access any welfare provisions locally (Soundararajan
2013). In 2007-08, the proportion of migrant workers (comprising those who migrate for one—six months) was 33 percent in urban areas and 19 percent in rural areas (ibid.). Given the widespread agrarian distress across the country, seasonal or long-term out-migration (from home villages and towns) has grown (Vakulabharanam 2013), adding to the numbers of vulnerable migrant construction worker population who are paid below statutory minimum wages and are at risk of frequent injuries and fatalities, with little official compilation of data concerning them (Soundararajan 2012). These impoverished and “undervalued” laborers who extract resources to redevelop land and create real estate, oil the wheels of the REE, moving on to the next project under equally precarious conditions with few avenues for “development.”

Costs

The fact that the real estate economy is deeply corrupt is well established (see Weinstein 2008; Samuel and Datta 2011a, b; KPMG 2011; Gandhi and Walton 2012; The Hindu 2013; Bera et al. 2013). The Canacona building collapse and similar other frequent building collapses are an extreme manifestation of corruption in clearances and materials used. There are several buildings that may not collapse, and corruption in their construction practice and clearances may not become starkly evident. One afternoon in July 2012, as I sat in the office of a small-scale builder in Goa’s Ponda town, I was rewarded with an honest and detailed acknowledgment of the salience of corruption in the sector. The builder openly lamented about the “costs” builders have to incur for a construction

\[138\] In my previous work in Rajasthan with the peasant and workers solidarity collective MKSS in rural Rajasthan, my peasant neighbors in Devdungri village commonly migrated for work given their small and low-productivity rain-fed land holdings. If families could make arrangements, they would leave behind school-going children (often sons) with relatives while daughters and older children would accompany parents. Meera, one of my neighbors, recounted living and working conditions after returning from two years of work in 2004-06 at a stone quarry in Karnataka state. Having left one school-going son behind with one married daughter, she had gone to Karnataka with her husband, older son, teenage daughter and another older married daughter and her husband. Inhalation of stone dust had adversely affected their lungs and breathing and the older daughter lost her infant child to ill health while at the quarry. The contractors were strict and given the conditions, it was difficult to work beyond a few years in the quarries. While Meera’s family was able to repay a large part of the debts that had forced them to migrate for so long, she was determined never to go back, although her married daughter and her husband had stayed back for lack of adequate opportunity at home.
project that drive property prices up. He explained that “under the table” payments include those made for the “conversion” of a piece of land to settlement if it was not already designated as settlement; for the local Planning Development Authority (PDA); for “appropriate” determination of infrastructure tax; municipality license fees; Public Works Department project cost estimation; labor cess; renewal of project approval license after two years; architects and other consultants for plumbing and electricity; suppliers and contractors’ costs; service tax; income tax; and fees for completion and occupancy certificates. Thus, he explained, “the “real” cost or actual price (of real estate) has to reflect all the unofficial costs and be profitable over and above.”

The list of unofficial costs he recounted is not comprehensive. Samuel and Datta (2011a) note 50 different “points of payment” for builders. Their report on corruption in RE quoted Niranjan Hiranandani, one of the biggest builders in Mumbai, as saying: “Corruption is the highest in real estate and the government is aware of that.” The same report quoted Deepak Parekh, chairman of HDFC, the country’s largest housing finance company as saying: “The process that asks a builder to take approvals from different agencies gives birth to corruption,” adding, “Every stage involves malpractice” (Samuel and Datta 2011a). Typically, 20 to 30 percent of the cost of a property reflects the illegal payment cost of a builder (Samuel and Datta 2011b).

The proposed regulator in the new bill mentioned earlier does not go over issues of corruption in land conversions and the appropriation of resources, particularly water. Nor does it enable monitoring of bribes paid to various government agencies mandated with overseeing clearances. CREDAI has instead been demanding that real estate-related clearances be regularized into a “single-window” clearance mechanism to avoid corruption. This would mean further facilitating the REE by considerably slackening clearance and tax mechanisms.
The policy impetus for urbanization and real estate with embedded income inequalities, corruption, resource appropriation, appalling labor conditions and environmental destruction are the underside of the REE’s geography. These conditions also signal peculiar tensions with “rule of law.” Capitalist and rent-seeking elites in “the state” and upper classes are equally implicated in the REE. Significantly, the REE is being consistently resisted and challenged, bringing its promotion and development to impasse in various contexts (although more readily in its enclave manifestations as zones and corridors). While the following chapter tackles the manner and implications of resistance to SEZs in Goa more comprehensively, I turn below to trace the REE-related developments in Goa and the successful resistance against the state’s Regional Plan 2011 that unsuccessfully attempted to codify developer interests in law.

**How was the REE resisted in Goa?**

The Goan real estate economy, mirroring broader Indian trends, took an upward swing from the mid-2000s. Tourism and relatively high human development indicators (PTI 2011) helped put the state on the national real estate map. In 2004, the national realty company DLF reportedly bought land for development in Panjim (capital city) at nearly 10 times the prevailing market prices in a competitive bid, creating an immediate appreciation of land and realty values across the city (interview with Prudential Group representative, April 26, 2012). Goa’s longstanding popularity as a tourist destination had already attracted several big players in the hotel and entertainment industry to the state, appreciating land and property prices in prime tourist locations. As other developers cashed in on the promotion of Goa as a tourist destination for residential and commercial purposes, a construction boom associated with “second homes” for metropolitan elites ensued. Regular biannual property fairs in Mumbai and Delhi (see Figure 6 below) further galvanized national and
local developers, financiers and contractors (including operators like Bharti Realtors of the Canacona collapse).

Figure 6: Goa Property Advertisement in National Daily Times of India

Chapter Five

To get a sense of the extent of built-up area construction in recent years in Goa, I obtained annual figures of the infrastructure tax collected by the Town and Country Planning Department (TCPD)\textsuperscript{139} for provision of infrastructure services like roads, electricity, water, etc. and divided it by the rate of infrastructure levied. The figures are revealing:

<table>
<thead>
<tr>
<th>Year</th>
<th>2007-08</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
<th>2011-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Tax (in US dollars)\textsuperscript{140}</td>
<td>497,452.5</td>
<td>503,279</td>
<td>5,560,119</td>
<td>8,194,689</td>
<td>6,659,083</td>
</tr>
</tbody>
</table>

Source: Compiled by author from figures provided by the Town and Country Planning Department, Goa

Part of the wide discrepancy in 2007-09 figures and the following years is because in October 2008 the infrastructure tax was raised from a flat rate of Rs. 30 (approximately 60 cents) per square meter to Rs. 50 (approximately $1) per square meter for residential buildings and Rs. 100 (approximately $2) per square meter for commercial buildings. Calculating at 30 cents, in 2007-08 the built area taxed was 1,658,175 meter square; in 2009-10, at a flat rate of the maximum for commercial buildings $2, it was 2,780,060 meter square; and in 2011-12 it was 3,329,542 meter square, and the latter two are serious underestimates as they don’t take into account residential buildings with lower taxes. The increase in built area taxed in four years from 2007-08 to 2011-12 is thus over 200 percent at an underestimated rate.

According to Mr. Nilesh Salcar, President of CREDAI Goa, there is a shortfall of 15-20,000 housing units in Goa and the 75-77 developers part of CREDAI together add barely 5000 houses a year.\textsuperscript{141} He explained the difficulties of getting a project off the ground, from increasing cost of construction; time delay in permissions and clearance from TCPD, Public Works Department or

\textsuperscript{139} The TCPD is the GoG agency responsible for the overall Regional Plans of the state. It oversees all zone notifications and final land conversions.

\textsuperscript{140} At 2011 dollar rate Rs. 50 = $1.

\textsuperscript{141} According to the NHB figures the households in need of housing in Goa based on 2001 census were 12,196 (NHB 2014).
getting no objection certificates for water supply, sewerage, electricity; construction license from village panchayat; land conversion approvals from forest department, administrative officials and TCPD; and a lot of activism related to pressure on land add costs and delay. He argued that a low density, low-rise model (with less floor space index or floor area ratio) was not going to work for Goa as the cost of housing was increasing. Interestingly, he also pointed out that a lot of “big” (read national) investors (read builders) were “conned” into buying land without realizing how stringent the rules for land conversion for “settlement” (areas where real estate construction is allowed) were. These builders were now not getting requisite permissions he claimed, and were “stuck” with land parcels (interview April 30, 2012). Nevertheless, the demand for housing in Goa is high and is not adequately met. The RP 2011 then was to intervene in this overall “difficult” scenario and facilitate easier conversion of lands for settlement.

The Tourism—Real Estate Dialectic

The first Regional Plan 2001 was prepared and approved by Goa’s Legislative Assembly in 1986 (Trichur 2013).142 This plan sought to promote tourism as the engine of Goa’s economic development and elevate its status to that of an industry, making it eligible for benefits available to other industries. The plan relaxed the construction norms in coastal areas (from 500 to 200 meters of the high-tide level) and enabled revision of “conservation areas” such that resort developers were allowed construction rights; while peasant households, often petty tourism service providers, faced restrictions on commercial expansion. Investors used many tactics, including their influence with state representatives and intimidation of local residents in villages in various instances, to promote their interests. The blatant promotion of capitalist hoteliers over the interests of petty service

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142 Trichur (2013) argues that this was a public relations strategy by then Prime Minister of India Indira Gandhi to promote international tourism in the aftermath of the emergency that caused a significant loss of credibility for her leadership and the Congress Party at the center (ibid.).
Chapter Five

providers included central (federal) subsidies for establishing resorts and laid the foundation for subsequent tourism development in the state. The Land Acquisition Act 1894 was frequently used to also acquire Comunidade common lands and led to the massive destruction of bunds and exhaustion of water tables, reinforcing a downward spiral in agricultural productivity. As agricultural productivity went down, the pressure to convert lands into tourism related uses also increased for landed elites (who had enjoyed larger land concessions from the Portuguese). These developments created conflicts among the coastal peasant communities involved in tourism and those who were not; and between peasant communities and capitalist hoteliers. Official tourism promotion thus deliberately left out petty service providers and emphasized “high-end” tourism (ibid.). This subsequently paved the way for the development of Goa as an ideal real estate investment for those with growing disposable incomes.

Since tourism has now long been the predominant economic activity along Goa’s coastal regions, environmentalists point out that state policy frequently reflects the interests of powerful pressure groups. The government machinery is rewarded for “non-enforcement” or “misinterpretation” of rules (Alvares 2002). Violations of regulations for coastal zones, building height, untreated sewage release in the sea and extraction of groundwater causing salinization of aquifers are frequent. As noted in chapter one, sand dunes are denuded or razed for unhindered “views;” khazan lands neglected; and land increasingly converted for beachfront hotels, beach shacks, restaurants and other entertainment activities (Alvares 2002; Kazi and Siqueira 2006). Land conversions for real estate must be seen in this backdrop of ongoing accumulation processes of land and resource appropriation.

The returns from real estate development similarly exert a pull on “green areas” (agricultural, khazan, forest and slope areas), with their frequent conversion into “settlement areas” with

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143 See next chapter for a discussion of local land use arrangements.
144 Bunds are check dams used to control flow of saline water into fields.
construction permissions. The phenomenon of “second homes” or “holiday homes” for rich urbanites who come to Goa for vacations and lock their properties for most of the year is seen to drive property prices beyond the reach of local people. A recent government report puts the number of such holiday homes at 21.8 percent of the total houses in Goa (Firstpost 2013). During an April 2012 interview with Putturaj, the Chief Town and Country Planner for Goa, he gave me with a copy of a chart the Town and Country Planning Department (TCPD) had created by collating demands by rural residents for conversions of agricultural and green lands to settlement areas (see Figure 7 below). While the chart does not mention the period in which these demands were made, the chart indicates that the TCPD had demands to convert 26.77 percent of Eco Sensitive Zone 1 land (protected lands like forests, orchards, mangroves, khazans, paddy fields, coastal regulation zones, and slopes with gradient over 33 percent) to settlement and 20.69 percent of non-Eco Sensitive Zone land (plateaus and so-called “barren” lands). These figures however, were collated to demonstrate local demand for conversions as RP agitations demanding participatory planning processes from the villages were gathering steam again in 2012 and may also serve to counter protests. Let us turn below to a discussion of the RP 2011 and the agitation against it, and subsequently against RP 2021, which have significantly impacted the development of the REE in Goa.

145 The methodology used to arrive at this figure is unclear. However, this figure has been used by the state government for demanding “Special Status” for Goa from the (federal) Government of India on account of its unique culture (it was a Portuguese colony until 1961) and to restrict sale of land to non-Goans.
Goa Bachao Abhiyan—RP 2011 to 2021 and back to 2001

After 1986, the process for a second Regional Plan 2011 was initiated in 1997-98. The GoG hired a private consulting firm from Delhi, Consulting Engineering Services that submitted the Revised Regional Plan Goa Perspective 2011 in September 2003. Even as the official plan drafting process was on, in October 2005 the state government introduced an urgent Ordinance (number 3) that fundamentally amended the Town and Country Planning Act of 1974. It vested powers of the town planning authorities with the GoG; and allowed individual and private land owners to apply for

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This account is largely constructed from interviews with GBA activists and supporters, architects and planner part of the RP 2021 drafting process, and accounts from The Hindu 2006; Couto 2007; Bose 2007; Aghor 2011. Also see http://www.savegoa.com (last accessed February 27, 2014 4 pm); http://www.goafiles.com/ (accessed April 25, 2014).
amendments in plan and non-plan areas, local development plans and the overall Regional Plan.\textsuperscript{147} This Ordinance thus allowed individuals and state agencies to convert lands without any reference to development plan documents at local or state levels. Following public protests against the Ordinance and a citizens’ court petition, the Ordinance was finally canceled and a revised draft RP was published in November 2005, with the public given three weeks to file objections. The Regional Plan 2011 was finally notified in August 2006 by the TCPD. Before that however, the GoG had issued a series of land acquisition notifications in June of that year for various projects invoking the urgency clause of the Land Acquisition Act 1894\textsuperscript{148} then in force. These notifications were based on the draft RP, which had not yet been officially notified! As it emerged in the course of the anti-RP 2011 agitation to which I turn below, the GoG was clearly of a mind to ensure certain projects were approved without any public consultation before the Regional Plan was even finalized.

a. The Anti-RP 2011 Agitation:

When a resident of the popular tourist village Baga in North Goa district, Jamshed Madon, noticed construction on a local hill behind his house in late 2006 and made inquiries and discovered that the entire hill was demarcated as a “settlement” area in the final RP 2011 released earlier that year, even though it was in reality a “green” area. As he studied the plan along with architect Dean D’Cruz, they discovered that a large extent of green area was being shown as settlement in RP 2011. People in the villages had already borne the brunt of large-scale conversions of land to settlement for tourism and housing projects. Land and real estate prices had been rising and the burden on existing resources like water and infrastructure was high. There was also popular awareness of the

\textsuperscript{147} The Outlying Development Plan (or non-plan) areas are the five towns in Goa, Panajim, Margao, Vasco, Mapusa and the village of Talegaon. These do not come under the Regional Plan, which covers the rural areas in the rest of the state. Local development plans refer to both village plans and municipality plans. Each of these planning exercises thus are supposed to be undertaken by the state. The local village and municipality development plans under the 73\textsuperscript{rd} and 74\textsuperscript{th} Amendments to the Constitution empowering local bodies with several participatory governance functions have not ever been undertaken in Goa as the state rules for the Acts have not been drafted.

\textsuperscript{148} See chapter three for the provisions of the LAA 1894.
innumerable legal violations in the state that previous agitations had highlighted and environmentalists had been painstakingly challenging for years through litigation. A comparison of the draft RP 2011 (of 2005) with the final RP 2011 revealed wide discrepancies in the settlement areas. Madon and D'Cruz raised the issue in village meetings and among wider circles of environmental activists. As word spread and interest grew, an initial informal meeting of a heterogeneous group of professionals, non-profits and interested persons was convened in December 2006 in Panajim to discuss the discrepancies of the RP 2011.

During this meeting, an overall analysis of settlement land figures showed that 7,255 hectares of additional land had been converted into settlement between the 2005 draft and the 2006 notified RP 2011. Alarmed at the scale of conversions and their implications for housing, land, resources, infrastructure and the environment, the group galvanized quickly and spontaneously. Goa Bachao Abhiyan (Save Goa Campaign) was formed, campaign conveners were chosen, and participants divided responsibilities among themselves. A decision to undertake detailed comparative studies between the draft and notified plans across various villages to verify the reality on the ground was also taken. The group also decided to organize a Goa-wide public meeting in Panajim’s Azad Maidan (a central park in the capital for many collective actions historically) on the issue. They resolved to publicly display tehsil-wise discrepancies from the plan comparisons, and some detailed cases exemplifying arbitrary conversions.

The spontaneous coalescence of the group was partly the result of the critical legacy of previous environmental struggles in the state (see also discussion in the Introduction), and partly of the deep frustration among people with endemic state corruption.

D'Cruz’s team undertook more research to create the exhibition materials. According to architect Ritu Prasad, member of the GBA then and subsequently their representative on the Task Force constituted to draft the RP 2021, they highlighted a few cases, where mangroves, Coastal
Chapter Five

Regulation Zone (CRZ) areas\textsuperscript{149} and green areas were shown as settlement to show the conversions more clearly.

At the public meeting on December 18, 2006 the advocacy efforts of the GBA members bore fruit, and about 10,000 people from across the state turned up. These included peasants, professionals and others concerned about land conversions in their villages. The exhibition area at the meeting explained the regional plan and its policy relevance and implications were. \textit{Tehsil}-level maps showing the conversions in the RP 2011 helped people visually identify the extent of the conversions in their own villages.

The campaign took shape. Prasad says there were three things to follow up from the meeting: a) that people from each village become aware of the RP process and make local groups to examine details at their own level; b) to put the pressure on the GoG to revoke and stop conversion permissions granted on the basis of the notified plan; and c) to make sure a plan with public participation was drawn up. She adds, as the issue gathered steam and was taken up in different villages:

\begin{quote}
the most amazing thing that really happened out of this… is people… had now started understanding, started reading maps, and plans. Initially I remember we used to go and people wouldn’t even... I mean, we were the only ones who could read them. And now, many people could read plans, and they could question, which was really… empowering (interview June 1, 2012).
\end{quote}

GBA members’ research revealed that the stakes were much higher and deeper than the new conversions in the notified RP 2011. Large scale conversions had begun in 1988, when the Town and Country Planning Board removed a critical clause in the Town and Country Planning Act

\textsuperscript{149} According to CRZ rules, no construction is allowed within 200 meters of the high tide line in Goa’s coastal areas although local residents and traditional users like the fisherfolk and peasants are allowed to undertake repairs or expansions to existing structures within 200 meters.
Chapter Five

(TCPA) 1974 that did not allow changes in the RP 2001 (notified in 1986) for five years to enable plan stability. Once this clause was removed, changes to the plan and land conversions were noted through gazette notifications through weekly and bi-monthly notifications right until 2005. The RP 2011 then, formalized the conversions that had taken place through the 1990s, while making room for more. The stakes of the RP 2011 were thus very high as it represented a lot of money already sunk into converted lands over nearly two decades. But this also revealed that laws were being changed and safeguards removed for facilitating further conversions and investments. It was not just real estate developers that were driving these conversions, but interests from within the state overseeing the growth of the Goan REE.

At a subsequent public protest at Margao city in Lohia maidan on January 16, 2007 the demand for the cancellation of RP 2011 was raised. As advocacy efforts continued, on Republic Day in January 2007 then, several gram sabhas (village assemblies) took resolutions to scrap the RP 2011. However, according to the laws, conversions are under the purview of the TCPD in Goa, and the Pachanyati Raj Act (or the 73rd Amendment, see chapter two) rules have not been empowered with powers to prevent land from being converted.

Nevertheless, the GoG, led by the Congress Party then (under Chief Minister Pratap Singh Rane), was under considerable public pressure with elections later that year, and eventually buckled under consistent popular pressure. The denotification of the RP 2011 was announced by February 2007. The GBA demanded that it should be revoked retrospectively so that none of the conversions approved on the basis of the notified RP 2011 would hold. Some of the GBA members went to the sites where permissions had been given to check if construction work had been undertaken and to stop any such ongoing activity. By now the GBA was confronting the shadowy interests within the state pushing for ease of conversions and real estate investments.
b. RP 2021:

The Congress government was reelected to power that year under the leadership of CM Digambar Kamat (who would subsequently denotify the state’s SEZ policy) and constituted a “task force” GBA representatives, builders, architects, an engineer, a planner and an industrialist, in addition to bureaucrats constituted the Task Force, which was initially mandated with designing a methodology for drafting a new RP. This mandate was subsequently changed however, to drafting the new RP 2021 itself. The Task Force, Prasad points out, did not have any sociologists, environmentalists or representatives of peasants or other communities from villages. Not only was the Task Force not equipped to draw up a representative plan, a “bottom-up” planning process through village-level socio-economic plans faced stiff political opposition within the body. Instead of inviting village inputs and making the Plan a truly participatory democratic process, the Task Force asked for inputs from NGOs. The interests allied with the GBA campaign in the Task Force wanted to send base maps to villages for local land-use verification by gram sabhas, and a questionnaire asking inputs on local needs and development aspirations, but faced opposition. A village kit was eventually sent to all the villages with base maps (the Outlying Development Plan areas were kept out of this process), but there were other challenges with the maps which highlighted additional problems with the official decision-making processes for conversions.

The TCPD had been using tehsil maps at 1:25,000 scale in RP 2011 to give development permissions; these maps had no village details, and were “all a big blob,” with no village boundaries, making the process “very ambiguous” (interview with Prasad, June 1, 2012). The Task Force tried to obtain more detailed maps from other departments, and realized that either 1:3,500,000 scale Goa-level maps or the tehsil maps were being used by various departments. A really significant challenge before the Task Force then was to draft the RP 2021 from village-level plans with boundaries and existing land-use corresponding with survey numbers of plots. These details would then enable
village-level verification of fields, water bodies and slopes (areas where no construction could be allowed). They finally used Survey of India (GoI body) toposheets (topographical maps) to make base plans for villages from scratch.

As Professor Edgar Ribeiro, ex-Director of the School of Planning and Architecture in Delhi, and member of the Task Force residing in Socorro village in North Goa explained, for any planning process to be truly bottom-up, local mapping of existing land-use is critical (interview May 31, 2012). People know the ground reality and can make informed decisions for desirable development planning based on land-use maps, he explained, adding, “You cannot cheat people with maps; you can cheat people with files!”

While the Task Force was still drafting the RP, in April 2008, an amendment 16(16)a was made to the TCPA by the GoG. The GBA’s contention was that all local development must come under the new RP. The amendment made provisions for all projects, schemes and works of the central and state government to be kept out of the purview of the RP, asserting the power of eminent domain. No principles for exemption were laid out (the amendment is still in force). Undermining the Task Force’s efforts further, another committee was constituted by the GoG to take stock of 16(16)a projects, that ranged from community halls to tourism, sports and entertainment related projects. So while popular unrest was sought to be pacified through the constitution of the Task Force, its efforts for taking planning to the villages were being thwarted consistently.

The Task Force finally submitted the Draft Regional Plan 2021 in September 2008, recommending clear demarcation of Eco-Sensitive Zones 1 (khazans, fields, forests and slopes) and 2 (settlement, industrial and orchard zones where some construction with restricted FAR could be allowed) and other environmentally and locally desirable measures like reduced FARs to restrain building activities in villages. In the meanwhile committees duly appointed by gram sabhas in various
villages had diligently prepared their own village land-use maps based on the kits sent to them, along with recommendations for specific development needs (see Figure 3 at the end for the map submitted by village Verna; also see http://www.goafiles.com/ for more map submissions by villages).

After the Task force was disbanded and the Draft Plan was released, the GoG asked for public inputs within 90 days. A new State Level Committee was then constituted, retaining some task force members to take the RP process forward by collating these public inputs. As 176 villages (out of a total of 188) and eight out of nine municipal towns sent their inputs along with 8500 individual comments, the input period was extended to eight months (GoG 2009b).

The GoG finally released the Regional Plan for Goa-2021 in three releases from 2009 through 2011 (GoG 2009b; GoG 2011a; GoG 2011b). In Release One, new policy decisions were introduced that included Eco Tourism Zones and Micro Industrial Zones that were not part of the draft plan and on which there was no public consultation. Even where villages had approved lower floor area ratios (FAR) as building norms, higher FARs were introduced. Resident committees from various villages had undertaken detailed land-use and demographic mapping exercises to determine locally desirable and environmentally and socially appropriate development plans for submission to the RP 2021. In its final release in October 2011 however, the RP 2021 disregarded many of these recommendations, fueling controversy yet again. The three releases created immense confusion. There was a huge difference between the Draft RP 2021 and the final releases. The protective measures of Eco-Sensitive Zones had been diluted. Higher FAR status was given to villages that had expressly asked for lower FAR building norms (Village Panchayat 3 status; see also Table 5 below for a tabular presentation of some key differences). Moreover, there was more than a year’s gap between Release One and Three. In the third release the GoG indicated that a comprehensive report
with people’s inputs to the three Releases would be additionally prepared, fueling further confusion and frustration.

<table>
<thead>
<tr>
<th>Table 5: Major differences between Draft RP 2021 and Final RP 2021</th>
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<tbody>
<tr>
<td><strong>Discrepancies in the Participatory Process</strong></td>
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<tr>
<td><strong>What the Draft RP 2021 recommended</strong></td>
</tr>
<tr>
<td>1.1. Included the entire state in the participatory planning process.</td>
</tr>
<tr>
<td>1.2. Draft Village Plans were sent to: (1) verify zoning based on ground realities and (2) only suggest land-use changes which are in public interest.</td>
</tr>
<tr>
<td><strong>What was actually done by the TCP</strong></td>
</tr>
<tr>
<td>ODP areas of: Panaji, Margao, Mapuca, Vasco, Ponda and Taleigao left out of the participatory process.</td>
</tr>
<tr>
<td>While VPs prepare their plans, SLC accepts and processes 8500 individual suggestions for land-use change.</td>
</tr>
<tr>
<td><strong>Note:</strong> List of these incorporations made in the Final RP2021 not made public</td>
</tr>
</tbody>
</table>

| **Village Panchayat (VP) Inputs Disregarded**                  |
| **VP Resolutions**                                            |
| 2.1. VP’s pass resolutions deciding on their VP statuses.     |
| **SLC’s Decisions**                                           |
| SLC disregards VP’s resolutions w.r.t. to VP Statuses.        |
| **Individual requests for land-use changes**                  |
| SLC disregards village plans and includes additional areas under settlement by including: |
| Includes settlements from Satellite imagery.                  |
| 2.2. VP’s submit their village plans protecting large areas of their villages. |
| SLC: (1) disregards resolutions of VPs on road widths and (2) shows numerous additional proposed roads in Final RP2021 |
| 2.3. VP’s resolve that RP2021 should indicate roads widths as measured on site. |

| **New Zoning Categories included by the SLC**                 |
| **Draft RP2021**                                             |
| 3.1. Compared to Zoning categories and their respective percentages marked in the Draft RP2021... |
| In Final RP2021: (1) New category of Natural Cover included (2) percentage of Orchards has increased and (3) percentage of Forests have decreased. |
| Further... Final RP2021 (Release 1) permits ECO-Tourism projects to come up in Natural Cover. |
| 3.2. Compared to Draft RP2021, where no recommendations regarding MIZs and GIs were made... |
| In Final RP2021: Micro-Industrial Zones (MIZs) and General Industries (GIs) included in village plans. |
| Further... this has been done without taking VPs into confidence over the locations of MIZs and GIs. |
| 3.3. Draft RP2021 specifically mentions that the present Industrial Estates are not fully utilised and other reports have shown that large number of plots are vacant. |
| In Final RP2021: (1) Extensions of existing Industrial Estates and (2) new Industrial Estates have been included. |
| Further... this has included cases of lands acquired by GIDC for SEZ |

| **Other Observations**                                        |
| 4.1. From the SLC minutes no mention of decisions regarding the inclusion of: ECO-Tourism, MIZs, GIs, individual requests, etc. |
| Begs the question on what basis were these incorporations made? Who authorised the same? |
| 4.2. Regarding the rectification process of the               |
| (1) From the above, there have been major deviations          |
Building up from village-level mapping to a state-wide RP was the critical intervention that of the anti-RP 2011 agitation made. Indeed, a comparison of the Verna village *panchayat* and the notified RP 2021 plans (see Figures 8 and 9) reveals a reduction in ecologically sensitive areas in the latter.

Figure 8: Verna Panchayat Submission for RP 2021
Source: http://www.goafiles.com/
Chapter Five

Figure 9: Verna Panchayat Notified Plan RP 2021

Source: http://www.goafiles.com
Chapter Five

Vasco da Gama, retired clerk from GoG and resident of Verna, explained in an interview that the village *panchayat* had taken the decision to declare the plateaus in the village as Ecologically Sensitive Zone 1 as the plateaus serve as water catchment areas for fields and orchards around them and are also the source of the local river Sal. The notified plan however, showed a far greater area of the plateau for industrial and other uses like “open spaces” with construction permissions. Leone da Gama, Vasco da Gama’s son, who was part of the team that mapped all the survey plots in the Verna village, added that the Industrial Estate, for which the plateau land is being appropriated, is to put such land to public use. The Goa Industrial Development Corporation, he added, acquires such “barren” land cheaply from the *Comunidade* and gives it to industry for private use at higher rates, acting like a broker, and making revenue in the process (interviews June 11, 2012).

As agitations and debates raged over scrapping the new RP 2021 or making corrections to it with village inputs, the 2012 Assembly elections for the state loomed. For a combination of reasons including the fierce anti-SEZ agitation in 2007 following on the heels of the anti-RP agitation, the opposition Hindu-right BJP subsequently came to power in Goa in April 2012. The review of the RP process was an important part of its election manifesto. The RP 2021 releases were not canceled, but put in abeyance by the new government. As controversy over rampant “illegal” mining absorbed state affairs from September 2012, the RP process was set aside and is yet to be resumed as of writing this chapter.

As of now, the previous RP 2001 (that the RP 2011 sought to replace) is in place, but in the interim period between the suspension of the RP 2021 released in October 2011 and the reinstatement of RP 2001 in April 2012, several conversions had already been effected as builders and investors had anticipated the release of RP 2021. These conversions were allowed to remain in force even after the suspension of the RP 2021 and the reinstatement of RP 2001.
The initial energy of the GBA has somewhat dissipated, though it maintains an active “voice” on the issues related to the RP and land conversions. What the campaign has been up against are not just real estate developers and investors, but their allied interests within the state, which corrupted institutional legitimacy quite fundamentally. The anti-RP agitation shed light on the extent of this corrosion with regards to laws and law-making processes that allowed conversions with impunity. At the same time the agitation engendered hope and aspiration for locally determined development planning that was also environmentally appropriate. In enabling people in villages across the state to become map and policy literate, it also empowered them. Unlike the case of Kerala, where the push for decentralization from below was supported by a faction of the ruling party that also took advantage of the 73rd Amendment provisions (decentralizing power to the villages, see chapter two; Heller 2011), the Goan push for decentralization was not backed by state actors and hence developed into the current impasse after initial success.

As we will see in the following chapter, the anti-RP 2011 agitation in 2006 however, also laid the ground for the anti-SEZ agitations in 2007. The baton was passed on. The focus of the anti-SEZ agitation was not decentralized planning per se, but locally appropriate determination of development needs, rights to land and resources and environmental concerns formed critical frames of the agitation. Both agitations were overwhelmingly a response to what came to be considered a land and resource (largely water) grab for real estate.150 The Government of Goa (GoG) was seen as arbitrarily and illegally handing over local land and resources to developers for profit from tourism and residential colonies for rich metropolitans. As residents discovered the implications of the land conversions in RP 2011 and later SEZs for local agrarian livelihoods, resources, environment and infrastructure, they connected with each other and activists from existing and previous campaigns. The agitations comprised peasants (more so in the anti-SEZ agitation), professionals, politicians,

150 Prominent realty firms like K. Raheja and Peninsula with established real estate projects in several Indian cities were allotted SEZs in Goa.
media persons, lawyers and other interested persons who demonstrated on the streets, negotiated with government representatives and took legal action. Many became politicized in the course of the agitation, at once rights-bearing citizens asserting claims over the “rule of law” and “vocal” members of local communities. Goa’s rich history of environmental activism\(^\text{151}\) played a major role in forging this broad alliance of social forces. Indigenous religious values and practices for nature worship and conservation have fueled environmental concerns in Goa. Existing stresses in the state on the environment, infrastructure, resources and agriculture caused by tourism, mining, industry and real estate thus fomented resistance.

As noted in the previous chapters, the acquisition of land through the exercise of eminent domain or through market transfers has seen intense and successful contestation across India. Outright resistance to forcible land acquisition for SEZs, DMIC and other projects facilitating real estate development has erupted in West Bengal, Orissa, Andhra Pradesh, Tamil Nadu, Karnataka, Goa, Maharashtra and Gujarat states while struggles for greater compensation for land have erupted in Haryana and Uttar Pradesh. In this sense, the Goan agitations are also part of a wider ferment over land rights and agrarian livelihoods, ecological sustainability and development paradigms across India in the wake of the “growth” imperative.

**The REE and Perilous Geographies of Indifference**

Many state governments have had to buckle under popular agitations over land and resources. Given electoral compulsions within a multi-party system\(^\text{152}\), popular dissent, especially over land and resources, has found more receptivity among the states and their ruling parties. Dissent against projects led by the private sector in this electorally insecure scenario (the change of the Goan regime

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\(^{151}\) For a brief account of Goa’s history of environmental activism see the next chapter.

\(^{152}\) After the decline of the power of the Congress Party since the 1970s, no one party could form a ruling majority and coalition governments with cantankerous alliances became the norm until the 2014 elections.
in the wake of the anti-RP and anti-SEZ agitations is another case in point) is sought to be accommodated, or negotiated, rather than outright suppressed (although suppression certainly continues, as in the infamous POSCO area in Odisha state or in the mining areas in the central Indian indigenous heartland). Especially as it begins to pose a serious threat to ruling parties (the debacle of the CPI(M) by Trinamool Congress after nearly 35 years over the issue of land and resources is worth recalling). An “inclusion problem” for capital in such conditions posits a limit to expansion, as radical challenges must be contained with concessions or outright deference. This is a significant development with respect to land acquisition in India that needs further interrogation because historically, the power of eminent domain has not been significantly challenged (see chapter two). However, resistance is often localized and project based, given paucity of resources.

The rising cost of land has made real estate a high return investment. As more and more land gets diverted to real estate from agriculture, there is concomitant pauperization of especially small and marginal farmers unable to buy more land and cash payments received for land often spent over immediate consumption (see Kumar 2013). By one estimate, in 2007-11, the area of cultivable land in India shrank by 790,000 hectares, largely attributed to diversion for non-agricultural purposes like construction, industries and other development activities (Mohan 2013). Landless agricultural workers likely swell the ranks of construction and other migrant workers although official data for this is again hard to come by.

Levien (2012) points out that in the wake of the MWC a process of agrarian involution amplifies caste and class inequalities and the marginalization of women. The local economy then is a matter of indifference to the MWC and its allied interests in the state he argues, and local labor is left to fend for itself even as the MWC brings in college-educated young graduates in SUVs from Jaipur city to work in call centers and in other “white collar” jobs, trapped in a trajectory of
“development” that devalues their creative potential. Cross’ (2009) study of the politics of work in a SEZ is equally revealing of the “devaluation” experienced by educated young workers in the zone.

Given the inequality-driven impetus for the real estate economy, environmental destruction related to it, labor exploitation in the sector and the shift in land use exacerbated by agrarian distress, claims that greater urbanization leads to “inclusive growth” or better development for all fly against evidence. On the other hand, allied politicians, bureaucrats and developers, driven by attractive returns to investment, form a powerful nexus driving policy. This nexus has been seen to historically support real estate developers in Mumbai and Delhi (see Nijman 2000; Kumar 1982). In Goa, its operations were particularly evident as a result of the anti-RP 2011 agitation’s efforts. While the push to decentralize could not be sustained, the agitation’s contribution in this regard is critical to future trajectories of accumulation and resistance and in forging ways out of the current impasse.

The recent judgment passed in the Aldeia de Goa case in Goa is an instructive note to end the discussion with. Manipulating dated permissions and construction plans from 1995 for 18 cottages in the CRZ area of the Curca-Bambolim-Talaulim panchayat, Grand Hyatt Goa (see figure 10), property of the prominent DB Realty Group, opened as a luxury resort in 2011. The previous permissions had been granted in the small window that an amendment in the CRZ laws opened allowing for construction within the 100 meter tidal zone. This amendment was squashed by the Supreme Court within the year albeit allowing for any ongoing constructions to continue. The 18 cottages were never completed however, and it was only in 2006 when local residents were threatened with evictions and saw fences and private security in the area that the project’s development began and the residents filed a Public Interest Litigation at the High Court of Bombay at Goa.\footnote{Goa does not have its own High Court but has a dedicated bench of the Bombay High Court.} The active collusion by those in authorities, including the Chief Town Planner and the Village Panchayat office was established in court as their files with the original requisite approvals
Chapter Five

suddenly went “missing” and fabricated documents ad plans were presented in the court by the hotel. The verdict was split in the directions of the two judge bench even as they unanimously reprimanded the authorities and the respondents. While one judge held that the structure should be demolished, the other maintained that since the plinth area of three of the previously approved 18 cottages had been constructed before their approval had lapsed, the party could have “resumed” construction in keeping with the “original” plans (see Siqueira 2014 and People’s Movement for Civic Action and others vs. Goa Coastal Zone Management Authority and others 2014). He thus directed the same authorities reprimanded for collusion with the hotelier to re-examine the project plans and see which part of the new construction was valid.

Figure 10: An overview of the Grand Hyatt Goa from the Dona Paula-Bambolim road.

“The high court judgement earlier this week in the Aldeia de Goa case is a huge victory for environment activists. It vindicates their stand that the luxury resort had been allowed to come up in “blatant breach of the rule of law”, as one of the judges put it. It also brought into the open the shameful complicity of government agencies and officials who facilitated the disappearance of documents that came to be replaced by ‘falsified’ ones” (Sequeira 2014).

The active resistance to the REE, while nascent in its recognition of the logics of the capitalist value framework, holds potential for programmatic resistance from within and without the circuits of
capitalist logics. The creation of absolute surplus populations then is part of a “geography of indifference” that capital produces at its own peril. Massive transfers of lands, resources and people from agriculture and allied activities are envisaged to facilitate urbanization, intensifying the reach of “the market” and unleashing its “developmental” potential. 154

When growth is premised or made possible on a chain of backward-forward illegalities and plunder (cf. Mattei and Nader 2008), the implications of assuming growth and urbanization ad infinitum are significant. State actors and other rent-seeking elites actively collude in accumulation processes, and gain from violations of law and corruption. They often obscure information, and stonewall drives for decentralization. The Goan anti-RP 2011 offers lessons for how the urbanization-real estate assemblage might be brought to impasse. Despite entrenched interests that trump egalitarian processes, it establishes that “the state” is contested space and “rule of law” may be reshaped by a broad alliance of social forces drawing to an impasse, the plunder of land and resources (cf. Mattei and Nader 2008). It represents a toe-hold, towards transformation. To move beyond this impasse, indeed to secure and consolidate the gains over capital made in these agitations is a challenge that begs resolution. As I indicate in the next chapter, for such resolution to be brought about through egalitarian “restructuring from below,” programmatic social movements, rather than issue-based campaigns are required. What the RP agitations show is that this also requires the support of allied interests within the state backing processes of reconfiguration.

Epilogue: The day after I arrived in Goa during a visit in December 2013, I went to Panjim from Talegaon village where I was staying for some errands. As I waited on my (hired) scooter for what I initially thought was a red light on the ubiquitous M.G. (Mabatma Gandbi) Road found in every town and city center in India, I gradually noticed a procession with placards on the other side. The placards read, “Save Kulti Plateau,” “No More Vernas,” “Kulti is

154 The DMIC and other infrastructure projects as well as 100 smart cities are all examples of the scale of transformation from the rural to urban that is being attempted.
the home of Betal devta” (local deity), and other familiar messages decrying what appeared to be land acquisition on the Kulti plateau by the GIDC. As over a couple of hundred people filed by raising slogans in what was clearly a rally, I looked for familiar faces, surprisingly finding only one, and waved out to an environmentalist and organizer friend from South Goa. This seemed like a new alliance. Watching the rally go by in curious wonder as the traffic waited, I resolved to find out more, but for that brief moment things “integrated”: what I was doing; why I was doing it; and what was at stake. “Organizations are born and die, movements evolve” (Edelman 1999); and their legacies breathe new life.
Chapter Six

The Domain of Resistance

The Goan Impasse
Chapter Six

‘If so many people come to this land it will be polluted and our environment destroyed… We have small plots of land, if they get destroyed, where will we go? Put it up anywhere else, but not on our lands. Our cattle get fodder from that land. Where will we go if a project comes there? Night and day, we left our meals and affairs and took a lot of trouble to oppose the project. …If we give up this land, where will we go?’ (Chinu Gawde of Kerim, peasant in her seventies and veteran protestor in Nylóon 6,6 and SEZ agitations, interview July 5, 2012; translated from Konkani.)

On December 31 2007 the Chief Minister (CM) of Goa state in India Digambar Kamat, under tremendous pressure from peasants’ and citizens’ groups opposing Special Economic Zones (SEZs), announced “a new year’s gift to the people of Goa” and scrapped all approved SEZs in the state. As the Government of India (GoI; federal) declined to honor this decision for three SEZs that had already been “notified,” Kamat declared that SEZ developers in Goa could go ahead “at their own risk.” Soon after, the Government of Goa (GoG) issued show-cause notices to SEZ developers regarding their land allotment cancellations. This took the conflict to the courts; five developers challenged the GoG’s decision in the High Court of Bombay at Goa156 while anti-SEZ campaigners appealed for accountability (punitive action) for irregularities in the approval and land-allotment processes. The court upheld the GoG’s decision and took note of procedural irregularities but stopped short of punishing responsible officials. The developers challenged the ruling in the Supreme Court (SC) of India as anti-SEZ campaigners appealed for accountability. The matter is currently sub-judice with the official status of the five SEZs and lands allotted to them unresolved. Until such time as the SC pronounces its verdict, there is an “impasse” on the ground.

Politicians, bureaucrats and citizens groups openly acknowledge however, that this impasse is more in the nature of legal procedure, as politically it seems unlikely that SEZs will be reestablished in the state. De facto, the lands are under the watch and use of the local communities

155 Notification is the final stage of approval given by the SEZ BoA after which the SEZ is free to start operations.
156 Goa has a dedicated bench of the High Court of Bombay.
since 2007. Even before the CM’s announcement scrapping SEZs, villagers threw out the construction crew in two SEZs where construction had begun and would not let company personnel enter the premises. In Kerim village at the time of fieldwork in 2012-13, dhangars\textsuperscript{157} freely grazed their cattle on the “SEZ lands.”

How did this significant “reversal of power” come about in Goa? How was the alliance between the state and capital over SEZs sundered? What historical, political, economic and cultural specificities and strategies led to the success of Goa’s anti-SEZ campaign? What are the implications of the “Goan Impasse” for “rights to land- and resource-use for all”\textsuperscript{158} in Goa, and by extension in India? These questions form the fulcrum around which this chapter is organized.

The first section explains what I term the “Goan Impasse.” The second section offers an account of the development of the anti-SEZ campaign, specifically by what came to be the SEZ Virodhi Manch (SVM; Anti-SEZ Front), a dynamic “alliance of forces” across caste, class, gender and community difference that proved critical to the campaign.\textsuperscript{159} The third section analyzes the factors enabling the campaign’s success. The final section discusses likely resolutions for the Goan Impasse, their resonance with struggles against dispossession in other parts of the country and the possibilities for rights to land- and resource-use in the wake of the anti-SEZ campaign.\textsuperscript{160}

**The Goan Impasse**

15 SEZs were given “in-principle approval” (first stage) in 2006-07. Of these, seven received the GoI’s “formal approval” (second stage) by 2007; five in the Verna Industrial Estate (VIE), one in the Sancoale Industrial Estate (SIE) and one on the Bhutkhamb plateau. Together, they were

\textsuperscript{157} Dhangars are a pastoral nomadic community now settled in different states in India.

\textsuperscript{158} Albertina Almeida helped frame this as use-rights.

\textsuperscript{159} Other mobilizations fueling the anti-SEZ environment in Goa are discussed later in the chapter.

\textsuperscript{160} The ethnographic and archival materials used in this account were collected during five months of fieldwork from January 2012 to January 2013 in Kerim, Verna and Loutolim villages and Panjim (capital of Goa) and Margao cities.
expected to attract investment worth approximately $1.048 billion and generate 242,000 jobs over five years (GoG 2007). A total of 613.41 acres were allotted to the five SEZs in VIE; 50 acres at SIE; and 304 acres at Bhutkamb, from commons previously acquired by the Goa Industrial Development Corporation (GIDC) from Comunidades by using eminent domain. As such, they would not directly displace people and villages. While fresh acquisition of 1548.44 acres was initiated for four other proposed SEZs, final allotments for them never took place (Da Silva forthcoming).

Towards the end of 2007, three of the seven formally approved SEZs were “notified” (final approval) by the GoI: K. Raheja SEZ in the VIE over 263.51 acres; Peninsula Pharma SEZ in the SIE over 50 acres; and Meditag SEZ on the Bhutkamb plateau over 304 acres.161 Construction had begun on two, K. Raheja and Meditag. Together the three were to generate 105,000 jobs in five years.

The anti-SEZ agitation in Goa was overwhelmingly a response to what came to be considered a land and resource (largely water) grab for real estate and industry. While the scale of SEZ-lands reflected in hectares was small, Goa’s relatively small size and existing burdens on land and resources made these transfers controversial. The GoG was seen as arbitrarily and illegally handing over local land and resources to developers for profit from industry and residential colonies for rich metropolitan. It was not just the “terms of inclusion” or exclusion (cf. White et al. 2012) of the people impacted by SEZs that constituted the heart of contention; SEZs were perceived as adversely impacting existing local livelihoods and relationships with land and resources. The anti-SEZ agitation was principally against the use that the land was being put to, against anticipated dispossession in the backdrop of accumulation processes already underway in the state. Forging a broad alliance of social forces, the agitation quickly gained momentum in eight months, successfully

161 K. Raheja and Peninsula are both realty companies with projects in several Indian cities. CIPLA’s company profile describes it as one of the largest Indian exporters of pharmaceutical products with “a strong presence” in over 170 countries and strategic arrangements for product registration, development, distribution and technological consultancy in the U.S. and Europe (see http://www.krahejacorp.com/index-2.html; http://peninsula.co.in; http://www.cipla.com).
sundering the state-capital alliance over SEZs and reshaping the rule of law in the ferment of dissent.

The “Goan Impasse” over SEZs however, is not just an impasse for capital, domestic or otherwise; nor is it only an impasse for state policy promoting capital. While it establishes the role of “the state” as contested space working on behalf of particular social forces at particular conjunctures (cf. Abrams 1982), the Goan Impasse represents a deeper historical impasse over securing “rights to land- and resource-use for all” confronting peasants and citizens groups resisting dispossession in Goa, and elsewhere. Closer reading of the ethnographic material suggests that the resolution of this impasse requires a renewed political commitment to locally ecologically appropriate, egalitarian and democratically determined development processes. It requires an alliance of social forces that can oblige the state to secure rights to land- and resource-use for all. The Goan Impasse thus opens the possibilities for fundamental reconstitution of relations around and to land and resources.

The significance of this impasse was driven home to me one overcast monsoon afternoon in 2012 as I joined artist and activist Dilesh Hazare, whose lush watercolors evoke his verdant Western Ghat surroundings in Kerim, on a tour of historical, religious and spiritual places of significance in the area around the Bhutkhamb plateau. When we reached the entrance of the now under litigation Meditab SEZ, fenced with over 10-foot high barbed wire cut in several places, it was early evening. We saw cattle grazing on the fenced-in land. As I stopped to click photographs, a woman carrying a headload of fuel wood made her way out from the “SEZ land” through one of the cuts in the fence, with her herd of about 40 goats. As they came through, I called out a greeting to find out more. During the course of our conversation, Salu Kodekar, in her mid fifties, revealed that she grazed her cattle on the plateau everyday. When I asked her about the SEZ, she added: “…I have goats and cows, we have taken our animals to the plateau for grazing from the beginning… we will only allow a factory to come up on the land if it gives something to us, gives us jobs, I don’t have any other
land to take the animals… my knees hurt but this is my livelihood, I have to take the animals to graze for my stomach…” (interview July 7, 2012; translated from Konkani).

About 50 meters from where we talked, just across the road from the SEZ entrance, lay the *samadhi* (square stone memorial typically six feet across) dedicated to Niles Naik, Scheduled Tribe (ST) youth from Kerim “martyred” in a police confrontation over the successful Nylon 6,6 agitation in 1995 for the same plateau against a project of the transnational Du Pont (see discussion below). The settlement around the *samadhi* where Kodekar lives is a *dbangar* settlement. Given their pastoral origins, *dbangars* are not originally from Goa but some families settled here in the 1960s. *Dhangars* are typically not land owners and have no shares in *Comunidades*, generally subsisting as peasants and workers. Calls for a “Goan identity” may or may not resonate with equal valence for them as for others with deeper ancestral roots in the area. But they, along with other local communities, have clear stake in the local commons and political economy.

Salu Kodekar and Niles Naik are at the crux of the Goan Impasse, mediated as it is by caste, community, gender and class inequalities. What happens to the SEZ lands once the SC verdict is out—to what end these lands and water resources are used and controlled and by whom—will reveal possibilities of the gains made over SEZs. Can the anti-SEZ agitation facilitate the possibilities for programmatic social movements with ecologically appropriate egalitarian agendas that actively counter existing inequalities? Unless this deeper resolution is attained, the conflict over SEZs may return in another form, pitting the forces of capital, state and peasants and citizens in standoff, yet again. That evening, as Hazare and I turned a bend a few hundred meters from Bhutkhamb, in the valley to our right lay a massive mound of upturned loose black earth, waste

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162 In Goa, as elsewhere, STs are predominantly peasants and among the state’s poorest communities.
163 A discussion of the frame of “Goan identity” in the anti-SEZ is taken up later in the paper. See also discussion on Goa’s political accession to India in chapter two.
from iron ore mines dumped unceremoniously, calling witness to the implications of another resolution of the Goan Impasse.

**Amka Naka SEZ! Amka Zai PEZ! The Anti-SEZ Agitation**

*We don’t want SEZ! We want PEZ!*\(^{164}\)

*We had planned to take... ordinary dharna [sit-in] outside the police-station. Means assemble at Azad Maidan [public park in Panjim]. We had a crowd which came from everywhere. Kerim was very supportive, Verna, Sancoale also, Loutolim... We made placards... We were supposed to have a silent march... We came out from the Azad Maidan, we crossed the street, we came to the police headquarters and we were supposed to stand out and you know, put those placards... Then, we just started moving... We just walked towards the gate, the gate was open, we expected them to close or come and stop us... Nothing happened, we just proceeded... We walked inside, the crowd followed. Inside we are scared and we were worried something may happen to us... They might lathi-charge [baton-charge] or something... But the crowd just moved in... 100-150 people... They wanted to arrest us... But we put the ladies in front, the Kerim ladies in front and the way they shouted... I’m sorry to say we abused the Goa police over there... We shouted... Goa police chor hai! [Goa police are thieves]... We went to that extent, in the police headquarters, and the first time in the history of Goa... Next day it was headlines... (Charles Fernandes, SVM Convener and small-scale businessman from Loutolim, interview June 22, 2012),\(^{165}\)

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\(^{164}\) Pez is rice gruel in Konkani but as an acronym here also doubles as People’s Economic Zones.

\(^{165}\) I have deliberately avoided using the indicator “sic” to resist privileging standardized English over local parlance.
Chapter Six

The following account of the anti-SEZ campaign in Goa is predominantly from the perspective of SVM members.\textsuperscript{166} Previous initiatives around SEZs included a communication inquiring about likely SEZs in Goa by John Pereira of Nagoa village to then Industries Minister in 2005 who responded in the negative; a symposium on SEZs by the Council for Social Justice and Peace (CSJP; the social work wing of the Archdiocese of Goa) in 2005 in which the Secretary, Industries Department responded to questions raised by the women’s group Bailancho Saad; a Roundtable on SEZs by newly formed SEZ Watch in 2006 that resolved to track SEZ developments and contact affected villages; and a \textit{gram sabha} resolution opposing SEZs in Verna initiated by Peter Gama in January 2007 after then CM Rane inaugurated the K. Raheja SEZ. But it was not until after Monteiro stumbled upon information regarding SEZs (see below) that a concerted campaign effort coalesced.

Six of the approved SEZs, including the notified K. Raheja and Peninsula SEZs, were to come up in Salcete \textit{taluka} (administrative block) in South Goa district, with the largest Christian population (57.4 percent, GoI 2001). The notified Meditab SEZ was to come up in Ponda \textit{taluka} of North Goa district which has a high Hindu population (84.9 percent, GoI 2001). As a result the cultural idioms and repertoires that found resonance among activists from the two \textit{talukas} also differed. In the narrative that follows I use the terms protesters, campaigners and local residents interchangeably but reserve the term activist for key organizers. However, it was over the course of the agitation that many of the local residents became politicized and evolved into key activists of the campaign.

\textbf{People’s Movement Against SEZs}

In the spring of 2007 Franky Monteiro, a small-scale builder from Loutolim and current President of

\textsuperscript{166} The caste and community affiliations of the individuals mentioned in this narrative are not explicitly disclosed given cultural sensitivities but needless to say form major axes of inequality.
Chapter Six

Loutolim *Comunidade* got wind that a Twenty-point Program (TPP)167 was approved by the GIDC on land acquired from Loutolim and Verna *Comunidades*. He filed an RTI application (see note 12) and as the documents provided seemed inadequate, requested an inspection of relevant documents. It was during the inspection that he says:

…I found this minutes of the 287 meeting of the [GIDC] board of 19th April [2006] which showed land being given for SEZ companies to the tune of around 22 lakhs of sq. mts., four companies, and it said it was for SEZs. Now to me at that time, SEZ, I did not even know what was SEZs… It seemed to be a very nice word, like Special Economic Zones. So… then I said let’s just find out what is SEZ… (Interview January 5, 2012).

Monteiro first obtained relevant information …which company had asked [for] what, what was the date of the minutes, everything.” Figuring project details he said, he was shaken: “…I saw that they were supposed to be declared as autonomous bodies, out of the control of the local bodies as well as the state government. There were… no revenue for the local government where it was all supposed to be export-oriented… and they were supposed to be given uninterrupted water… and power supply, they were supposed to be having their own law and order… I said… this cannot happen here. I thought like if five SEZs, means there will be five enclosures doing whatever they want in there… and then… SEZs included commercial units, recreational centers, hotels, resorts everything. So I said this cannot be… (ibid.).

With his neighbor and later Convener of the SVM Charles Fernandes, the village *Sarpanch* (elected head) Sejo Fernandes and several others, Monteiro began sharing information with residents of Loutolim, Verna and other villages around the Verna plateau.

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167 The TPP is a contentious poverty alleviation scheme that has typically allotted *Comunidade* lands for housing low-wage migrant workers in slum-like conditions near industrial estates. These workers often form captive “vote-banks” for political patrons in return for favors like housing, access to water, electricity, etc. While class-bias is a likely factor in the opposition to TPPs, SEZs were to attract white collar immigrants, indicating an underlying issue of overburdened local resources and infrastructure.
Documents revealed that land for seven SEZs had been allotted in April 2006, before the state’s SEZ policy was even notified. While Meditab at Kerim and Peninsula at Sancoale had already been notified by mid-2007, K. Raheja initiated construction at Verna even before it was notified. A well-known realty firm from Mumbai, internet research revealed that K. Raheja’s SEZ was being promoted as a comprehensive township of 275 acres called “Mindspace” on the company’s website. Implications of the residential project for water, agriculture and infrastructure like transport and garbage disposal alarmed local residents. In July 2007, a meeting was arranged with residents from villages around the SEZ sites near the Verna and Sancoale plateaus. Subsequently at a meeting in Verna, People’s Movement Against SEZs (PMAS) was formed.

In the meanwhile, Ramakrishna Zalmi, a schoolteacher from Kerim near Bhutkhamb had read a news report about SEZs in 2005. A seminar in Goa University on SEZs soon after piqued his interest and he sought information from a friend who worked in a SEZ in another state. A meeting organized by the non-profit Jagrut Goem in Panjim where members from PMAS were present sealed the interest of the few participants from Kerim. They sensed that the land lying “unused” since the Nylcon 6,6 agitation might be used for a SEZ. There had been talk of CIPLA, a pharmaceutical industry, since 2006, when at an initial meeting organized by the company, a local youth group, Abhiyan, challenged its claims regarding local employment generation. Meditab SEZ, allotted land on the plateau, turned out to be a CIPLA project.

Initially an informal group of concerned residents organized village meetings and screenings of a SEZ documentary film from Maharashtra made available by SEZ Watch. In village elections a candidate from this informal group, dentist Dr. Videsh Zalmi won and was appointed the Sarpanch.

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168 After anti-SEZ campaigners raised issue over a real estate scam, the Mindspace SEZ advertisement disappeared from the company’s website. Campaigners however, had taken its printouts and subsequently furnished them as court evidence. The company’s website still advertises several Mindspace SEZs in different Indian cities. Fieldtrips to the Verna plateau reveal an area ideal for premium realty projects given its location atop the plateau, with sea breezes, pristine views of the Zuari river, proximity to the airport, the VIE and Margao and Panjim cities, and abundant ground-water and natural springs.
Chapter Six

The Kerim Kriti Nagrik Samiti (Kerim Citizens Action Committee; KKNS) was subsequently formed with about 80 registered members and Dr. Zalmi was strategically appointed its president. As the KKNS stepped up advocacy, the local Member of the Legislative Assembly (MLA) from the MGP (Maharashtrawadi Gomantak Party), whose trucks were contracted for SEZ construction, allegedly sent people, sometimes drunk, to disrupt KKNS meetings.

In the meanwhile water tables were declining because of illegal bore-wells dug for SEZ construction, causing villagers to raise the issue. The private security refused KKNS members entry into the premises, so they invited the MLA for a joint inspection of illegal bore-wells. While the MLA went about inspecting in his car, KKNS members took the opportunity on foot and chased construction workers away from the premises.\textsuperscript{169} However, construction soon resumed; KKNS now organized a big public meeting in Kerim with support from PMAS and other GBA and Jagrut Goem activists. Meetings were subsequently held in surrounding villages to mobilize support, with veteran protesters from Nylon 6,6 adding forces.

At the same time as PMAS stepped up its agitation, another outfit, the Goa Movement Against SEZs (GMAS), with the tacit support of the BJP, also began opposing SEZs. PMAS constituents wished to maintain a clear distance from GMAS, partly because of BJP’s religion-based communal politics and partly to keep at bay partisan political interests. By now, people from Kerim had joined forces with the PMAS and in late October 2007 a meeting was held in Panjim that had a pan-Goa presence from all the SEZ affected villages, other activist groups like the GBA, Jagrut Goem, SEZ Watch and the CSJP. SEZ Virodhi Manch was chosen as the new name for the campaign.

\textsuperscript{169} Construction workers across India are generally extremely poor and vulnerable immigrants from other states dependent on contractors and local residents for livelihoods and stay. In Goa, they are generally from rural Bihar, Jharkhand and Karnataka.
Chapter Six

**SEZ Virodhi Manch**

From November 2007 to January 2008, SVM stepped up the agitation, organizing relentless protest actions and public meetings with regular press releases and media reports. On November 3, around 200 SVM supporters stormed the K. Raheja SEZ raising slogans to halt construction immediately and chased construction crew away. Construction resumed soon, and to SVM’s ire, the SEZ was officially notified three days later. Not only was the construction undertaken prior to notification illegal, the Congress had promised to review the SEZ policy. Following protest rallies in Panjim, CM Kamat finally formed a Ministerial Committee to review SEZs, additionally directing the RP-2021 Task Force to prepare a report on SEZs. The Goa State Congress Committee (GPCC) additionally set up a panel to study the implications of SEZs.

In the wee hours of December 7, as Kerim residents were returning home from a ritual ceremony near Bhutkhamb, they witnessed an accident as a construction truck from the SEZ rammed into an electricity pole. Simmering frustration from having been unable to stop construction earlier resulted in a spontaneous decision to immediately throw out the construction crew once and for all. Overnight, KKNS mobilized support from surrounding villages, SVM activists and supporters. Early that morning another minor accident as a car struck the stationary truck added to the already agitated atmosphere. Other SVM members, journalists and lawyers arrived by late morning, police platoons following soon after. In Zalmi’s words,

> We chased all the workers away. It was spontaneous as after the accident we got a chance to chase them. We went to Anna’s [local spice plantation owner] and planned for arrests etc. We called four advocates beforehand. Here people are disciplined and don’t get out of hand. The agitation was mature. We told the police we’ll set fire to the machines. Poornima [from Kerim] threatened to set fire to herself. The police did not touch us. They knew Goa would
burn (interview with Ramkrishna Zalmi, schoolteacher and cultivator from Kerim, July 5, 2012).

The atmosphere was charged through the day but the police held restraint; reportedly no violence was used on either side. Activists even warned the police to stay away claiming the police had no jurisdiction inside SEZs as they were deemed foreign territories. By evening, the protesters managed to round up construction workers and in a sympathetic gesture of solidarity for their loss of wages and obvious poverty, transported them to the nearest bus terminal at their own cost. Machines were brought out of the premises and their owner was warned to take them by the next day or face damages. Construction never resumed on Bhutkhamb.

Energized by their success in Kerim, SVM members once again stormed the K. Raheja site in Verna on December 11, chasing the construction crew away. Interestingly, the police response was again restrained. In interviews with activists and residents, two likely possibilities emerged for the relatively soft response of the police—the Nylon 6,6 and Meta-Strips agitation experiences had created apprehensions for the ramifications of violence; and that CM Kamat may have asked the police to go “soft” to avoid political escalation (see discussion below).

A massive public meeting held in Margao city three days later gave a major signal of opposition with about 10,000 people in attendance from affected villages and across the state. By December 29, the GPCC released its critical evaluation of SEZs, declaring them unviable. On the same day, a White Paper on SEZs released by the Ministerial Committee echoed this sentiment but recommended six SEZs. The next day, the RP Task Force released its report, concluding SEZs were detrimental for Goa. About 1,000 people from villages around Verna and Sancoale walked in a 10-kilometer rally that day to the house of the local MLA and then Industries Minister, Alexio Sequeira, handing him a memorandum opposing SEZs. Sequeira was also the GIDC chair when the SEZs were recommended.

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\[170\] Soon after, at the peak of the Christmas-New Year tourist season, the GMAS announced that tourists should leave as a “Nandigram-like situation” was developing in Goa (see discussion of other mobilizations below).
were approved and allotted lands. They were greeted by a large police contingent but again, no physical violence was used. On the 31st, the CM announced his “New Year gift to the people of Goa,” scrapping all approved SEZs.

Soon after, in early January of 2008, the SVM organized the demonstration at the Panjim police-station (see quote earlier) as police officials were repeatedly refusing to officially register cases against the GIDC and developers. Two days later the GoG issued stop-work orders to the notified SEZs. SEZ Watch soon called a round-table with SVM and GMAS to share experiences, and PEZ Watch was constituted to monitor developments, though the two groups remained independent. By April, while the BOA conceded to the withdrawal of all formally approved SEZs, in the matter of the three notified SEZs at Verna, Sancoale and Bhutkhamb, they urged the state government to come to an amicable settlement with the developers. That same month, the developers and SVM approached the courts. In August 2008, despite the ongoing court case and stop-work order, the SVM members noticed that construction had resumed in the K. Raheja SEZ. This time they stormed the premises and used physical intimidation to stop construction. No construction has taken place on the premises since. The GoG formally withdrew its SEZ policy in June 2009.

**Court Proceedings**

Pereira filed the first court petition, followed by the five developers who challenged the revocation of the SEZ policy and the show-cause notices issued by the GIDC. SVM members filed public interest petitions against irregularities in due process with the support of a legal aid non-profit, Human Rights Lawyers Network, in July 2008. Around 50-200 residents from the SEZ affected villages attended each hearing to demonstrate continued opposition.

The court finally gave its verdict in November 2010 upholding the GoG’s prerogative to withdraw its approvals to SEZs and revoke the SEZ policy. On the question of denotification of
Chapter Six

notified SEZs, the court reserved comment as this was not specifically challenged by the petitioners. The judgment acknowledged gross irregularities, noting: “The allotment of lands to the companies has been made in undue haste and without proper scrutiny of their applications. The allotment of lands has been made arbitrarily. Procedure adopted in the allotment is not fair and transparent. The allotments made by the GIDC do not stand the test of reasonableness” (Franky Monteiro and four others vs. State of Goa and six others 2010). Disappointingly for the anti-SEZ activists however, no punitive action was taken against responsible officials. As noted, all parties are now in ongoing litigation in the Supreme Court.

During the agitation and court proceedings the activists who were professionals, from all caste and religious backgrounds, bore responsibility for most monetary expenses (institutional donations were refused to retain independence) and RTI, media and legal tasks. Peasants formed the backbone of public meetings, protest demonstrations and presence at the court hearings. Activists reported receiving “offers” and indirect messages for peaceful settlement through “well wishers,” as well as threatening phone calls. Fernandes’ two dogs were mysteriously poisoned and killed one night. Faleiro and Monteiro faced bureaucratic delays and rejections for work related applications. Solidarity, conviction and an abiding sense of ethics and responsibility were cited as sources of strength while continuing the agitation.

Analyzing the Success of the Anti-SEZ Agitation

An Alliance of Forces: Resources, Livelihoods, Migration and the “Goan Identity”

The Verna Industrial Estate has been a constant source of grievance in surrounding villages. Industries on the plateau pump ground water to meet their needs, impacting water levels in the area; a Coca Cola plant (the company’s recent avowal of protecting communities and resources
Chapter Six

notwithstanding\textsuperscript{171} is particularly notorious. Waste from the industrial area finds its way into fields around the plateaus through canals. Many natural springs in the region, some said to be medicinal, have dried up. The source of the river Sal in the plateau has also been adversely affected, in turn affecting the fields along its banks. Activist Peter Gama of Verna, a civil contractor and Comunidade shareholder key to peasant mobilization in the area points out: \textit{“Sometimes people [would] grow three crops …[on] both the banks of river Sal. During my childhood, Utorda, Majorda [villages] was a famous place for watermelon; that time watermelons are not coming from outside Goa. Now due to scarcity of water this river Sal just dries up in… April… (interview July 19, 2012). Gawde from Kerim recounts: “…We harvest arecanut [beetle nut] and coconut in our orchard, but when they put a bore well and pumped ground water, we could not grow anything as water dried up… (interview July 5, 2012; translated from Konkani). Gama sums up, “I would say this Verna plateau, is the head of this village. When you carry some load, there’s a capacity, I can carry certain kilos of weight you know. So this plateau is like that… You can put some certain factory [if]… carrying capacity is there. So I would say there is no carrying capacity at all, as far as Verna is concerned. In spite of this they bring SEZs also (interview June 17, 2012).

SEZs in Goa promised the creation of 242,000 jobs, while the state’s official unemployment estimate is 80,000. The anti-SEZ agitators were not explicitly against industrialization. In Gama’s words again:

\begin{quote}
Industry means they always promise 80\% jobs to locals, but frankly speaking, or in practical, locals peoples does not even get 10\% jobs in this industrial belt or area. And that’s why we say… migrants, workers are coming from neighboring states, even from Jharkhand and UP, not only Karnataka and Maharashtra. So my point is this… why they’re bringing more
\end{quote}

factories on this plateau? Instead of bringing factories or industries in this plateau or area, they have to give it to them… Karnataka or Jharkhand… (ibid.).

Gawde echoes:

…if they put up factories they will need technical expertise and such jobs are of no use to us… Using the land for cultivation will give us all work… Here we don’t have a hospital or facilities… There is no old age home, that will be of use to us…(interview July 5, 2012; translated from Konkanî).

Several bureaucrats, developers, activists and others I interviewed claimed that the native Goan population has grown by zero percent in recent decades; population increases are perceived as resulting from migration. In 2001, immigrants in Goa totaled 20 percent of the population while the latest 2011 census puts this figure at about 30 percent (cf. ToI 2012). A recent GoG report raises apprehensions that by 2021 the Goan population will be outnumbered by migrants. A recent delegation by CM Parrikar to the Prime Minister requested “special status” for Goa to prevent sale of land to non-Goans (Firstpost 2013). Shifting demographics have caused insecurity among some, exacerbated by growing resource constraints and rising property prices. Working-class migrants may be vilified as “criminals” and “drunks” and white-collar migrants resented with fears in some quarters assuming xenophobic and nativist overtones. SEZs were seen as promoting white-collar immigration to a scale that would destroy or burden existing livelihoods, resources and infrastructure, raise real estate prices beyond local affordability and threaten local relationships with land and resources. Combined with the historical relationship of Goa to India, these concerns fueled the positing of the “Goan identity” vis-à-vis SEZs.

“Our God was with us… and God means nature”

A constant refrain among campaign activists, Catholic, Hindu or indigenous, when talking about the
campaign’s success was: “our God was with us...” In Kerim, with a high indigenous population, this was almost always followed by “…and God means nature.” Activists from Kerim recounted how they first took the blessing of the village-God Betal devta through ritual practice seeking divine will by the mediation of a priest, using flower petals as means of communication. The local campaign was initiated only after the divination of blessings. Borkar (2006) discusses natural worship practices in Goa that have helped conserve its rich biodiversity. Given that plateaus are the main source of water for orchards around them, it is possible that religious significance and “sacred presence” was historically attached to Bhutkhamb for preservation. Respondents of all communities recounted going to the plateau to offer prayers on special occasions and claimed that a project would prevent access to worship areas.

The Church similarly is significant to the Goan Christian community, with parish sermons every morning and Sunday sermons in the main village churches that families diligently attend. Campaign members in Loutolim and Verna describe themselves as devout Catholics and participate in religious activities diligently. Post-sermon exchanges helped in the daily sharing and updating of information during the campaign. In Verna, Loutolim and Sancoale, parish priests also played key roles in mobilizing support against the SEZs. Fr. José Dias, Sancoale priest in 2007 with a personal history of environmental activism from the Konkan railway agitation, and Fr. Eremit Rebello, mobilized support around Sancoale and Verna. Fr. Dias notes a growing awareness of “environmental protection from destructive development” in the church (interview with Fr. Dias June 27, 2012). The CSJP’s participation was also key to the campaign. Local religious values informing and drawing from environmental preservation practices thus added a complementary frame to the anti-SEZ campaign.
Evidence of Irregularities

The mandate of the GIDC is to encourage small and medium-scale industry. Export-oriented large enclaves violated this policy. Documents obtained through RTI applications revealed that the state’s SEZ policy was notified in July 2006, but land for seven SEZs was allotted (and fresh acquisition for one approved) in March-April 2006. All seven applications were incomplete when land was allotted, some missing even their company seals. The GIDC approved two of these applications within a day, four within a week and one in 12 days. The land was allotted at discounted rates (of approximately $14 per square meter\(^{172}\) in Verna, $1.9 in Bhutkhamb and $6.3 in Sancoale), on account of lack of infrastructure (see Da Silva forthcoming). GIDC’s rules mandated individual plots to industrial units whereas SEZs required contiguous large areas. Designated open spaces and roads were subsequently allotted to the SEZs (initially for free but after protests at discounted rate) to help fulfill contiguity requirements. K. Raheja SEZ’s status was changed from multi-purpose to service sector SEZ on the lease agreement to fulfill land criteria. Moreover, the GIDC’s approval for four additional SEZs (1,548.44 hectares) was greater than the total land acquired by it in five years.

According to Goa’s Comptroller and Accountant General (CAG), the loss to the exchequer over SEZ land deals was over $20 million. The GIDC additionally took upon itself the responsibility to provide water, drainage and roads to SEZs. Rent concessions were also given with fixed rates for 30-year leases. The Town and Country Planning Department was further requested to increase the Floor Area Ratio for new construction from 100 to 150 percent for Information Technology and other specified buildings, amounting to additional concessions. All of this information was used extensively by the campaigners for advocacy, negotiations with the state and court arguments.\(^{173}\)

\(^{172}\) Dollar figures are calculated at the then prevailing rate of approximately $1 to Rs. 43.

\(^{173}\) See Da Silva 2014; Franky Monteiro and others vs. State of Goa and others 2010; CAG 2008; GoG 2007.
Chapter Six

Other Anti-SEZ Mobilizations

The GMAS, led by late activist and UGDP (United Goan Democratic Party) politician Mathany Saldanha, shared its platform with Hindu-right political parties like the BJP and the Shiv Sena and was able to draw upon its network in all 40 state constituencies (Da Silva forthcoming). During the October 2007 bye-elections in South Goa, the BJP made SEZs a state-wide issue and helped pressure the Congress for a policy review. While initially GMAS and BJP were both in favor of scrapping all except the three notified SEZs, by November 2007 their demand was for wholesale scrapping of all SEZs. In December the GMAS held a massive public meeting in Panjim, issuing deadlines to the government and warning of a “Nandigram-like situation.”174 On Christmas Eve, at the height of the tourist season, GMAS declared that all tourists should leave the state by December 28, as the agitation could take an “ugly turn” (ibid.). However, while both the GMAS and the BJP helped catalyze a state-wide campaign until December 2007, SVM activists point out that they refrained from taking the issue to the courts, revealing especially for the BJP its politically motivated opposition to SEZs.

Electoral Imperatives and Police Restraint

Goa has 40 elected representatives in its Legislative Assembly. As such, a simple majority of over 50 percent requires 21 MLAs. Opportunistic defections among the Congress, the BJP, the MGP, the UGDP, the SGF (Save Goa Front) or the NCP (Nationalist Congress Party) are common and especially since the 1990s, cause of much political instability (cf. Rubinoﬀ 1992). It is very easy for a ruling party to lose its majority as allegiance from coalition partners or ministers from within the party shifts and they (threaten to) defect. Insecurity over electoral outcomes has made parties more

174 Recall that Nandigram in West Bengal was the site of the Indonesian Salim group SEZ that witnessed mass violence through 2007 as local farmers, residents and opposition political parties resisted land acquisition by the state government with violence peaking in November 2007.
receptive to popular pressures (cf. Heller 2005). During and after the 2007 by-elections, the coalition partners of the Congress had begun voicing opposition to SEZs (Da Silva forthcoming). As noted, the SEZ agitation came on the back of the RP-2011 agitation and the Congress likely felt unable to sustain another hostile state-wide agitation.

Internal divisions within the Congress were reflected in senior politicians’ views. SEZs were promoted by a previous Congress CM Rane, and it is possible that CM Kamat was more receptive to popular pressure as he did not have a personal stake in them. In his interview, Kamat claimed: “SEZs in Goa were scrapped because the people of Goa did not want any SEZs. Although one SEZ could have been tried, but it became a serious political problem with 10,000 people on the street and work being stopped so that even under police protection work could not continue” (interview July 20, 2012). Rane on the other hand favored one or two SEZs for the good of the state’s economy and alleged that the agitators were parochial and withdrawing into regionalism, but needed to have a broader view, not a “village mentality” (interview July 20, 2012). Another senior Congress politician who requested anonymity and was an ardent promoter of SEZs called Kamat a “weak” CM who should have lathi-charged (baton-charged) the agitators to teach them a lesson and implement the SEZs.

That the police did not unleash violence despite demonstrations, storming of SEZ premises, chasing the construction crew and even a siege on the police-station is significant. The historically frequent and often successful negotiations by activists with the state may have impacted police response in the face of massive public protest. The Goan state’s “repertoires of repression” (Edelman and León 2013) were blunted by historical repertoires of protest and electoral political contingencies.
Chapter Six

**Small State and Sympathetic Media**

The small size of the state worked to the advantage of the campaigners and helped focus media attention relatively quickly. People could congregate in meetings at short notice. As social distance is not acute, people often personally know politicians and bureaucrats and enjoy greater degrees of interaction with them. Frequent communication with the GoG representatives facilitated receptivity to campaign demands. As the agitation intensified, sympathetic media representatives also ensured prompt coverage of events and press releases. Local journalists from Loutolim, Verna and Kerim helped sustain attention on the issue and were reportedly even present during the storming of SEZ sites.

A combination of contextual and contingent factors located in the historical and inter-related fields of capitalism-facilitating accumulation, environmental activism, religious practices and repertoires of protest and repression, thus contributed to the success of the anti-SEZ campaign in Goa. Such state-level policy reversal is rare, and was aided by the vitiated atmosphere around SEZs across India. How these gains over capital might be further consolidated is the discussion I turn to below.

**Determining Land Rights**

A representative of the K. Raheja SEZ I interviewed indicated unwillingness to give up on “sunk” investment. If lands are returned to SEZs however, activists may intensify the agitation again and this time it could assume a very different form from the previously non-violent one. If they are returned to the GIDC, their fate will depend on the next project sanctioned on them. Having fought long and hard, local residents and activists are unlikely to give up easily. At the same time, the irregularities in the approvals and land allotment processes render both outcomes unlikely. How the SC deals with the “sunk investment” argument remains to be seen, but there is precedent to assume
that it may not be favorably disposed. For instance, in Jagpal Singh vs. the State of Punjab and Others (2011), the SC noted that village commons have been “grabbed by unscrupulous persons using muscle power, money power or political clout, and in many States now there is not an inch of such land left for the common use of the people of the village, though it may exist on paper… This was done with active connivance of the State authorities and local powerful vested interests and goondas [thugs].” Dismissing acquisition in the particular instance the SC further directed all state governments to evict “illegal/authorized occupants of Gram sabha/Panchayat/Paramboke [grazing lands]/Shamlat land” and restore these lands “to the Gram sabha/Gram Panchayat for the common use of villagers… Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession” (see also chapters three and five).

The SVM activists in their appeal to the Supreme Court appealed for the land to be reverted to its original owners, the Comunidades. However, there is a difference in local perceptions with regard to Comunidades. Verna and Loutolim Comunidades have a mixed membership from communities, with women also holding shares, and are perceived as conducting their affairs transparently. In Kerim the Comunidad is under the control of two Brahmin families who are not from the village and do not enjoy a relationship of trust with local residents. Activists from Kerim prefer that the land be brought under the control of the village Panchayat, circumventing the Comunidad altogether.

Monteiro argues that combined control by the Comunidad and the gram sabha requiring minimum quorum of participation for decision-making, rather than a reversion to the village Panchayat or Comunidad exclusively is ideal as the decisions taken by the gram sabha are more transparent and hence accountable to local residents. Nevertheless, the fundamental questions of egalitarian access to land and resources and the need for any development project to redress local
caste, class, gender and community inequalities remain central to locally appropriate development needs.

Campaign activists have several suggestions for locally appropriate projects that will help conserve the environment and provide jobs to local youth, from agro-processing cooperatives to educational hubs. Existing and potential initiatives include farmers’ cooperatives, land rights for Dalit and ST communities and PEZs. A consolidation of the gains made over SEZs, indeed made historically over capital in Goa, requires a renewed political commitment among social forces engaged in struggle, including the SVM. It requires a fundamental “reconstitution from below” (cf. Barker et al. 2013) of relationships around and to land and resources.

In this regard a distinction needs to be made between “issue-based campaigns” and “programmatic social movements” with explicit agendas for “democratically determined egalitarian and ecologically appropriate development.” SVM was successful as a broad-based campaign against SEZs. But a fundamental reconstitution of relationships around land and resources requires focusing on existing inequalities. Rights to land and resources are mediated by historically instituted social relations of power (cf. Verdery 2003). “Pro-poor” land reforms are likely to run aground if inadequately supported by social forces focused on existing social inequalities.

How relevant are the questions of egalitarian organization that the Goan Impasse poses to struggles against dispossession in other states of India? While the specificities of Goa’s history and small size of the state have shaped the success of the state-wide campaign against SEZs in Goa that indeed may be difficult to replicate, anti-SEZ agitations in other states have also similarly forged broad alliances of peasants’ and citizens’ groups, used a diversity of self-reliant mobilization based on voluntary contributions, and successfully blunted the state’s repertoires of repression. Electoral implications of popular protests against SEZs have riven the political consensus over SEZs in other states as well. West Bengal is emblematic, where resistance to land acquisition in Nandigram and
Chapter Six

Singur villages (the latter for an automobile factory, not a SEZ) became a catalytic force in routing of the Communist Party of India (Marxist) after nearly 35 years of rule in the 2009 state elections. While other states where SEZs became controversial may not have revoked SEZ policies or canceled all SEZs, nor indeed witnessed concerted state-wide campaigns, several large SEZs have taken a beating across the country, and the model stands considerably derailed. The question of democratically determined egalitarian and ecologically appropriate right to land- and resource-use for all that the Goan Impasse pries open, finds resonance in other areas of “land-grabs” in India.

The anti-RP 2011 agitation pointed to the necessity for state actors backing social movements and the anti-SEZ agitation points to the need for programmatic social movements going beyond specific issues and projects, if the recurring impasse over land and resources rights is to be resolved in democratically decentralized ways that ensure locally ecologically appropriate development and land- and resource-use rights for all. The lessons from Goan agitations for land and resources, despite their historical particularities, resonate with similar struggles across India, say in Raigad in Maharashtra (recall that MSEZ still shows up in the list of formally approved SEZs), or along the BMIC and the DMIC.

The Goan Impasse demonstrates that “the state,” despite interests within it working actively to aid capital even as “land-broker,” (cf. Levien 2012), is not immune to popular pressure. This learning has also emerged in the course of successful resistance to SEZs in other Indian states. The broad alliance of social forces that came to oppose SEZs in Goa (and elsewhere) underlines how few have stood to gain and many to lose from them. If democracy remains quintessentially a class compromise (cf. Sandbrook et al. 2007), the Goan Impasse uncovers possibilities to push back the capitalist offensive. As the Indian economy and capital poise for “growth” through investments in industry, infrastructure and urbanization, the ethnographic material indicates that a deeper alliance of social forces intent on dis-embedding existing inequalities, and pushing the state toward
Chapter Six

egalitarian, ecologically appropriate and democratic rights to land- and resource-use for all, is critical. If the spirit of Goa's anti-SEZ campaigners walking through the gates of the police headquarters or grazing their cattle through the “SEZ fence” daily stands witness, the possibility of walking through this impasse too, beckons.
Conclusion

Resolving the Impasse
Conclusion

The checkered trajectory of SEZs in India is not specific to SEZs as export enclaves per se but to the dynamics of relationships with land and resources that SEZs set forth. This study suggests that processes of appropriation, resistance and impasse are consistently unfolding in the institution of other growth infrastructures such as industrial corridors, and urbanization projects in India. Peasants’ and citizens’ groups threatened with dispossession are forming critical, if contingent alliances to protect their livelihoods and homes (social movement alliances against SEZs and the Delhi Mumbai Industrial Corridor are illustrative). To the extent that social movement alliances pose an effective “front” against capitalist appropriation of land and resources, they are waging campaigns against infrastructure and urbanization models. Their programmatic agendas for “reconstitution from below” are limited, but their articulation of “development needs” suggest possible reconfiguration of existing relationships. For such reconstitution to be effective for Salu Kodekar (see section on Goan Impasse in the previous chapter) and others like her who are dependent on commons for livelihoods but do not own any land, and are situated in the margins of class and identity privilege, programmatic social movements will need to focus on existing inequalities, and create conditions for egalitarian collective relationships with land and resources. Conditions of conflict are creating openings for such programmatic agendas. In the absence of clear legal principles for egalitarian relationships with land and resources, “economic growth” agendas pose constant threat of dispossession (as the persistence the Mumbai SEZ in the SEZ approvals list suggests). A framework for “locally determined and egalitarian and ecologically appropriate land-use and resource-use for all” can be a potential tool towards fundamental “reconstitution from below.” I turn next to a preliminary exploration of the elements for a hopeful legal framework for “rights to land-and resource-use for all” in India that pushes beyond private property entitlements.
Rights to Land- And Resource-Use for All

Admittedly, the Land Acquisition Act, a pre-Constitutional legislation of colonial vintage is a drastic law, being expropriatory in nature as it confers on the State a power which affects person’s property right. Even though right to property is no longer fundamental and was never a natural right, and is acquired on a concession by the State, it has to be accepted that without right to some property, other rights become illusory (Surendra Singh vs. State of U.P. 2011: 3).

The imperative for land reforms derives firstly from the Constitutional mandate for equality before law and the primary duty of the state to ensure redistributive justice. It is reiterated nearly sixty years after Independence in the Common Minimum Programme of the UPA government, declared on 24 May 2004, that ‘landless families will be endowed with land through implementation of land ceiling and land redistribution legislation. No reversal of ceiling will be permitted (GoI 2009a: i).

The Constitutional arrangements have devolved a responsibility upon the Union to oversee the fostering of economic and social justice in the States. Land Reforms remain a means of distributive justice to the marginalised and, therefore, a part of the Preamble to the Constitution (ibid: vi).

To briefly recap, the right to property was initially a fundamental right under the Indian Constitution but later removed to facilitate redistributive land reforms. The right to compensation was also whittled down with some exceptions. The 2013 land acquisition law leaves out consent-based appropriation for land and resources for state-led acquisition but introduces quotas for consent of land owners for private projects (80 percent for a private project and 70 percent for

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175 Thanks are due to Albertina Almeida for pointing out land- and resource-uses that are not recognized by law but form local practices and livelihood resource-bases and thus must be accounted for. See also Sampat 2013b.
conclusion

Public Private Partnerships). It raises compensation rates by providing for annuities and in some locations, doubles the market rate for land. Its provisions are far from laying a consent-based “development” paradigm that is egalitarian, locally determined and ecologically appropriate.

But this is not an argument for the reinstatement of the right to property as a fundamental right. What principles must rights to land- and resource-use for all need to draw upon and what elements need to be considered to move beyond a narrowly conceived individual right to property? Article 39 of the Directive Principles of State Policy in the constitution offers a relevant principle to develop a framework, stating that the ownership and control of the material resources of a community should be distributed to best serve the common good, and such that the operation of the economic system does not result in the concentration of wealth and means of production. Land reform legislation also flows from these principles and draws upon redistributive and economic justice and the right to life and liberty; a fuller treatment can help us get out of the bind of the dual nature of eminent domain where the temptation of its redistributive potential hangs in the long shadow of its historical abuse.

Borras and Franco (2010) sum up key elements of “pro-poor land reforms” that help distinguish pro-poor land policies from Market Led Agrarian Reforms (MLARs): such policies ensure protection or transfer of land-based wealth and political power in favor of the poor; are class-conscious, historical, gender- and ethnic-sensitive; productivity increasing, livelihood enhancing and rights-securing. In India these need to be complemented with robust and responsive agrarian policies that ensure food sovereignty176 and the sustainability of local agrarian economies. Identifying the plurality of landless and near-landless rural poor that include peasants, laborers, indigenous communities, artisanal fisher-folk-cum rural laborers, men and women Borras and Franco (ibid.)

176 Food sovereignty commonly refers to locally ecologically appropriate and sustainable food, agriculture, livestock and fisheries systems and must not to be confused with state sovereignty. While the concept is fraught with ambiguity and regulatory challenges (see Edelman 2014) here I retain its use to complement locally determined egalitarian and ecologically appropriate relationships with land and resources that guarantee food security for all.
argue that formal land ownership through reform can be by the state, community or private entity—individual or group, as long as the “bottom-line is about reforming land-based social relations. …[reforming] the terms under which land-based wealth is created, appropriated, disposed and consumed as well as the ways and means by which such processes are effectively controlled by different groups…” (emphasis in original, ibid: 10).

A 2013 draft Declaration on the rights of peasants and other people working in rural areas for the UN Human Rights Council, if adopted by the Council (and eventually the General Assembly), offers critical potential for the rights of peasants to “land and territory,” “tenure,” “land reform” and “equitable access to land” (UN 2013: 4). The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (FAO 2012) endorsed by the UN Committee on World Food Security establish principles for securing the tenure of land, fisheries and forests (albeit not water and minerals) as a fundamental right: human dignity; non-discrimination; equity and justice; gender equality; holistic and sustainable approach to the management of natural resources; and consultation and participation. They call on states to provide legal recognition for legitimate tenure rights, particularly customary and informal tenure rights and their guaranteed legal protection against forced evictions. They also call for the recognition and protection of the commons and their collective use and management and indicate the need for redistributive reforms (see Monsalve and Seufert 2012; FAO 2012).

Land reforms in Brazil initiated by the Movement of Landless Workers (MST) offer a prescient caution for the Indian context as well. The MST used the constitutional provision that all land must be used for socially productive purposes to occupy unused land. It privileged usufruct rights to tillers to counter the dynamic of commodification under MLARs. However, usufruct rights were embedded in “land to the tiller” arguments and failed to clarify who a tiller was, creating confusion and conflicts among MST communities over their rights (Wolford 2007). Clear and
variegated rights and access to land and resources for specific communities and people need to thus be specified. The FRA for example recognizes the claims of non-advai forest dwellers to forests and their resources but in practice, large numbers of such applications are denied recognition by officials, posing serious challenges for the rights of all forest dwellers (NFFFW 2011). Many legally recognized rights also do not take into account informal arrangements for land and resource-use that exist locally and are not officially accounted for. Direct consultations with local communities are imperative and must be effectively developed into any legal framework.177

The right to shelter also needs to be safeguarded. A recent judgment of the Constitutional Court of South Africa struck down the KwaZulu-Natal Slums Act after the movement “Abahlali base Mjondolo’s” (Zulu for “people of the shacks”) challenged the eviction of slum dwellers. The Slums Act empowered municipalities to evict “illegal” occupants from state-owned land and derelict buildings, and to force private landowners to do likewise or face fines or imprisonment. The Court struck down the legislation because of section 16 of the Act that gave provincial housing ministers untrammeled powers to instigate evictions of “illegal” occupiers, and held that the Act was in contravention with the Constitutional right of every South African for access to adequate housing and was inconsistent with several existing legal instruments (see Tolsi 2009). Historically, the constitutional provisions of the erstwhile USSR and China have guaranteed that the state cannot take away an individual’s dwelling house and similar personal property, even by legislation (Basu 2008).

The “right to property” needs to be viewed as wider than private property and rights to land- and resource-use must minimally guarantee rights to shelter and livelihood to all. The development of rights to land and resources through individual entitlements can lead to the creation of a bigger

177 Consultation, like consent, is a significant challenge given class- and identity-based inequalities. It suffices to suggest here that multiple measures for consultation and consent are necessary, including gram sabha (village assembly) and ward sabha (assembly), Comunitado and other collective consultations and effective “redress mechanisms” at appropriate nodes (administrative, judicial, human rights commissions) and distances from localities.
Conclusion

market for them and their greater concentration. The proposed Land Titling Bill 2011 in India aims at updating land records for greater accuracy, and seeks to ease “encumbrances” and facilitate “saleability” in land markets (Ramanathan 2011). Struggles for land reforms led by NGOs have held national protests and rallies on the issue of land reforms in recent years but need to be attentive to demands that unwittingly enable commodification of land and resources through individual entitlements. At the same time, collective or usufruct rights insensitive to a mixed caste context would lead to the alienation of dalit and other bahujan communities and securing private entitlements in such contexts may better safeguard rights. Legal recognition of complex and contextualized land- and resource-use rights arrived at with direct consultation with people and communities through state and non-state channels. The possibilities of private, collective, usufruct and other use rights to land and resources thus need to be considered contextually, sensitive to caste, religious, gender, ethnicity and other forms of disparity prevalent in any given area of the country.

“A Life of Contradictions”

Harvey reminds us:

The unconstrained growth of capitalism in new regions is an absolute necessity for the survival of capitalism. These are the fields where excess overaccumulated capitals can most easily be absorbed in ways which create new market openings and further opportunities for profitable investment (Harvey 2001: 303).

A long dynamic history of popular struggles for social and economic justice, equity and legal activism in India defies any fixed relationship to the “rule of law” or unidirectional “ruling-class”
Conclusion

agenda. As this study shows, “the state” itself is an arena open to contest and compelled to respond in the face of popular agitation. Despite clear bias in policy and corruption, alliances of peasants’ and citizens’ groups struggling against dispossession shore up legal strategies as critical “repertoires of protest,” challenging “legality” (or rule of law) and “state sovereignty” on the one hand and simultaneously petitioning “the legal system” for redress on the other, sometimes gaining important “concessions,” at other times more significantly, getting rid of the “offending project.” Capitalists, politicians and bureaucrats benefit in a wide nexus of corruption that defies “rule of law” with its own logic, as “economic growth” is conflated with “development” and “public purpose” is redefined to reflect “private interest.”

To the extent that peasants’ and citizens’ groups challenge locally prevalent entrenched inequalities along caste, class, gender and community axes, and undertake to redress them, they engage egalitarian projects of “reconstitution from below.” Once a particular project or policy is successfully rid however, the work of painstaking (and painful) social transformation can lose priority and enthusiasm can peter into local status quo of entrenched inequalities, until another “project” comes along threatening dispossession. The Goan resistance against the RP 2011 and SEZs, and the successful resistance in the Mumbai SEZ area, in Nandigram in West Bengal, in Mangalore in Karnataka, in the Mandal-Becharji investment area in Gujarat and the Bangalore-Mysore industrial corridors (among others), are instances of successful “democratic assertions” over land and resources keeping capitalist usurpation of land and resources at bay. If egalitarian resolutions to the impasse over land and resources are not secured however, contestations will likely emerge again.

Conclusion

This study has attempted to highlight the critical significance of and possibilities for contemporary egalitarian projects in India. Conflicts over land and resources are assuming a central dynamic in India’s “economic growth” with “capitalism-facilitating accumulation.” Peasants’ and citizens’ groups are posing significant non-negotiating “counterpolitics” to the appropriation of land and resources. “The state,” itself an arena of contestation and competing interests and ideologies, is compelled to “revise” and sometimes “reverse” policy. “Legality” is unsettled, and “rule of law,” in the absence of clear principles for egalitarian relationships with land and resources is confronted with conditions of impasse. These conditions of impasse confronting capital and legality are opening possibilities for locally determined, egalitarian and ecologically appropriate relationships with land and resources, “reconstituted from below.” I have offered a preliminary exploration for a legal framework enabling such reconstitution. For the framework for egalitarian relationships with land and resources to be effective, programmatic social movements need to focus on existing inequalities.

I conclude below with a quotation from B. R. Ambedkar, the “architect” of the Indian Constitution as the Chair of the Constituent Assembly, and one of the most influential thinkers and anti-caste leaders in 20th-century Indian history, who was deeply troubled by issues of inequality:

On the 26th of January 1950 [Indian Republic Day], we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. [179]

How long shall we continue to live this life of contradictions?

How long shall we continue to deny equality in our social and economic life?

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179 This should not be viewed simplistically as promoting liberal conceptions of “possessive individualism,” Ambedkar here referenced oppressive caste, class and community inequalities, as well as the tension between “individual” and “community.” See also Smith (1989) for a discussion on “individualism,” “solidarity” and “possessive individualism.”
Conclusion

If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up (Speech made to the Constituent Assembly, November 25, 1949, before the official promulgation of the Indian Constitution).
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