

Enabling the Great Goan Land Grab

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The Goa Requisition and Acquisition of Property Bill, 2017 and the Goa Compensation to the Project Affected Persons and Vesting of Land in the Government Bill, 2017 are the latest additions to the state government's arsenal of legal tools to facilitate acquisition and conversion of land within the state, while insulating itself from any consequence of "environmental justice." This follows a national trend of deploying legal language and institutions to support an aggressive approach towards appropriation of land assets.

August 2017 has seen two ominous developments in the domain of land-related legislations in Goa. On the one hand, the Goa state assembly, led by the Bharatiya Janata Party (BJP), passed two new bills intended to ease the acquisition of land for "public purposes." On the other hand, the BJP-led central government issued a notification requiring that all environmental litigation originating from Goa, which have so far been placed before the National Green Tribunal's (NGT) West Zone Bench in Pune, be shifted to the NGT's Principal Bench in Delhi. This is the latest turn in a series of moves through which the government has enabled access to land, whilst simultaneously disabling civil society-led opposition.

Enabling Access to Land

The two recently passed bills are the Goa Requisition and Acquisition of Property Bill, 2017, and the Goa Compensation to the Project Affected Persons and Vesting of Land in the Government Bill, 2017. The former seeks to provide for the speedy acquisition of immovable property for certain public purposes (GoG 2017a: 1168), while the latter purports to provide the right of compensation to persons affected by land acquisition, and to ensure that they are adequately compensated (GoG 2017b: 1150). Manohar Parrikar's BJP-led coalition government, which assumed office earlier this year, tabled the bills and, given its parliamentary majority, the government encountered no difficulty in having them passed.

As always, the statement of objects and reasons for introducing the bills appear beyond reproach. Yet, on closer inspection, it seems clear that the main reason for introducing the two bills in tandem is to make compulsory land acquisitions swifter and cheaper, and to

reduce the many administrative and legal complications that often accompany them. Both bills operate with very expansive definitions of "public purpose" that can, in principle, cover a range of purposes, including transport, communication, irrigation, drainage, tourism promotion, slum clearances, industrial estates, medical and educational institutions, mining, bus stands, airports, and truck terminals (GoG 2017a: 1168). Critically, the bills include language noting the public purpose of the state's troubled mining industry.

It may be recalled that the definition of public purpose was a key point of contention when the national Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013—the LARR bill—was drafted. As the then environment minister, Jairam Ramesh, had stated, "seldom has a term existed that has caused so much persistent confusion as a result of its obscurity" (Ramesh and Khan 2015: 23). The national LARR bill sought to pin down what was meant by public purpose by listing at length all undertakings that it considered as furthering a public purpose (Ramesh and Khan 2015: 27). Critics maintained that the lengthy final list included a large number of non-public spirited activities. Thus, rather than truly safeguarding the rights and interests of vulnerable sections of society, the bill made the process of acquiring land "easier" by diluting the notion of public purpose (Desai 2011). This followed a broader national trend where public purpose is increasingly shaped by the needs of private developers, thus increasing the infrastructure and wealth gaps among the nation's haves and have-nots (Roy 2009).

The two new Goan land bills accelerate this national trend, further expanding the notion of public purpose. "Moreover, the said land shall vest in the Government encumbrance free irrespective of whether that land actually has encumbrances or not" (Almeida 2017), and would omit entirely any discussion of consent. While the national LARR bill has elaborate social impact assessment

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and consent clauses for certain projects that involve private companies, the Goan bills do not mention consent, nor do they include any provisions for participation by people who stand to lose their land. In this regard, they represent a return to the draconian and now repealed Land Acquisition Act of 1894 that was designed for colonial subjecthood rather than citizenship.

While the Goa Requisition and Acquisition of Property Bill contains provisions for the government and the landowner to work out an agreement regarding the compensation that shall be granted, persons aggrieved by the government's decision to acquire land are only allowed to appeal before the office of the collector, who, after giving the parties an opportunity to be heard, may pass an order that shall be final. Crucially, while the bill does allow the high court and the Supreme Court to entertain disputes relating to land acquisition, it specifies that no court is empowered to grant an injunction.

Following a National Trend

The passing of the two bills in Goa link up with other legal manoeuvres at the national and state levels that facilitate the access to and acquisition of land, and its conversion for profitable uses. It will be recalled that the Narendra Modi government in late 2014 and early 2015 fought a long battle to amend (and dilute) the LARR bill, a move that followed intense lobbying and pressure by industry groups in the wake of Modi's electoral win. This was done first via the ordinance route, and later by introducing the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015. Both the Confederation of Indian Industry and the Associated Chambers of Commerce and Industry of India "whole-heartedly" welcomed the move (Rajalakshmi 2015), but the amendments were never passed, as the BJP lacked the requisite numbers in the Rajya Sabha.

Unable to push through the dilution of key provisions in the LARR bill, the Modi government instead encouraged the states to pass their own, more investor-friendly land laws, assuring them that the centre

would duly approve these (*Hindustan Times* 2015). Since then, National Democratic Alliance (NDA)-ruled states, such as Rajasthan, Andhra Pradesh and Gujarat, have all introduced legislations to water down key provisions of the LARR bill, while NDA-ruled Jharkhand has, in a similar spirit, sought to undermine the Chotanagpur Tenancy Act and the Santhal Pargana Tenancy Act (Chacko 2016). Goa has now followed suit and has, in the process, given further momentum to the overall process of undermining whatever progress had been made in safeguarding the rights of the dispossessed under the LARR bill.

Simultaneously, recent moves to shift Goan environmental litigation from Pune to New Delhi further threaten opportunities for participation and engagement by civil society. With the passing of the National Green Tribunal (NGT) Act in 2010, the NGT was established to "provide speedy environmental justice and help reduce the burden of litigation in the higher courts." Goa was placed in the NGT's western zone and put under the jurisdiction of the Pune bench. Recourse to the NGT has been an important avenue for environmentalists in Goa. Indeed, according to one estimate, 40% of the cases filed before the Pune bench originate from Goa (*Times of India* 2017), and NGT orders have resulted in a number of important victories from the point of view of environmental justice. But, on 10 August 2017, the central government's Ministry of Environment, Forest and Climate Change issued a notification shifting Goa to the principle bench in New Delhi.

This effectively means that all environment-related litigation originating from

Goa would now have to be heard in New Delhi. Geographically, this transition will make it financially burdensome for individuals or groups in Goa to lodge cases in the nation's capital. Environmentalists have justifiably labelled this shifting of jurisdiction a "war on environmental justice," and have demanded that the decision be reversed.

Local Impact

Locally, the two bills are likely to have an adverse impact on the environment and on the rights of the dispossessed. It is commonly accepted that Goa's development over the past decades has been driven by "the destruction of land, not from the careful use of it" (Newman 1984: 444) through, for example, rampant illegal mining (de Souza 2015), unregulated real estate development (Sampat 2014), as well as industrialisation and mass tourism (Goswami 2008). Land-based conflicts have thus shaped Goa's political economy, and have in recent years given rise to popular movements against various forms of land conversion, whether related to mining expansions, special economic zones (Abreu 2014; Da Silva 2014; Bedi 2013, 2015; Sampat 2013), deeply flawed regional planning processes (Da Silva et al 2013), tourist infrastructure, or airport development (Nielsen 2015; Nielsen and Da Silva 2017).

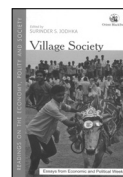
The explicit mention of mining as a public purpose indicates that the government wants to boost the industry, which is currently slowly resuming operations after the statewide ban, imposed in the wake of the Shah Commission's report on illegal mining (Commission on Illegal Mining 2012), was lifted in 2015. The

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mining industry's track record of environmental degradation and outright illegalities is, of course, well known, not just in Goa (Alvares and Saha 2008; Human Rights Watch 2012; CEE 2013), but across the world. Additionally, the inclusion of airports in the "public purpose" list is not surprising, given the ongoing contentious construction of a new international airport in Mopa in north Goa. Large tracts of land have already been acquired for the airport, but additional land is likely to be "needed" for roads, hotels and other infrastructure.

The two bills join a longer list of already existing legal tools that can be deployed to promote investor-friendly land acquisition in the name of public purpose. For example, in 2008, an amendment was made to the Goa, Daman and Diu Town and Country Planning Act, 1974, which exempted government projects from adhering to the zoning and land-use provisions mandated by a spatial plan created for the state, called the Goa Regional Plan. Using these amendments, 72 government projects have been approved, causing the conversion of orchard, agriculture, and forested zones, as well as specifically designated "no development zones" into settlements or institutional land uses (Town and Country Planning Department 2017). Thus, these amendments allow the government to effectively override the policy and zoning provisions of the regional plans.

Comparably, in 2014, the Government of Goa passed the Investment Promotion Act, 2014 with the objective of "kick-starting investments" in the state. An Investment Promotion Board (IPB) was set up in order to make the process of investment simple and quick. The IPB was empowered to declare areas for investment promotion so as to exempt them from the provisions of the regional plans and its related zoning regulations. Investment promotion projects include undertakings by private as well as government or government agencies. In only three years, 107 projects have been cleared using this mechanism (Directorate of Industries, Trade and Commerce 2017). The two bills passed in August 2017, when read in tandem with the IPB Act, 2014 and the provisions of the amendments to

the Town and Country Planning Act, imply that the government can not only fast-track the acquisition of land, but also quickly facilitate the land-use changes.

Conclusions

The two new Goan bills follow a national trend of using legal reforms to facilitate land transfers through the expansion of the notion of public purpose to include a broad range of activities. As such, they provide the government with a firmer basis for enlisting legal language and institutions of law to deflect popular opposition. The inclusion of mining in the bill language justifiably furthers civil society concerns that the state will seek to expand this contentious industry that has been hit by a corruption scandal in 2012. In sum, the great Goan land grab that has now played out for many years has, unfortunately, received another boost.

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