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Land, Rights and Reform in India

Rob Jenkins¹

ABSTRACT

India's legal regime governing the compulsory acquisition of private land by the state for "public purposes" has long been criticized for breeding corruption and insufficiently protecting landowners and local communities. Attempts to overhaul the Land Acquisition Act, 1894 (LAA) have faced stiff resistance from powerful interests within and outside the state. When the United Progressive Alliance government took power in 2004, few would have guessed that it would seek to replace the LAA with legislation that imposes more rigorous standards for the compulsory acquisition of land and detailed rules for addressing the needs of displaced people. Yet, in 2011 the government introduced the Land Acquisition, Rehabilitation and Resettlement Bill (LARRB). This article argues (1) that the LARRB displays certain distinctive characteristics shared by other rights-related statutes enacted under the UPA government; (2) that the emergence of this distinctive—and unforeseen—piece of legislation was driven largely by India's approach to creating Special Economic Zones; and (3) that both the LARRB's content and the process by which it was introduced have implications for debates of wider theoretical significance, including the increasingly hybrid nature of rights, and the desirability of combining insights from the literatures on "policy feedback" and "policy entrepreneurs."

KEYWORDS: Human rights, land, land acquisition, displacement, policy reform, India, rehabilitation and resettlement

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I

Since attaining independence in 1947, India's record on land reform has been decidedly mixed. Where they existed, feudal intermediaries were abolished in an initial wave of reform in the 1950s. But substantial land *redistribution* has occurred only rarely, and in a relatively small number

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of states.² Even less frequently has the reformist impulse been sustained more than a few years.³ During the post-1991 era of economic liberalization, land reform has mainly involved market-enabling administrative changes such as overhauling land-ownership record keeping and streamlining procedures for executing land transactions.⁴

The dearth of redistributive land reform in India has been compounded by an inefficient and inequitable legal regime governing the compulsory acquisition of private land by the state for “public purposes” such as infrastructure projects. The Land Acquisition Act, 1894 (LAA) has been criticized for lacking transparency, breeding corruption and insufficiently protecting landowners and local communities more generally.⁵ Since independence, efforts to revise and update the LAA have been piecemeal at best.⁶

Given the LAA’s manifest durability, it would seem, *ex ante*, unlikely that any government would undertake substantial reform of the LAA. When the United Progressive Alliance (UPA) coalition government came to power in 2004, the most any realistic observer might have anticipated was cautious tinkering at the margins, such as administrative changes to reduce bureaucratic discretion. That the UPA government would attempt to repeal the LAA and replace it with legislation that imposes a range of new obligations, on both the state and private-sector actors, would have struck many people as beyond the realm of possibility.

Such expectations would have been misplaced. The Land Acquisition, Rehabilitation and Resettlement Bill (LARRB) introduced in parliament in 2011 was the first serious, sustained effort to replace the LAA with something more suited to a democratic state committed to human rights. The LARRB is a complex piece of legislation covering a vast array of technical questions, including longstanding issues concerning the treatment of people displaced, or threatened with displacement, by large-scale infrastructure and industrial projects. Whatever its flaws, the bill cannot be faulted for lacking ambition.

By February 2013, the LARRB had received intensive public and parliamentary scrutiny; a revised version of the bill had received cabinet

² The political variables that accounted for differential performance among state governments on land reform were identified in Atul Kohli, *The State and Poverty in India: The Politics of Reform* (Cambridge: Cambridge University Press, 1987).

³ Even in West Bengal, a much-lauded success, the heyday of land reform covered less than the first decade of the Communist Party of India-Marxist’s 34-year reign in power (1977-2011). One analysis of the political dynamics underlying successful land reform in West Bengal is Pranab Bardhan and Dilip Mookherjee, “Determinants of Redistributive Politics: An Empirical Analysis of Land Reforms in West Bengal, India,” *American Economic Review* 100, no. 4 (2010): 1572-1600.

⁴ This is the focus of, for instance, “Access to Land in Rural India: Policy Issues and Options,” *Policy Research Working Paper 2123* (New Delhi: World Bank, South Asia Regional Office, 1999).

⁵ For a critical overview of India’s land policies since independence, see Sanjoy Chakravorty, *The Price of Land: Acquisition, Conflict, Consequence* (forthcoming).

⁶ The most substantial was the Land Acquisition (Amendment) Act of 1962.

approval; and Prime Minister Manmohan Singh's government remained committed to passing it before the next general election, to be held no later than spring 2014. Even if the LARRB does not become law during the current parliament, the effort to introduce comprehensive legislation that addresses both the standards applicable to the compulsory acquisition of land and rules for rehabilitating people displaced by the resulting infrastructure and industrial projects warrants explanation.

This article has three main objectives. First, it seeks to identify significant features of the LARRB's legislative content. The article argues that the LARRB displays certain distinctive characteristics shared by other rights-related statutes enacted under the UPA government since it assumed office in 2004. These concern the act's conceptual underpinnings, institutional architecture and approach to accountability relationships.

Second, the article attempts to identify certain underappreciated factors that contributed to the emergence of this distinctive—and unforeseen—piece of legislation. In particular, it highlights the role played by the Special Economic Zone Act, 2005 (SEZA). While in some respects the SEZA represented the antithesis of India's recent wave of rights-related legislation, the process of implementing it fostered a conducive political environment for India's ruling coalition government to introduce the LARRB.

Third, the article seeks to highlight the implications of the LARRB's content and the process of its introduction for debates of wider theoretical significance. Regarding content, it argues that the LARRB represents a hybrid form of legislation that promotes "governance rights": a combination of precisely specified state obligations and highly detailed procedural mechanisms that empower citizens to engage in accountability-seeking through institutions designed to advance particular aspects of their well-being. Concerning process, the article argues that the LARRB constitutes a type of "audacious reform,"⁷ and that the political dynamics underlying its introduction are best illuminated by combining insights from the literatures on "policy feedback" and "policy entrepreneurs."

II

The version of the LARRB tabled in parliament in late 2011 contained 107 sections. Many included numerous subsections and contingent clauses. It is beyond the scope of this article to analyze the bill's provisions in detail or to engage in an extended critique of its deficiencies (though some of the latter are discussed). Instead, this section highlights three particularly noteworthy features of the LARRB.

⁷ Merilee S. Grindle, *Audacious Reforms: Institutional Invention and Democracy in Latin America* (Baltimore: Johns Hopkins University Press, 2000).

The first is the bill's recognition of the potential for state-facilitated development initiatives to fundamentally disrupt social and political life rather than just patterns of economic activity. Large infrastructure and industrial projects affect not only individuals and households, but entire communities; not just livelihoods, but ways of life. This fundamental principle was at the heart of the LARRB, reflected in several of its provisions. Perhaps most importantly, the bill acknowledged that "public purpose"—the justification for the state's forcible acquisition of privately held land—must be defined more narrowly than it has been over the past several decades, and that any purported social benefits must be carefully weighed against a much more comprehensive accounting of social costs.⁸ An explicit bias against compulsory land acquisition, and against displacement in general, was built into the LARRB. Even when a proposed project is found to "serve the stated public purpose" and to be "in the larger public interest," government officials would have to attest that the amount "of land proposed to be acquired is the absolute bare-minimum extent needed" and that "there are no other less displacing options available."⁹

The LARRB also sought to redefine the conceptual underpinnings of compensation for compulsorily acquired land. Most fundamentally, the unit of analysis was changed: compensation was to be awarded not only to individual landowners, but to stakeholders in the local economy more broadly, including those reliant on economic activities associated with existing land-use patterns. This shift represented an acknowledgement of the existence of "livelihood rights," sometimes articulated as "livelihood security,"¹⁰ a formulation that encompasses an array of other rights, such as the right to information, to employment, and to food. An indication of the bill's inclusive approach to community was the broad definition of "persons interested" in the acquisition of land for any given project. The list included tenants, sub-tenants, and share-croppers, as well as others, such as artisans and local service providers, "whose primary source of livelihood is likely to be adversely affected by a given project." Also included were "tribals and traditional forest dwellers, who have lost any traditional rights" recognized in law.¹¹ The value placed on community was found in several other parts of the bill as well, not least the provisions concerning the process for analyzing the impact of land acquisition and indeed authorizing certain kinds of projects, both of which are discussed below. It included a detailed annex specifying the "infrastructural facilities and basic minimum amenities" that state governments must provide

⁸ LARRB 2011, Section 3(za).

⁹ LARRB 2011, Section 7(5).

¹⁰ This term was used in the president's speech outlining the government's priorities. "Government Unveils Five-Point Blueprint," *Statesman*, 12 March 2012.

¹¹ LARRB 2011, Section 3(x).

to allow displaced people to “secure for themselves a reasonable standard of community life.”¹²

The LARRB’s second key feature, from a rights perspective, was its specification of citizen-initiated procedural mechanisms through which the state would ensure the fulfillment of the livelihood rights identified above. While the existing LAA already included procedures for “notifying” land, ascertaining the prevailing market value, identifying title-holders and so forth, citizens generally played only a bit part. Ordinary people have had little capacity to affect outcomes under the LAA, with the exception of those who could enlist the support of a political patron.¹³ Involving ordinary people in stakeholder-voice exercises is common practice in other policy sectors. But when it comes to regulating land—its sale, ownership and use—the Indian state has been notoriously secretive and unwilling to permit public participation. An administrative machinery to engage citizens in the official land acquisition process is a fairly revolutionary notion.

The LARRB specified that the very first step of the land acquisition process—“preliminary notification” of the government’s intent to acquire a land parcel—could not take place until the public was consulted through a meeting of the *gram sabha*, or “village assembly,” a formal institution that includes all residents of a *gram panchayat*, or “village council,” the lowest tier of India’s constitutionally mandated system of local government.¹⁴ The “views of the affected families” expressed in this and other mandated public hearings were to be included in the Social Impact Assessment (SIA) report that state governments would be required to produce.¹⁵ The involvement of non-governmental actors was also specified in the process for appraising the validity of the SIA report. The “independent multi-disciplinary expert group” to evaluate the SIA report was to include at least “two non-official social scientists.”¹⁶ The expert group would determine whether a project “does not serve the stated public purpose,” whether it “is not in the larger public interest,” or whether “the costs and adverse impacts of the project outweigh the potential benefits.”¹⁷ In any of these circumstances, the expert group

¹² LARRB 2011, “The Third Schedule,” preamble.

¹³ Reports from state government monitoring agencies have, since the 1960s, made reference to the frequency with which the “urgency” clause was used to sidestep the rudimentary protections for landowners in the original LAA. For instance, a 1967 Karnataka government circular stated that state-level authorities had “observed that, of late, there is a steady increase in the number of proposals that are being received from the Deputy Commissioners recommending for invoking the urgency clause for land acquisition.... In this connection it may be stressed that...Section 5A of the L.A. Act [the relevant provision] cannot be arbitrarily exercised.” Government of Karnataka, “Memorandum – Subject: Acquisition of lands under the urgency clause of the Land Acquisition Act – Instruction Regarding” (Bangalore: March 1967), originally cited in Centre for Policy Research, *PRS Legislative Brief* (New Delhi, 10 March 2008), 5.

¹⁴ LARRB 2011, Section 11(2).

¹⁵ LARRB 2011, Section 5.

¹⁶ LARRB 2011, Section 7(1) and 7(2).

¹⁷ LARRB 2011, Section 7(4).

would be *required* to recommend “that the project be abandoned forthwith,” at which point “no further steps to acquire the land will be initiated.”¹⁸ Where a project involved the proposed acquisition of more than 100 acres of land, an additional review committee was to be established, including “three non-official experts from the relevant fields.”¹⁹

A more substantial form of citizen participation specified in the LARRB concerned the procedure for determining when the state could forcibly acquire land for private companies or public-private partnerships. In either case, the project had to be in the “public interest.” The state would also be required to obtain “the consent of at least eighty per cent of the project affected people,”²⁰ which under the original bill included a broadly defined set of persons. The bill also included guidelines for a “prior informed process”²¹ for obtaining this consent. The acquisition of 100 or more acres of land would require citizen involvement in a project-specific Rehabilitation and Resettlement Committee. The committee was to include historically discriminated-against groups such as “women,” “Scheduled Castes,” and “Scheduled Tribes.”²² Its function was “to monitor and review the progress of the implementation of the Rehabilitation and Resettlement scheme and to carry out post-implementation social audits,” providing further avenues for continued citizen engagement.²³

The third significant feature was the LARRB’s creation of dedicated institutions that would permit citizens and civil society members to exercise accountability over the implementation of its provisions. These included the aforementioned “expert group” to evaluate the SIA report, the committee that assesses the expert group’s findings, and the local Rehabilitation and Resettlement Committee. Also specified in the LARRB is the appointment of an administrator²⁴ and a commissioner²⁵ for rehabilitation and resettlement, each with highly specified responsibilities. At a more strategic level, the bill called for the establishment of a National Monitoring Committee for Rehabilitation and Resettlement²⁶ to review implementation and recommend policy changes. The monitoring committee was to be granted access to official documentation from state governments.

The bill also required state governments to establish Land Acquisition, Rehabilitation and Resettlement Authorities to “provide speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and

¹⁸ LARRB 2011, Section 7(4).

¹⁹ LARRB 2011, Section 8(1)(c).

²⁰ LARRB 2011, Section 3(za).

²¹ LARRB 2011, Section 3(za).

²² LARRB 2011, Section 41(2).

²³ LARRB 2011, Section 41(1).

²⁴ LARRB 2011, Section 39.

²⁵ LARRB 2011, Section 40.

²⁶ LARRB 2011, Section 43.

resettlement.”²⁷ The presiding officer of each authority must have served as a High Court judge (or have been a district judge for at least five years)²⁸ and was to be appointed “in consultation with the Chief Justice” of the relevant High Court.²⁹ The role of this dispute-settlement body is spelled out in great detail, including the presiding officer’s term of office, the officials assigned to assist in the discharge of his or her duties and provisions for citizen engagement.³⁰ The authority was to be accorded the same powers as a civil court (summoning witnesses, requisitioning public records, etc.), though its functioning would be “guided by the principles of natural justice and subject to the other provisions” of the LARRB.³¹ The bill also specified time-bound procedures for each of the stages in the process of appealing the acquisition, compensation, rehabilitation and resettlement decisions made by officials or private-sector actors.

To further ensure accountability, the LARRB specified “offences” under the legislation, and “penalties” for those who commit them.³² The bill specifically identified private firms (including owners, directors and employees) as legally liable if they failed to fulfill their statutory responsibilities.³³ Government officials would face disciplinary proceedings if found “guilty of a *malafide* action in respect of any provision” in the LARRB.³⁴ To emphasize command responsibility, the bill stated that if one of its provisions was violated, “the head of the department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.”³⁵ Providing false or misleading information could result in a month’s imprisonment, a Rs 100,000 fine, or both.³⁶ Non-provision of benefits could lead to a jail sentence of between six months and three years.³⁷

These three features of the LARRB are consistent with the approaches found in other rights-related laws passed by the UPA government. These include the Right to Information Act, 2005 (RTIA), the National Rural Employment Guarantee Act, 2005 (NREGA), the Forest Rights Act, 2006 (FRA),³⁸ and the Right to Education Act, 2010 (RTEA).³⁹ These laws are

²⁷ LARRB 2011, Section 45(1).

²⁸ LARRB 2011, Section 47(1).

²⁹ LARRB 2011, Section 47(2).

³⁰ LARRB 2011, Sections 48-53.

³¹ LARRB 2011, Section 54(1) and 54(3).

³² “Offences and Penalties” are the subject of Chapter XII of the LARRB 2011.

³³ LARRB 2011, Section 80.

³⁴ LARRB 2011, Section 78(3).

³⁵ LARRB 2011, Section 81.

³⁶ LARRB 2011, Section 78(1).

³⁷ LARRB 2011, Section 79.

³⁸ The official title is the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

³⁹ The official title is the Right of Children to Free and Compulsory Education Act, 2010.

designed to ensure that the rights of citizens are not only recognized, but also actively upheld. It is for that reason that they include—to varying degrees, and through special features suited to the purpose of each act—provisions to address development's effects, to elicit popular participation, and to establish institutions to ensure transparency and accountability.

For example, the NREGA, which guarantees 100 days of minimum-wage labour on public-works projects to any rural household that applies, includes many such provisions. Officials must publicize information concerning the operation of the scheme, make transaction-level financial data publicly available, and involve local communities in prioritizing works projects, auditing expenditures, and assessing overall program performance. Employment registers listing the names of labourers on any worksite must be freely accessible. The NREGA, like the LARRB, specifies additional oversight institutions, such as the Central Employment Guarantee Council, which includes both official and non-governmental members. Similar oversight bodies have been established under the RTIA, the RTEA and the FRA. The RTIA, for instance, specified the creation of an information commissioner to review government data-storage and classification policies, and to settle disputes between citizens seeking government-held information and public authorities who refuse to release it. Like the Land Acquisition, Rehabilitation and Resettlement Authority envisioned in the LARRB, the information commissioner is endowed with resources and insulated, to the degree possible, from political interference.

III

Having identified some of the LARRB's distinctive features, let us turn to this article's second main question: Why has the attempt to replace a legal regime on land acquisition that has existed for over a century taken place at this juncture? As recently as 2007, Iyer maintained that such a "radical overhaul" of the current legislative framework would likely "be a difficult and long-drawn process."⁴⁰ Given the vested interests in the status quo, what enabling factors accounted for the decision of the Indian government to sponsor a piece of legislation as far-reaching as the LARRB?

One contributory factor has already been indirectly suggested by the claim that the LARRB was structurally consistent with other rights-based laws passed since 2004: the porosity of the Indian state and the policy-making process.⁴¹ The UPA government has provided social activists with unprecedented access

⁴⁰ Ramaswamy R. Iyer, "Towards a Just Displacement and Rehabilitation Policy," *Economic and Political Weekly*, 28 July 2007, 3107.

⁴¹ D. Chopra, "Policy Making in India: A Dynamic Process of Statecraft," *Pacific Affairs* 84, no. 1 (2011).

to deliberative forums.⁴² This has taken place most visibly through the National Advisory Council (NAC), a government body created and headed by Sonia Gandhi, the president of the Congress Party, which leads the UPA coalition government. The NAC's membership has included academics, former civil servants, and social activists with experience of championing not only increased resources for poor and marginalized people, but also the adoption of government transparency and participatory mechanisms to improve accountability. Hence, it is no surprise that the legislative machinery that created the NREGA and other rights-related statutes also produced the LARRB. Some NAC members, such as former IAS officer Harsh Mander, have long criticized development-induced displacement.⁴³

Yet, the NAC is hardly an omnipotent entity. Ideas debated in the NAC have not always resulted in legislation, particularly when the substance of the proposals threatened powerful constituencies, such as the well-organized business and political interests that benefit from the compulsory acquisition of land. The NAC's attention to issues of land acquisition and the rehabilitation and resettlement of displaced people may have been a necessary condition for the emergence of the LARRB, but it was not sufficient. Other factors mattered too. For instance, the process of developing the LARRB benefited from the existence of detailed reform blueprints devised over the previous two decades by government commissions and unofficial expert panels.⁴⁴

While granting the importance of these influences, one factor appears particularly salient: the passage and implementation of India's Special Economic Zone Act, 2005 (SEZA). The SEZA sought to promote growth and employment by creating export-oriented enclaves characterized by light regulation, lower taxes and world-class infrastructure. It offers incentives—including state assistance in obtaining land—for private-sector actors to develop these enclaves, and for firms to locate and conduct business within them. The SEZA represented the culmination, in miniature, of India's shift since the 1980s toward a market-oriented economic policy paradigm.

The SEZA was passed within weeks of the NREGA. In terms of their approach to transparency, participation and accountability, however, the two

⁴² Arvind Subramanian refers disapprovingly to this arrangement: “[i]t is no secret that the advocates of equity (and fiscal populism) have the ear of this government's political leadership.” See “The Ideas India Must Shed,” *Real Time Economic Issues Watch*, 4 June 2012, <http://www.piie.com/realtime/?p=2912>.

⁴³ Drawing on his experiences as an administrative officer in the Madhya Pradesh government, Mander, for instance, participated in drafting position papers on displacement for the World Commission on Dams. See L. J. Bartolome, C. de Wet, H. Mander, and V. K. Nagraj, *Thematic Review—Social Issues: Displacement, Resettlement, Rehabilitation, and Development* (Cape Town: World Commission on Dams Secretariat, 2000).

⁴⁴ Iyer details a long personal engagement with the issue, including consultations and commissions dating back to the 1980s. See Iyer, “Towards a Just Displacement,” 3103.

acts could not have been more different.⁴⁵ Where the NREGA empowered citizens in their dealings with the state, the SEZA permitted private firms to create enclaves removed from ordinary legal constraints. This is what made these zones “special.” The SEZA confers extensive powers on the development commissioner (DC), a civil servant who plays a crucial role in the functioning of the administrative machinery that governs the establishment and operation of a special economic zone.⁴⁶ On many policy matters the DC exercises a combination of legislative, executive and judicial powers.⁴⁷

There are two main ways in which the SEZA and its implementation fostered conditions conducive to the UPA government’s decision to introduce the LARRB in parliament in late 2011. The first is perhaps the most well known: the emergence of a large number of protest movements in which people sought to prevent the state from using the LAA to forcibly acquire land for proposed SEZs. Protests against compulsory land acquisition have occurred in different parts of India over the decades. In this case, however, the national SEZ policy regime provided a common focus for complaint. Its implementation catalyzed many forms of political resistance, from parliamentary dissent in state capitals to local agitations by people likely to be affected by proposed SEZs. Several anti-SEZ protests generated violent confrontations between police and local residents. The most high-profile cases were the standoff at the proposed Nandigram chemical-sector SEZ in West Bengal (which was eventually abandoned), and the disputes surrounding the POSCO steel SEZ in Orissa (which continues in the face of sustained protest action). Policy concerns centred on the potentially adverse fiscal consequences of SEZ tax concessions and the possibility that SEZs would create unhealthy regulatory anomalies. Grassroots protestors worried about everything from environmental degradation to economic dislocation to community dissolution. By far the dominant concern of anti-SEZ movements, however, was the loss of land by those who owned, cultivated or otherwise derived their livelihoods from it.

There was considerable variation between states in terms of the form, intensity and duration of anti-SEZ movements. Some states encountered debilitating resistance to almost all of their major SEZ projects. In 2008, in

⁴⁵ The contrasts between these two acts in terms of their respective transparency and accountability provisions is discussed in Rob Jenkins, “Embedding the Right to Information: The Uses of Sector-Specific Transparency Regimes,” in *Accountability through Public Opinion: From Inertia to Public Action*, eds. S. Odugbemi and T. Lee, (Washington, DC: The World Bank, 2011).

⁴⁶ SEZA 2005, Section 11.

⁴⁷ Worries were expressed not only by social movement activists, but also by political parties. An analytical essay published in a journal affiliated with the Communist Party of India-Marxist argued that provisions in the SEZA as well as in the SEZ Rules that govern its implementation had “raised concerns” that SEZs would be islands of authoritarianism, where “the writ of the Indian Constitution would not run and unaccountable entities like the Development Commissioner... would enjoy absolute administrative control.” Prasenjit Bose, “The Special Economic Zones Act, 2005: Urgent Need for Amendment,” *The Marxist* XXII, no. 4 (2006).

response to widespread protests, Goa's state government withdrew its backing for all seven previously approved SEZs. A few states, such as Tamil Nadu, faced virtually no fatal protest action at all.⁴⁸ But a typical state will have accumulated a portfolio of relatively uncontroversial SEZs alongside some that have generated intense and/or sustained opposition.⁴⁹ There has also been substantial variation in how states have responded to the political forces that have attended the emergence of SEZs. State responses have ranged from excessive use of force (West Bengal) to arranging a referendum to determine local preferences (Maharashtra). State governments have deployed an array of tactics to undercut protest actions, including, in some cases, substantial increases in the types and levels of compensation packages offered to landowners, and in some cases to people dislocated from their livelihoods.⁵⁰

The political impetus behind legislative reform on land acquisition was palpably strengthened in the wake of the political backlash against the uncaring and corrupt way in which the SEZ policy was implemented. But the nature of anti-SEZ movements, and the strategic decisions they made, were also important influences. Many anti-SEZ groups articulated their resistance as a cultural battle between rooted farmers and footloose investors: one in which entire communities, not merely individual economic agents, were existentially threatened. This kind of "cultural framing" allowed the movement to attract a range of supporters in civil society with proven experience in translating such concerns into concrete proposals for legislative reform.⁵¹

The opposition of community organizations to the compulsory acquisition of land for SEZs was at least partly rooted in outrage that property would be transferred to private-sector, profit-making entities. This was a major change from earlier forms of land acquisition—for roads, dams and government installations—in which privately owned land was mainly transferred to public stewardship. This additional basis for resistance allowed local movements to draw in political actors and organizations that opposed SEZs on broader ideological grounds. Opponents of India's shift toward a market-oriented economy were naturally attracted to such a powerful symbol of undemocratic capitalism: deregulated zones, owned and governed by committees dominated by private developers, built on property obtained through a perverse new

⁴⁸ M. Vijayabaskar, "Saving Agricultural Labour from Agriculture: SEZs and Politics of Silence in Tamil Nadu," *Economic and Political Weekly*, 6 February 2010, 36-43.

⁴⁹ This is documented in greater detail in Rob Jenkins, "State Capitalism: Provincial Governance, Private Enterprise and Protest Politics in India's Special Economic Zones," in *The Oxford Handbook on State Politics in India*, ed. Sudha Pai, (Delhi: Oxford University Press, 2013).

⁵⁰ Some of these mechanisms have been identified in state-level case studies contained in R. Jenkins, L. Kennedy and P. Mukhopadhyay, eds., *Power, Policy, and Protest: The Politics of SEZs in India* (Oxford University Press, forthcoming), especially the chapters on Karnataka and Andhra Pradesh.

⁵¹ The issue of "cultural framing" by anti-SEZ movements in Maharashtra is discussed in Rohit Mujumdar and Benita Menezes, "Maharashtra: Institutional Politics and the Framing of Resistance," in *Power, Policy, and Protest*, eds. Jenkins, Kennedy and Mukhopadhyay.

incarnation of redistributive land reform. This was a potent political cocktail in a state such as West Bengal, where, decades earlier, the government had pursued a much-hailed land reform initiative and a decentralization of power to grassroots democratic institutions. Local protest leaders successfully cast their nascent movement in terms that appealed to outside groups seeking to resist, and to provide alternatives to, neoliberal globalization.

Localized anti-SEZ protests were joined by another set of actors, those for whom opposition to large-scale displacement for development infrastructure had become a central feature of their activism. This movement was symbolized and its fortunes intimately linked with the protests that began in the 1980s against the Sardar Sarovar Project (SSP), which proposed to erect a series of dams on the Narmada River that would (and eventually did) displace large numbers of people, uprooting entire communities in some instances. Though the anti-SSP activists could not stop the project, despite exhausting all legal avenues, including the Supreme Court, they deeply affected the political discourse around displacement.⁵² The movement spawned a number of non-party political formations, such as the National Alliance of People's Movements (NAPM), that address development issues from an explicitly human rights standpoint. The anti-SSP movement's focus on the community level as the relevant unit of analysis for assessing displacement's effects would have a major impact on the reform proposals that arose in response to SEZ land controversies. Put differently, the anti-SEZ movements provided existing critics of displacement added political leverage with which to press for legislative changes that they had long sought to realize.

Adding to the political impetus behind new land-acquisition legislation were a number of rulings handed down by India's courts in response to cases filed by people whose land had been forcibly acquired in order to establish SEZs. Judges in several jurisdictions called on government authorities to provide better explanations for the "public purpose" served by SEZ projects, more transparent methods for determining compensation, and more comprehensive rehabilitation and resettlement programs. In June 2011, the Supreme Court declared that "the public purpose clause in the 1894 [Land Acquisition] Act must go." Its chronic abuse had led to the "development of the few at the cost of the many."⁵³

Yet, a callously implemented law, even one that brought together diverse streams of activism and invited the displeasure of India's highest court, need not have convinced India's ruling coalition to introduce the LARRB. This highlights the importance of a second way in which the SEZA (and its implementation) influenced the emergence of the LARRB: through the creation of institutional structures that catalyzed additional pressure for a

⁵² Amita Baviskar, *In the Belly of the River: Tribal Conflicts over Development in the Narmada Valley*, 2nd ed. (Delhi: Oxford University Press, 2004).

⁵³ "Dump Archaic Land Acquisition Act: SC," *Times of India*, 28 June 2011.

comprehensive overhaul of the existing policy regime. These structures included, at the bureaucratic level, the Board of Approval (BoA), and at the political level, the Empowered Group of Ministers on SEZs (EGoM). The deliberations and decisions of the BoA and the EGoM attracted sustained media and political attention. This provided opportunities for opponents of land acquisition for SEZs to voice their complaints and publicize their movements.

Under the SEZA, the process of evaluating proposals to establish SEZs takes place via a “single window,” the BoA. The BoA is an inter-agency committee chaired by the Commerce Ministry. While the SEZA did not legally require the creation of a new EGoM—a kind of cabinet executive committee—the highly visible and political nature of the act’s implementation led the UPA government to form one. The Group of Ministers concept is a relatively recent institutional innovation in India, which took root under the National Democratic Alliance (NDA) government and was extended by the UPA government. The EGoMs are seen as an adaptation to the requirements of coalition governance.⁵⁴ Arora and Kailash regard the EGoMs as serving a number of purposes, including inter-ministerial coordination for issues of a cross-cutting nature and signaling that an issue is a high priority for the government.⁵⁵

The BoA and the EGoM, individually and in concert, altered SEZ policy repeatedly in the years following the act’s passage in 2005. The regulations that govern the act’s implementation were subjected to continuous modification. Land-related questions were a frequent topic of deliberation for both the BoA and the EGoM. Issues included the quantities of land required to establish an SEZ, the timeframe for acquiring it, the purposes to which it could be put and clearances required before construction could commence. Indeed, the BoA and the EGoM were the first bodies to effect land-related regulatory changes in response to the proliferation of anti-SEZ protests. The very first amendment to the SEZ Rules (Amendment 1 of 2006) was largely about land. Four of its six elements concerned land use—for instance, specifying the minimum proportion of an SEZ’s land area that had to be used for production purposes, and rules concerning the leasing out of an SEZ’s “vacant land.” Amendment 2 of 2007 authorized the BoA to permit, on a “case-by-case basis,” the conversion of SEZs from one sectoral category to another when sufficient land was acquired. This amendment also altered a clause in the SEZ Rules that had allowed the BoA to determine whether contiguous land-area requirements had been met.⁵⁶ Ostensibly more

⁵⁴ E. Sridharan, “Coalition Politics in India: Types, Duration, Theory and Comparison,” *ISAS Working Paper*, No. 50, Institute of South Asian Studies, University of Singapore, 23 September 2008.

⁵⁵ Balveer Arora and K. Kailash, “Policy Making in India’s Federal Coalitions: The Group of Ministers Device,” in *Coalition Governments and Good Governance*, eds. Hoshiar Singh, P.C. Mathur and Pankaj Singh, (Jaipur: Aalekh Publishers, 2007), 184.

⁵⁶ SEZ Rules, 5(2)(a).

minor land-policy changes were found in administrative “notifications,” “circulars” and “instructions.”⁵⁷ These could nevertheless have a big impact on the fate of an SEZ project.⁵⁸

The most significant land-related regulatory changes initiated by the BoA and the EGoM took place during 2007. These occurred as a result of decisions taken mainly at the political level, through the EGoM, but usually executed in conjunction with the BoA. They included a temporary halt on all approvals for SEZs while the EGoM took stock of the many, mainly land-related, issues that had arisen. A decision taken in April 2007 halved the maximum size for SEZs, from 10,000 to 5,000 hectares. A decision taken later that year prohibited state governments from using the LAA to compulsorily acquire land for SEZs. This went to the heart of the land issue, addressing not just the type of land that should be used for SEZs, or how much land any one project could consume, but the appropriateness of forcibly acquiring land for SEZs at all. That states found ways around this prohibition did not detract from its symbolic importance.

The insufficiency of the piecemeal and temporary policy adjustments introduced by the BoA and the EGoM—most of which were covered in the media—drew attention to the need for more thoroughgoing reform. It strengthened the position of actors, within and outside the state, seeking a fundamental overhaul of the LAA and a more just approach to rehabilitation and resettlement. These actors included members of the National Advisory Council, such as former IAS officers Harsh Mander and N.C. Saxena; activists associated with the NAPM and other non-party formations; and various independent experts.⁵⁹ In 2007, the EGoM directed the Ministry of Rural Development to formulate “a comprehensive Land Acquisition Act to address all relevant issues.” A “Resettlement and Rehabilitation Policy [was] to be worked out” as well.⁶⁰

That the renewed impetus to reexamine India’s land-acquisition policy was driven by SEZ-related political concerns, processes and institutions is borne out by an even earlier reference to LAA reform. In response to agitations over the use of fertile agricultural land for SEZs, the minister for rural development, whose remit does *not* include implementing the SEZA,

⁵⁷ For details of Notifications, Circulars, and Instructions, see <http://www.sezindia.nic.in/notification.asp>, accessed 8 March 2012.

⁵⁸ Instruction 22 of 2009, for instance, set forth guidelines for extending the period within which “in-principle” approval for an SEZ project would remain valid.

⁵⁹ On this issue, the expert category shades into the activist category—for instance, Usha Ramanathan, who provided detailed critical analysis of various reform proposals at such forums as a Ford Foundation workshop on “The Politics of SEZs in India,” India International Center, 3-4 April 2008, New Delhi.

⁶⁰ This and other data is available on the Government of India’s dedicated website on “Special Economic Zones in India,” which is maintained by the Ministry of Commerce and Industry. See www.sezindia.nic.in/, last accessed 29 May 2013.

but *does* extend to issues that affect the fortunes of the rural economy, began the process. The ministry initiated an inquiry to determine whether the LAA could be amended to include a provision requiring entities acquiring productive farmland for SEZs to “revive” an equally sized parcel of “wasteland.”⁶¹ The cautious nature of this initial step indicates the distance travelled between 2006—before SEZ protests gathered steam—and the comprehensive approach taken by the LARRB in 2011.

In 2007, the UPA government introduced the Land Acquisition (Amendment) Bill. Tentative steps were taken to link the prior focus on streamlining procedures with a broader, more political perspective that opposed displacement as a matter of human rights. The LAA (Amendment) Bill 2007 called, among other things, for a Social Impact Assessment to be conducted for any land-acquisition that would result in large-scale displacement. The bill also sought to establish that the intended use of land to be acquired should be considered in calculating “current market prices,” and therefore the level of compensation. The bill would have created a Land Acquisition Compensation Disputes Settlement Authority in Delhi and in the states. A similarly specialized administrative structure was also to be established under the Rehabilitation and Resettlement Bill, also tabled in parliament in late 2007. Much debate ensued on the question of the scale of displacement required to trigger the Rehabilitation and Resettlement Bill’s provisions. An “affected area” would be one where the competent public authority had determined that there would be “involuntary displacement” of at least four hundred families in the “plains” regions, with different quantities specified for other geographic contexts. The conceptual basis for what was to become the merged LARRB in 2011 had been established.⁶²

As the two bills made their way through parliament during 2007 and 2008, the likelihood of a more radical approach to reform being adopted was enhanced by other consequences of the SEZA’s implementation. The combination of constant media scrutiny and the failure of the piecemeal regulatory changes adopted by the BoA and the EGoM to attenuate public discontent created strong incentives for other political actors to enter debates over the merits of various reform proposals. The Parliamentary Standing Committee on Commerce (PSC), chaired by a leading opposition member of parliament, became an active participant in land-policy and displacement discussions. The centrality of land issues to the SEZ implementation process provided the standing committee the justification for involving itself in a policy domain otherwise reserved for the PSC on Rural Development. The

⁶¹ See “Govt Mulls Amending Land Acquisition Act,” *Times of India*, 26 September 2006.

⁶² S. Morris and A. Pandey, “Towards Reform of Land Acquisition Framework in India,” *Economic and Political Weekly*, 2 June 2007, 2083-2090.

continuing controversy fuelled by anti-SEZ movements furnished the political incentive for members of the PSC on Commerce to stay engaged on the land-acquisition issue.

The involvement of the PSC on Commerce, in turn, helped to maintain media and political attention on land-related issues and the need for reform, while providing a highly visible platform for advocates of legislative reform. In the process of preparing its 2007 *Report on The Functioning of Special Economic Zones*, the PCS on Commerce collected testimony from a wide range of experts and project-affected people, conducted field investigations in various parts of India, and reviewed government and non-government documentation.⁶³ The committee's recommendations included such radical measures as requiring gram sabhas collectively to verify land-use claims. Had not land-related SEZA implementation issues seized the interest of this committee, an important source of pressure for more thoroughgoing reform would not have emerged. The committee's later "Action Taken Report"—issued in 2008, as deliberations over the 2007 LAA (Amendment) and Rehabilitation and Resettlement Bills gathered steam—presented another public opportunity to build consensus for far-reaching reform. This was true, above all, because of the demonstrated failure of the government to take effective mitigating steps in the interim period. The visible role assumed by the PSC on Commerce lent invaluable democratic legitimacy to the rights-based approach ultimately contained in the LARRB.⁶⁴

In February 2009, the Land Acquisition (Amendment) Bill, 2007 and the Rehabilitation and Resettlement Bill, 2007 were passed by the lower house of parliament. They remained pending in the upper house, and lapsed when parliament was dissolved ahead of elections scheduled for April 2009. Following the election, which returned the UPA to power, the political atmosphere surrounding land acquisition for SEZs had turned even more negative. In May 2011, amidst a nationwide anti-corruption movement, the NAC proposed to repeal and replace, rather than simply amend, the LAA 1894. Revised elements of the Land Acquisition Amendment Bill and the Rehabilitation and Resettlement Bill were merged to produce the LARRB 2011.⁶⁵ The original LARRB received much criticism: from business groups (which thought its rights provisions would delay new industrial projects indefinitely and make land prohibitively expensive)⁶⁶; from social activists

⁶³ Parliament of India, Rajya Sabha, Department-Related Standing Committee on Commerce, *Eighty Third Report, on The Functioning of Special Economic Zones*, presented to the Rajya Sabha on 20 August 2007, Rajya Sabha Secretariat, August, 2007.

⁶⁴ Parliament of India, Rajya Sabha, Department-Related Standing Committee on Commerce, *Eighty Seventh Report, on Action Taken by Government on the Recommendations/Observations of the Committee Contained in Its 83rd Report*, presented to the Rajya Sabha on 24 October 2008, Rajya Sabha Secretariat, October, 2008.

⁶⁵ "Sonia Council Seeks Land Bills Merger," *Telegraph*, 19 May 2011; and "Panel Suggests Changes to Land Acquisition and Rehabilitation Bills," *Business Today*, 27 May 2011.

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(who considered the safeguards too weak)⁶⁷; and from independent analysts.⁶⁸ Many additional critiques arose in response to revisions to the LARRB that took place following its introduction in 2011.⁶⁹

IV

Finally, let us consider how both the content of the LARRB and the process by which it came to be introduced into parliament may be of wider significance beyond the Indian case. The analysis presented in this article, it is argued, holds implications for existing theoretical perspectives in two broad areas: human rights innovations and the politics of policy reform.

The content of the LARRB, as indicated earlier, shares a number of key features with several acts passed by the UPA government, as well as with several bills pending in parliament, including the Public Interest Disclosure and Protection of Persons Making the Disclosure Bill, the Judicial Standards and Accountability Bill, the Prevention of Bribery of Foreign Public Officials and Officials of Public International Organizations Bill, and the Citizens' Right to Grievance Redress Bill. The LARRB thus represents one instantiation of a particular model of rights-based legislation that has taken root in contemporary India. Its hallmark is the combination of specific, justiciable⁷⁰ entitlements designed to advance particular aspects of human well-being with precise procedural mechanisms to involve citizens in ensuring their fulfillment. The LARRB, by continuing and extending this pattern, lends support to the proposition that India is in fact pioneering a hybrid form of legal entitlement that might be termed "governance rights."⁷¹

As we have seen, the LARRB provided not only for certain legal prohibitions—against, for instance, arbitrary seizure of land—but also affirmative rights for affected individuals and communities to participate in

⁶⁶ See Associated Chambers of Commerce and Industry, "Land Acquisition, Resettlement and Rehabilitation Bill 2011: A Reaction," www.assochem.org/prels/shownews.php?id=3059; and "Land Acquisition Bill Will Push up Prices Five Times: CII Chief," *Hindu BusinessLine*, 9 November 2011.

⁶⁷ Vocal critics included none other than NAPM leader Medha Patkar. See "Repeal the Land Acquisition Act!", <http://newredindian.wordpress.com/2011/08/02/repeal-the-land-acquisition-act/>.

⁶⁸ Maitreesh Ghatak and Parikshit Ghosh, "The Land Acquisition Bill: A Critique and a Proposal," *Economic and Political Weekly*, 8 October 2011, 65-72.

⁶⁹ For a critique focusing on the range of exemptions (including for SEZs) in the revised LARRB approved by the cabinet, see T.K. Rajalakshmi, "A Law and Its Losers," *Frontline*, 29 December 2012-11 January 2013. A spirited defense of the revised bill, stressing its vast superiority over the LAA, was made by India's Rural Development Minister. See "We Have to Strike a Balance: Interview with Jairam Ramesh," *Frontline*, 29 December 2012-11 January 2013.

⁷⁰ The importance of justiciability has been central to discussions about the mobilizing potential of rights-based development for more than a decade. See Anuradha Joshi and Mick Moore, "The Mobilising Potential of Anti-Poverty Programmes: Concepts and Cases," *Journal of Development Studies* 37, no. 1 (2000): 25-56.

⁷¹ Some of these linkages are discussed in Rob Jenkins, "Realising the Right to Work," *Economic and Political Weekly*, 16 March 2012, 29-33.

decision making. This combination of developmental entitlements and procedural requirements is the culmination of a powerful strand of movement activism in India that over the past two decades has sought to blur the distinction found in the international legal and development literatures between social and economic rights, on the one hand, and civil and political rights, on the other.⁷² This trend has been evident since at least the late 1990s, when analyses of India's Right to Information movement noted the manner in which activists had discursively positioned their demand for radical transparency, and practically operationalized it within the context of anti-poverty schemes.⁷³ The issue-based movements that emerged later—on the right to food, to work, to education, etc.—not only sought legal recognition of the government's obligation to provide stipulated entitlements to citizens in each of these areas; they have advocated consistently for governance arrangements that require public authorities to establish mechanisms through which ordinary people and their associations could demand accountability. Thus, in the process of merging the two types of rights—in effect, insisting on their inseparability—India's activists have also pioneered the development of hybrid accountability institutions, combining aspects of horizontal accountability (in which one state entity checks the power of others) and vertical accountability (in which citizens keep tabs on their representatives).⁷⁴

Recent statutes such as the Forest Rights Act, the NREGA, and the Right to Education Act also include provisions that oblige the state to provide opportunities for citizens to engage directly with institutions designed to advance specific aspects of their well-being. The LARRB, likewise, provided myriad entry points for ordinary people and their associations to engage in collective action to ensure that both state and private actors fulfill legal commitments. Citizens are entitled to participate in public hearings; to register their economic interest in a local community where land is proposed to be acquired; to testify before panels empowered to reject acquisition plans or awards; to engage in the planning process for rehabilitation and resettlement programs; and to pursue grievances in a number of forums. The oversight and review mechanisms provided for in the LARRB reflect a severe lack of confidence among Indian rights advocates in the efficacy of existing bureaucratic procedures. Indeed, it is this focus on procedural specificity and the creation of special-purpose institutions that distinguishes

⁷² See Rhoda Howard, "The Full-Belly Thesis: Should Economic Rights Take Priority Over Civil and Political Rights? Evidence from Sub-Saharan Africa," *Human Rights Quarterly* 5 (1983).

⁷³ See Rob Jenkins and Anne Marie Goetz, "Accounts and Accountability: Theoretical Implications of the Right-to-Information Movement in India," *Third World Quarterly* 20, no. 3 (1999): 603-622.

⁷⁴ For the application of this idea to contexts beyond India, see Anne Marie Goetz and Rob Jenkins, *Reinventing Accountability: Making Democracy Work for Human Development* (London: Palgrave/Macmillan, 2005).

governance rights from related conceptions found in the international literature, such as “inclusive citizenship.”⁷⁵

The second area in which the empirical analysis contained in this article holds implications for broader theoretical debates concerns the policy reform process. The far-reaching nature of the LARRB, which sought to overturn a legal framework dating to the colonial period, makes it resemble in at least some respects what Grindle has termed “audacious reforms.”⁷⁶ Such reforms change how public issues are framed and resolved; alter the methods by which political actors calculate cost-benefit trade-offs; and reconfigure relationships between various social groups and political life. While the cases Grindle examines are of a more systemic nature, addressing electoral rules and the division of powers among levels of government, the LARRB nevertheless possesses all three of the characteristics of an audacious reform. The explanatory framework for the LARRB’s emergence offered in this article is also consistent with Grindle’s central contention: that understanding why politicians are willing to initiate reforms that may seem to undercut their discretionary power requires attention to the ways in which long-term institutional decay may already have compromised such political advantages. In the five years before the LARRB was introduced in 2011, the ability of partisan politicians to derive illicit rents from the manipulation of land-acquisition policies had already been degraded by frequent (and difficult to predict) protest actions, which in many cases had adverse electoral consequences.

The factors that created conducive political conditions for the LARRB’s introduction in parliament also suggest the value of combining two analytical perspectives that are often treated in isolation: the literatures on “policy feedback” and “policy entrepreneurs.” The idea of policy feedback is rooted in an understanding of policy reform that diverges from models that characterize policy making as an ordered, rational process: that is, sequential (divided neatly into phases), deliberative (involving meaningful, evidence-based reflection on potential implications) and integrated (with each decision taken in light of all the others).⁷⁷ This standard vision can often obscure the practical reality of policy processes, which tend to be considerably less tidy.⁷⁸ In particular, most models of policy change pay insufficient attention to the iterative nature of policy processes—a major feature of the process by which the LARRB came to be introduced. Policy feedback thus

⁷⁵ See, for instance, Ruth Lister, “Inclusive Citizenship: Realizing the Potential,” *Citizenship Studies* 11, no. 1 (2007): 49-61.

⁷⁶ Grindle, *Audacious Reforms*.

⁷⁷ E. Schlager and W. Blomquist, “A Comparison of Three Emerging Theories of the Policy Process,” *Political Research Quarterly* 49, no. 3 (1996): 651-672.

⁷⁸ Andre Bachtiger et al., “Disentangling Diversity in Deliberative Democracy: Competing Theories, Their Blind Spots and Complementarities,” *Journal of Political Philosophy* 18, no. 1 (2010): 32-63.

refers to the ways in which early reform efforts can produce effects that alter the prospects for later attempts at policy change.⁷⁹ Policy feedback effects are seen as helpful in explaining why policy reforms that originally seemed unlikely—due to the existence of powerful vested interests within and/or outside the state—become more feasible. What the LARRB case also suggests, however, is that policy feedback effects can take place across what might seem to be distinct policy domains. That is, it was largely the effects of the SEZA—an important reform measure, to be sure, but one conceived as a matter of industrial strategy—that altered the political terrain in ways that made feasible an attempted reform of India's policy framework on land acquisition, rehabilitation and resettlement. The political dissent that arose against land acquisition for SEZs altered the cost-benefit calculations of various political actors, many of which became far more inclined to engage on this issue.

The literature on policy entrepreneurs, while large and varied, stresses the capacities possessed by individuals and groups, particularly those lacking formal government positions, to influence the shape of policy.⁸⁰ A wide range of factors has been cited to identify the conditions under which policy entrepreneurs may be successful. Three that are often cited are access to evidence-based research, informal professional networks linking them to government officials, and characteristics of state institutions that make them more receptive to outside advice.⁸¹ To some degree, all three of these were evident in the case of the LARRB's emergence from a set of inchoate policy ideas to a piece of legislation introduced into parliament by India's ruling coalition. Evidence concerning displacement's ill effects had emerged over decades of advocacy, networks linked activists and officials, and the existence of the National Advisory Council provided a sympathetic venue into which these ideas could be received.

What is missing in the literature on policy change is an appreciation of the ways in which the impacts of early reform initiatives can substantially affect the willingness and capacity of policy entrepreneurs to advance their ideas in later rounds of reform. This was, however, a key factor in the case of India's LARRB. Among the impacts of the SEZA was increased attention by parliamentary actors to the issue of land acquisition policy. This provided a strategic opening for the many policy entrepreneurs who had long been seeking to press for a more comprehensive approach to the underlying issue of development-induced displacement. The ineffectiveness of the land-related

⁷⁹ Paul Pierson, "When Effect Becomes Cause: Policy Feedback and Political Change," *World Politics* 45, no. 4 (1993): 595-628.

⁸⁰ A classic source is Michael Mintrom, "Policy Entrepreneurs and the Diffusion of Innovation," *American Journal of Political Science* 41, no. 3 (1997): 738-770.

⁸¹ See Adil Najam, *Citizen Organizations as Policy Entrepreneurs* (Ann Arbor: Sustainable Development Policy Institute, University of Michigan, 2000).

changes to the SEZ regulations—effected by the BoA and the EGoM—provided an important new source of evidence, on which policy entrepreneurs actively seized to argue against piecemeal adjustments to the existing LAA 1894. In other words, the nature of policy feedback effects in the case of Special Economic Zones was an important variable influencing the strategies adopted by the policy entrepreneurs who sought the adoption of legislation integrating issues of land acquisition and rehabilitation and resettlement. An approach that combines the policy feedback and policy entrepreneurs perspectives is best suited to understanding the underlying dynamics at work in this case of reform.

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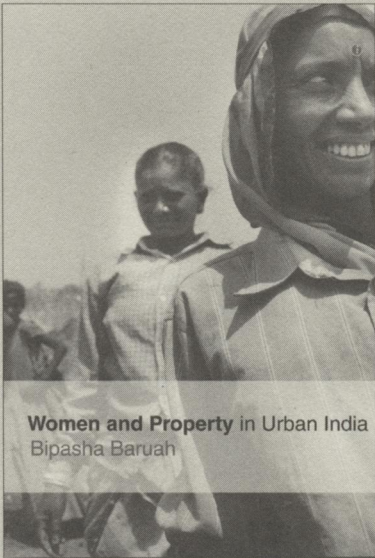
The LARRB has not yet been enacted. Even so, for a government to have attempted such a radical overhaul of a century-old legal regime that continues to benefit powerful interests at the expense of ordinary people is a development worth explaining. This paper has argued that the LARRB is significant in terms of its approach to recognizing and attempting to fulfill rights. The bill acknowledges the potentially corrosive effects of development on interlinked clusters of rights that span the conventional divide between social and economic rights and civil and political rights; obliges the state to engage citizens in the process of fulfilling these rights; and calls for the establishment of special-purpose institutions to hold powerful actors, within and outside the state, accountable. These characteristics are found in a number of laws passed by India's UPA government.

Why was the UPA government willing to expend scarce political capital in sponsoring such far-reaching legislative change? Several factors played a role, including the government's unusually inclusive policy-development process and the progressive jurisprudence of India's courts. However, this article has highlighted the contribution of a relatively underappreciated factor: the Special Economic Zone Act, 2005 and the process by which it was implemented created incentives for the ruling coalition to adopt a comparatively radical approach to land policy in India. As a national law, the SEZA provided a common basis of protest for widely dispersed communities threatened with the forcible acquisition of land for export-oriented industrial enclaves. The actions of institutional structures created by the SEZA attracted attention to these struggles and drew in new allies in support of proposals to overhaul the legal regime surrounding land acquisition and development-induced displacement.

The analysis of the case material is also relevant to questions of broader theoretical significance. The LARRB's content, viewed alongside the wave of other laws enacted since the UPA government came to power in 2004, suggests that India is advancing a hybrid approach to rights: the specification of social and economic entitlements and procedural mechanisms through

which citizens can hold state officials accountable for their fulfillment represents a model that might best be termed “governance rights.” The process of introducing the LARRB, moreover, suggests the value of combining elements of the policy feedback and policy entrepreneur perspectives on explaining the initiation of such an “audacious” reform.

Hunter College, New York, USA, March 2013



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