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POLITICAL ECONOMY OF LAND ACQUISITION FOR URBAN INFRASTRUCTURE PROJECTS IN INDIA
A COMPARATIVE STUDY OF STATE INTERVENTION IN KARNATAKA AND KERALA

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POLITICAL ECONOMY OF LAND ACQUISITION FOR URBAN
INFRASTRUCTURE PROJECTS IN INDIA: A COMPARATIVE STUDY OF STATE
INTERVENTION IN KARNATAKA AND KERALA

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ABSTRACT

Using a comparative framework of two contiguous subnational units viz. the Indian states of Karnataka and Kerala, this research project seeks to assess the role of the state in the formulation and implementation of land use policies in urban areas. In the Indian context, the introduction of economic reforms and the subsequent decentralisation measures have led to regional state units competing more intensely amongst themselves for investment. Against this backdrop, the study examines how state-specific strategies and politics shape the nature of land use policies and ultimately their implementation. This analysis includes an examination of the linkages between decision makers and different interest groups as they seek influence in the governmental system.

The thesis examines two urban infrastructure projects, namely, Bangalore Mass Rapid Transit System and Kochi Mass Rapid Transit System. The study employs a hybrid conceptual framework of subnational comparison and state spatial rescaling to understand how land acquisition and conversion for the two projects is occurring through newly instituted state organisations, specifically Special Purpose Vehicles. Through macro and micro level explorations of states' financial, administrative and political strategies, the thesis illustrates that these organisations in interaction with other state level bodies are able to circumvent many local laws and planning procedures to successfully acquire land for the two projects under consideration. The study concludes that due to similar patterns of state spatial rescaling administered across the two sites through the agency of Special Purpose Vehicles, the land acquisition for the two projects remains unaffected by regional differences between Karnataka and Kerala; instead, the two projects exemplify tendencies of convergence in land acquisition.

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LIST OF ACRONYMS

ADB	Asian Development Bank
AFD	Agence Francaise de Developpement
BBMP	Bruhat Bengaluru Mahanagare Palike
BDA	Bangalore Development Authority
BJP	Bharatiya Janata Party
BMRC/BMRCL	Bangalore Metro Rail Corporation/Limited
BoD	Board of Directors
CAA	Constitutional Amendment Act
CII	Confederation of Indian Industries
CPM/ CPI(M)	Communist Party of India (Marxist)
DMRC	Delhi Metro Rail Corporation
DPR	Detailed Project Report
DRC	Development Rights Certificate
EC	Empowered Committee
EIA	Environmental Impact Assessment
FSI/FAR	Floor Space Index/Floor Area Ratio
GoM	Group of Ministers
HPC	High Power Committee
HUDCO	Housing and Urban Development Corporation Limited
JICA	Japanese International Cooperation Agency
KCPW Act	Kerala Conservation of Paddy and Wetlands Act
KIAD, Act	Karnataka Industrial Areas Development, Act
KIADB	Karnataka Industrial Areas Development Board
KMRL	Kochi Metro Rail Limited
KMC Act	Karnataka Municipal Corporations Act
KTCP Act	Karnataka Town and Country Planning Act

KUIDFC	Karnataka Urban Infrastructure Development and Finance Corporation
LAA (1894)	Land Acquisition Act (1894)
LARR (2011)	Land Acquisition Rehabilitation and Resettlement Bill (2011)
LDF	Left Democratic Front
LLMC	Local Level Monitoring Committee
MD	Managing Director
MDSD	Most Different Systems Design
MLA	Member of Legislative Assembly
MoUD	Ministry of Urban Development
MRTS	Mass Rapid Transit System
NAC	National Advisory Council
NDA	National Democratic Alliance
NGO	Non Government Organisation
PPP	Public Private Partnership
RTES	Rail India Technical and Economic Service
RFCTLARR Act (2013)	Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (2013)
SEZ	Special Economic Zone
SIA	Social Impact Assessment
SLC	State Level Committee
SPV	Special Purpose Vehicle
TDR	Transfer of Development Rights
UDF	United Democratic Front
UDP	Urban Development Project
UPA	United Progressive Alliance
VGF	Viability Gap Funding

Chapter 1

INTRODUCTION

1.1 Setting the problem: Research Context and Questions

Land acquisition is a contested terrain in India. Unprecedented growth in the industrial sector, growing demands for infrastructure, and rapid levels of urbanisation in recent years have all contributed to an ever increasing demand for land. At the same time, the Indian subcontinent is a high population density area and a large majority of this population still depends on land for fulfilling their basic subsistence and livelihood needs. Moreover, in the absence of a widespread functional formal credit system, land in India is a propertied asset in both rural and urban areas. Land, thus, is both a scarce and valuable resource. Moreover, land use conversion in both urban and rural areas is governed by multiplicity of laws and procedures, often involving a number of bureaucratic authorities. Hence, any transfer and conversion of land from its traditional use to new purposes of industrial or infrastructural development entails both: negotiating with the displaced communities, if any, which could at instances involve overcoming intense acts of resistance; and also, navigating through complex repertoire of bureaucratic and regulatory procedures. In sum, land acquisition is a contentious and a cumbersome process.

Against this contextual backdrop, this thesis examines the role of new governance actors – the Special Purpose Vehicles (or SPVs) – that have been empowered in order to manage processes of land acquisition for urban development projects (UDPs). The thesis specifically looks at two SPVs, the Bangalore Metro Rail Corporation (BMRC) and the Kochi Metro Rail Limited (KMRL), which are in charge of implementing UDPs, the Bangalore Mass Rapid Transit System (MRTS) project (Karnataka) and the Kochi MRTS project (Kerala), respectively (also known as ‘metro’ projects). These SPVs are joint ventures instituted on a partnership basis between the respective state governments (Karnataka and Kerala) and the central government. Although the two SPVs, in principle, are publicly owned corporations (or public companies), they allow for investments from variety of sources including investments from international donor agencies, domestic commercial banks etc., and are bestowed with powers to enter into public private partnerships in order to fulfill the demands of successful completion of the MRTS projects. Administratively, apart from the main governing body of

the SPVs that consists of mainly select few bureaucratic officials, the extended governance structure of the SPVs constitutes of multiple state committees involving state officials from local urban bodies, executives from state government level ministries, and central government level ministries. Therefore, the SPVs represent a form of hybrid urban development model, embedded in a complex matrix of political economic linkages that operate across national, subnational and urban level state bodies.

Furthermore, the hierarchy of functioning of the various levels of committees that form part of the governance structure of the SPVs is such that it enables the SPVs, with significant backing of the state government, to summon the services of various local planning and governance agencies, including the land acquisition agencies, within the urban areas of Bangalore and Kochi. An estimate of the prerogatives of the SPVs can be gauged from the fact that in Kochi, a specially designated team at the office of District Collectorate was created only to acquire land for the Kochi MRTS project by the state government of Kerala at the behest of the KMRL. Karnataka, in general, already had a dedicated parastatal body to acquire land for industrial and infrastructural projects. However, while the two SPVs wield substantial powers within the urban planning and governance sphere of Bangalore and Kochi as well as the ability to manoeuvre land use policies to their advantages, they bear little accountability to any of the local administrative authorities or democratic bodies of the two cities.

To this end, this research project locates the SPVs as central to the processes of changes in urban governance and land use policies occurring as part of the implementation of the two UDPs, the Bangalore Mass Rapid Transit System (MRTS) project and the Kochi MRTS project, and investigates the political economic factors that influence land acquisition processes for the two projects. The two MRTS projects run through the densely populated metropolitan regions of Bangalore¹ and Kochi, characterised by little vacant or unoccupied land. Private as well as public lands were acquired for both projects. Local populations have

¹Bangalore was renamed Bengaluru in 2014. However, in this dissertation I use the old name Bangalore as many state official agencies have retained 'Bangalore' or have not changed to the new name 'Bengaluru', including the Bangalore Metro Rail Corporation.

contested the terms under which the land was acquired using both direct protests and litigations. Moreover, urban land management is a complex terrain. As it stands, land acquisition and converting the same land for construction, within the urban areas of Bangalore and Kochi, requires gaining sanctions from a variety local planning and regulatory authorities with overlapping jurisdictions. However, despite these intricate problems associated with land acquisition in urban areas and the highly contested nature of land acquisition in general, the project implementing agencies, the SPVs, have been able to acquire land for these projects. In words of the state officials associated with the two projects, the land acquisition for the two projects can be termed as ‘successful’², with cases of resistance ‘but not too much of a problem’.³ Taking note of this, my research study explains the factors that have made possible the successful acquisition of land for the two MRTS projects.

The study explores how the SPVs - which I describe as quasi-state and quasi-corporate entities - by selectively adopting financial, political and administrative arrangements specific to both state organisations and private sector corporations, facilitate the implementation of the two UDPs under focus. I argue that the entrenchment of the institutional mechanism of the SPV through UDPs is aimed at achieving structural changes within the urban governance sphere. I illustrate that these changes within the urban governance sphere can, in turn, be linked to changing patterns of land use and regulation in urban areas. I ask how is it that in the face of contentious claims to land made by local populations as well as heavily regulated land use and zoning laws within the urban areas of Bangalore and Kochi, the SPVs are able to acquire land for the two MRTS projects? The study will address this broader concern through a careful examination of processes through which the SPVs are re-engineering the ways in which competing claims to land are negotiated within the urban areas of Bangalore and Kochi.

The competing claims to land can broadly be understood in two ways. Firstly, there are claims made over land by multiple state level and local level state authorities that regulate land use and planning in urban areas. Secondly, there are claims made by displaced populations to land

² Interview with a BMRC official, 29 October 2014, Bangalore.

³ Interview with a KMRL official, 11 March 2015, Kochi.

using both formal and informal forms of contests – protests, contentions made through judicial and quasi-judicial state authorities etc. Addressing these concerns, pertaining to claims made on land in urban areas, requires us to take into account both urban governance and management of land, and also the politics surrounding land acquisition in urban areas. I therefore frame my research enquiry around the following secondary questions: What strategies underlie the design of the SPVs that allow the SPVs to wield influence over urban land management practices despite the SPVs themselves being registered or having the status of a ‘company’? What are the patterns of interaction between the SPVs and other state and local level land planning and regulation agencies? How do the SPVs negotiate the conflicts engendered around land acquisition deals? How do the SPVs influence the politics of contestation to land acquisition by the local populations? What ideological and normative instruments are used by the SPVs to gain legitimacy for the two MRTS projects? Lastly, in the light of growing instances where land acquisitions are contested judicially, how have the courts held the SPVs accountable with respect to the due local planning procedures to be followed in cases of land acquisition?

Through the course of analysis I argue that the institutionalisation of the SPVs within the urban governance sphere has led to the moving of land planning and regulation in urban areas away from the hands of local representative bodies to bureaucratically controlled state bodies that have little local representation. The elimination of local representative bodies from the arenas of land planning and regulation, in turn, weakens local participatory practices of determining land use and regulation in urban areas. The subjugation of local representative bodies has two implications for land use and regulation. First, it opens up spaces for corruption and abuse of power in land allocation. Second, it promotes a top-down process of urban development where the concerns of local populations are subjugated to the planning preferences of state and central governments. I illustrate that the SPVs work closely with state government level authorities to strategically eliminate local level hindrances to land acquisition in the two cities of Bangalore and Kochi. As a result, the processes of land acquisition look quite similar for the two projects despite regional differences in patterns of land use regulation, and divergent political and economic histories of the two states.

1.2 Research Framework and Focus of the Study

Scholarly investigation into processes of land acquisition in India has highlighted three key points. Firstly, Indian land markets are inefficient; characterised by ill-defined property rights, variety of formal and informal tenure systems, and sporadic land conflicts (Bedi & Tillin, 2015; Chakravorty, 2013; Jenkins, Kennedy, & Mukhopadhyay, 2014). Secondly, after the economic reforms of 1990s, the demand for land for private purpose projects has increased (Bhaduri, 2015; Chakravorty, 2013; Jenkins, Kennedy, & Mukhopadhyay, 2014). Lastly, following from these two points, given the absence of regularised land markets in India and the inability of the private capital sector to acquire vast tracts of land on its own, the state has played a key role- intervening both formally and informally- to facilitate land transfers for a variety of development projects involving private sector participation (Bedi & Tillin, 2015; Jenkins, Kennedy, & Mukhopadhyay, 2014; Levien, 2013; Sud, 2009). Formally, land governance involves a complex set of legal and administrative procedures. The state enjoys significant regulatory powers over both these domains, and can use its powers to legislate and execute laws and procedures to alter land use and ownership patterns. Informal processes of land acquisition include discretionary interventions made by state officials to facilitate land transfer, often involving significant abuse of state power and prerogatives. Therefore, underlying the political economic processes of land acquisition are state-capital alliances which predominantly operate on an ‘informal and not rule-bound’ basis (Tillin, 2013b, p. 21).

To this end, the study uses a hybrid analytical framework of subnational comparison and ‘state spatial rescaling’ (Kennedy, 2014) to examine both formal and informal governance mechanisms that underlie land acquisition and conversion processes for the two MRTS projects. Moreover, land in India is primarily a state subject.⁴ As per the Constitution of India, the State list extends the power of state governments to rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans. The Concurrent list

⁴ The Constitution of India specifies the distribution of legislative, administrative and executive powers between the Union, also known as the Central government, and the States of India. The legislative powers are categorised under a Union List, a State List and a Concurrent List, representing, respectively, the powers conferred upon the Union government, those conferred upon the State governments and the shared powers.

of the Constitution does provide overriding powers to the central government to make laws relating to acquisition and requisitioning of property (Sud, 2014). However in practice, apart from setting broad guidelines in matters related to land acquisition, central government usually does not interfere with powers of the state to govern land acquisition. Consequently, until 2013 land acquisition in India was governed by broad guidelines set by the 1894 Land Acquisition Act, and the respective state governments had their own land acquisition laws. In 2014, a new land acquisition law, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force. However, how the new law will be implemented in practice still remains to be seen, as many state governments are yet to formulate rules for its implementation. This includes the state governments of Karnataka and Kerala. In addition to land acquisition laws, the state governments deal with subjects of law and order, agriculture, irrigation, water supply, electricity, roads, minor ports, health, education, labour laws etc. under their jurisdiction (OECD, 2010). Therefore, apart from getting clearances for acquiring land, there are multiple other clearances for which the investors need to directly interact with state governments.

After the 1990s the subnational units have emerged as the new locus at which competition for private investments occurs in India (Bedi & Tillin, 2015; Jenkins, Kennedy, & Mukhopadhyay, 2014; Sinha, 2005a; Sud, 2012; Vijayabaskar, 2010). Consequently, state governments have actively stepped in to facilitate private sector participation in the economy. The most important component of this competition has been easing restrictions on land acquisition at subnational level. It thus becomes important to understand the state level political economic dynamics that govern land acquisition policies. Jenkins et al. (2014) posit that the contestations to land acquisition are in fact highly local; that is, they are subject to intra-state variations. Factors such as the history of decentralisation in the state, patterns of social mobilisation, nature of political parties, and bureaucratic structures, all therefore contribute to policy outcomes at the regional level.

In my work, which itself employs a comparison of two contiguous subnational units, I agree with the existing body of scholarly literature on land acquisition in India that factors governing land acquisition can be highly local in nature and a function of state level political economic dynamics. However, I further argue that they also need to be understood through the

lens of state restructuring processes, which have come to occupy a distinctive character under the current urbanisation processes. This thesis interrogates how UDPs become sites for restructuring urban governance sphere; that is how the entry of new governing structures, such as special authorities, shape power relations in the urban governance sphere. To this end, my work maps the tension between the external actors and local urban governance institutions, particularly with respect to claims made within the sphere of urban land management. The thesis illustrates that due to identical strategies of state restructuring processes administered across the two states of Karnataka and Kerala, the dynamics of land acquisition look similar for the two MRTS projects despite differences in local land management practices.

The state restructuring process in the context of urban development in India must be understood against the backdrop of broader changes within urban economic geographies. The liberalisation of the economy has opened the urban space to the influence of international market forces. Consequently, the new urban economic geography represents a multi-scalar framework of institutions, with states increasingly embedded in a series of external relationships with transnational actors (Baindur & Kamath, 2009; Kennedy, 2014; Tillin, Deshpande, & Kailash, 2015). Simultaneously, the urban land market has opened up to both foreign investors and domestic private capital in addition to local claims to land. This has led to ‘nested nature of land deals [depicting both] global patterns and local particularities’ (Millar, 2016, p. 207). In sum, urban development can be conceptualised as a site of complex matrix embedded in globalisation, subnational competition, and city centric growth strategies. Consequently, they present challenges of inter-governmental relations, rescaling of local state relations, and most importantly influence the distribution of resources- particularly land, which has become the key mode of financing UDPs.

This study illustrates that access to land for the two MRTS projects has been mobilised by enhancing the powers of metropolitan governance structures (such as special purpose authorities and parastatals), with the simultaneous denigration of powers of urban local bodies. In other words, the state restructuring processes underlying the implementation of the two MRTS projects have led to the formation of metropolitan spatial scales of governance, or ‘metropolitisation’ of the state. Metropolitisation of the state can be described as the deliberate redirection of power, authority and fiscal independence at the metropolitan scale to plan and implement large scale urban development projects (Ren & Weinstein, 2012).

Kennedy (2014) argues that a crude indicator of metropolitan governance is dominance of state governments and state level institutions and absence of consultation with local level bodies.

Furthermore, as these metropolitan forms of governance structures make headway in urban planning processes, they are shrinking the political spaces available to local democratic authorities. This is for two reasons. The first is that these new structures have their own set of governance mechanisms and largely remain insulated from local accountability mechanisms. Typically, MRTS projects in the country have been granted many exemptions from local planning measures and laws on the basis that ‘the unique scale of projects, pressure of time, a better efficiency and a need for greater flexibility in planning and implementation process’ (Follmann, 2015, p. 214). The second is that given the economic compulsions generated by inter- jurisdictional competition, most states have found it difficult to say no to the demands of the investors. The state governments, in turn, pressurise and even manipulate local level authorities to sideline any dissent that stands in the way of implementation of these projects. In effect, local bodies are reduced to the ‘role of implementing urban development schemes of central and state governments’ (Gooptu, 2011). Arguably, the top-down implementation of these UDPs is producing a certain level of convergence in the urban policy sphere across state regimes.

The process of top-down implementation of UDPs can alternatively be understood as a phenomenon of institutional layering within the city governance sphere steered by state actors at the national and subnational level, and even to an extent as a response to changes in global economic environment. Institutional layering is when change is introduced in a system through introduction of new institutions or rules alongside or top of the old ones, without actually changing the original rules (Mahoney & Thelen, 2010). In this context, the entrenchment of special authorities, or specifically the SPVs, as entities functioning parallel to the local governing bodies challenge earlier patterns of urban and regional development, without fully displacing them. As I will illustrate in due course, although these special authorities remain entrenched in the local urban governance sphere and even influence governance at the local level, yet in many ways they remain insulated from the influence of local urban level state authorities. In practice this implies that the UDPs are implemented

through modes of institutional bypassing wherein newly mandated state authorities are imposed over the extant local state authorities in order to expedite the projects. As it stands, the SPVs have very little accountability to the local administrative and political authorities. In fact, most of their functioning is controlled by bureaucrats who are directly accountable to the state government.

Moving beyond the state sphere, my work also takes into account the resistance engendered at societal level to land acquisition projects and the subsequent response of the state governments. These acts of resistance can be seen from two angles. The first is of an intra-state character, involving diversity of supra-state or state level authorities and the local level or municipal authorities with overlapping jurisdictions (Jenkins, 2011; Kennedy, 2014). For instance, whereas the higher level state bodies (the SPVs) have pushed for expedited allocation of land in the name of economic expediency, the local level bodies (such as municipalities) have shown reservations about the same demands owing to their planning laws and procedures. In such a situation, the clash between the two levels of administration is mediated by the state government, and is usually resolved in favour of the SPVs. The competing claims made by different levels of state authorities in the domain of urban land management forms the basis of the 'larger debate on the comparative advantages of decentralised local governments versus regional governments in managing large-scale, trans-local transformations' (Balakrishnan, 2013, p.42).

The second kind of conflict involves local displaced populations and how these groups engage with the state as they assert their claims to land. These are highly specific to local factors, and hence, can be divergent in their tactics. In the context of the UDPs at the focus of this research, although the instances of conflicts have been many, they are sporadic and segregated. Moreover, these conflicts do not seem to have an impact in changing the ultimate outcome; that is, they have not been able prevent the takeover of land. A detailed investigation into the resolution of these conflicts reveals the micro-politics that underlies the land acquisition process, and corroborates that informal politics is at the heart of accumulation strategy of the state. In my own research, while accounting for the resistance against the urban development projects under focus, I have tried to address the issue of how the state agencies attempt 'to diffuse and manage dissent' (Jenkins, Kennedy, & Mukhopadhyay, 2014, p. 20).

As I do this, I also bring into picture the role and relevance of the new modes of state-society interactions as embodied in the notions of participatory planning and public consultations. Furthermore, it is quite difficult (and also incomplete) to account for state mitigation practices without actually delving into the nature of contestations and mobilisation strategies employed by the resisting actors; for these remain the two sides of the same coin. Thus, adopting a state-in-society framework I argue that conflict over development projects must be viewed as ‘rich negotiation, interaction and resistance that occur’ (Migdal, 2004, p. 15), at multiple levels of state between civil servants, political parties, local middlemen fixers and citizens (Corbridge, Williams, Srivastava, & Veron, 2005; Gupta, 2012).

I further illustrate how the dispersed geography of resistances -- given that the two MRTS projects span almost the entire city areas of Bangalore and Kochi -- has given rise to multiple contestations against the same project. In other words, rather than a single collaborative movement against the same project, what is observable are pockets of resistance movements spread across city locales. Each of these contestations is different in nature and disjointed from other contestations occurring within the same city. The fragmentation of resistance movements is further exacerbated by the ‘multi-class’ (Adnan, 2015) character of the mobilisations involving a range of actors including urban occupational groups, slum residents and other civil society groups. These groups often do not share common concerns, and depending on their social and economic resources employ varying tactics to resist the state’s attempt to acquire their land. Overcoming these resistance movements against land acquisition is part of the state’s strategy to facilitate land transfers, and ultimately to expedite the project development process.

1.3 Land Acquisition and India’s changing policy environment

This research study is located at a time juncture when there was great uncertainty and confusion over land acquisition laws in the country. This uncertainty consequently impacted the land acquisition processes for the two MRTS projects. At the time of my fieldwork, a new land acquisition law- the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR) - had come into force in India. However, during my fieldwork interviews, the state officials in Karnataka and Kerala claimed that the law was not functional as the state governments had not formulated the rules for its

implementation. These had two implications for land acquisition in particular. The first was that it gave the state officials immense discretionary powers in implementing the two projects. Secondly, it also led to several disputes between the state actors and the displaced populations, with each invoking legal prescriptions to suit their own ends. For instance, in certain cases the displaced populations made claims of compensation and rehabilitation under the RFCTLARR Act. Here I will give a brief overview of the prevalent policy environment surrounding the land bill between 2014 and 2015.

Many states in India saw unrest as a result of unjust land transfers made under the Land Acquisition Act, 1894 that displaced large swathes of population with little compensation. Consequently, in 2014 the National Advisory Council⁵ (NAC) during the tenure of the United Progressive Alliance⁶ (UPA) government at the central level proposed a new land bill on land acquisition- the Land Acquisition, Rehabilitation and Resettlement Bill, 2011. The bill sought to replace the archaic 1894 land acquisition law with a new law on land acquisition. The LARR bill, 2011 was formulated to ensure that land losers were adequately compensated, and consequently merged the provisions of land acquisition with provisions for rehabilitation and resettlement. Rehabilitation and resettlement had not previously been subject to legislation. The bill also sought to restrict arbitrary application of ‘public purpose’ by introducing mandatory consent from the affected population before acquiring the land. The bill was later adopted in 2013 as the RFCTLARR Act, 2013 and came into effect on 1 January, 2014; thus, repealing the Land Acquisition Act, 1894.

In 2014 there was a change in political regime at the central government level. In 2014, the National Democratic Alliance⁷ (NDA), a centre right coalition, was elected to power at the

⁵ An advisory body to the Prime Minister of India, which was set up in 2004 by the United Progressive Alliance government, the then central government.

⁶ The United Progressive Alliance or UPA is a coalition of centre-left political parties in India formed after 2004 general elections. The UPA is led by the Indian National Congress. The UPA again came to power in 2009 and lasted till 2014; thus, marking the second phase of its rule at the central government level, popularly known as the UPA-II regime.

⁷ The National Democratic Alliance or NDA is a centre-right coalition of political parties in India, led by the Bharatiya Janata Party (BJP).

central government level. After coming to power the NDA government sought to revise the new land Act to make land acquisition procedures less stringent. To achieve its aims, the NDA government promulgated an ordinance in December 2014 to introduce amendments to RFCTLARR, 2013 Act. The amendment bill sought for exemption of five categories of projects from the provisions of the RFCTLARR, Act. These included projects of: national security and defence production, rural infrastructure including electrification, industrial corridors, and infrastructure and social infrastructure projects including public-private partnership projects. The ordinance was re-promulgated twice, in April 2015 and again in May 2015, since the promulgation of the first ordinance in December 2014. However, the centre faced stiff political resistance from opposition parties and various other quarters that challenged the use of ordinance to amend the RFCTLARR, Act. Consequently, the NDA failed to gather consensus for the proposed amendments to the RFCTLARR, Act. Finally, the amendment ordinance was allowed to lapse in August 2015 (Hebbbar, 2015). Therefore, statutorily the law remains in force.

To take a note beyond legal and policy debates, when I did my fieldwork the ground reality of land acquisition was quite messy. There was little clarity over the legal procedures to be followed for land acquisition. Although the LAA 1894 was defunct, state land acquisition agencies were still invoking provisions from old legislation. As far as the metro projects are concerned the new law, as passed by the UPA, exempted the 13 Acts of the central government from the purview of the RFCTLARR Act, including the Metro Railways (Construction of Works) Act, 1978 (The Gazette of India, Ministry of Law and Justice, 2013). But then the NDA government issued an executive order to extend the benefits of compensation and rehabilitation outlined in RFCTLARR even to the victims of land acquisition undertaken under the earlier exempted 13 Acts that includes the Metro Railways (Construction of Works) Act, 1978 (“Land law: Government issues order to include 13 central Acts”, 2015). Moreover, there were public- private partnership real estate projects executed as part of the MRTS projects for which land was acquired through the same procedures that were followed in case of land acquisition for metro construction. It is not clear why acquisition for these PPP projects must be exempted from the new law, if at all.

A land acquisition official in Bangalore lamented:

‘See at this stage land acquisition is in a very bad situation. The old act [LAA, 1894] has been declared “defunct” [no more legally binding]. The new act [RFCTLARR] is not fully functional. We do not exactly know what to follow. Now so many files are just stuck. Most of the acquisition has been done under the old Act, and the awards have also been passed under the old Act, and now people are claiming compensation under the new Act.’⁸

A land acquisition officer in Kochi corroborated these observations:

‘LAA, 1894 has been repealed. For RFCTLARR, the state government has so far not formulated any rules. The draft has to be prepared, presented before the assembly and then it has to be approved by the Council of Ministers. We are not following any procedures. KMRL has special orders from the government to purchase land directly from the owners.’⁹

Furthermore, in some of the litigations that I studied during fieldwork, the land losers had made a claim against the procedural illegalities in land acquisition as per the new law (Jossey v. State of Kerala and Ors., 2014; Riya Suraj and others v. State of Kerala and others, 2015). The state agencies had also responded to these claims saying that the rules for the new law had not been formulated and so the claims made under the new law do not count for. But it is worth noting here that if any litigation on the basis of the new law has at all been accepted and the fact that state agencies are responding to such claims, it implies that the metro is liable to be covered under the new law. Otherwise, if the new law is not applicable to the MRTS projects then there is no reason to have a case accepted and responded to in the first place; such a case is legally void in its very framing.

⁸ Interview, 07 November 2014.

⁹ Interview, 11 March 2015

Table 1.1: An overview of legal framework for the Bangalore MRTS and the Kochi MRTS Projects as of 2014-2015

LAW	STATUS OF THE LAW IN PRINCIPLE	PROCESSES OF LAND ACQUISITION IN PRACTICE	
		Bangalore MRTS	Kochi MRTS
		- Land acquired under a state law (Karnataka Industrial Areas Development Act, 1966)	- Land acquired under special orders by the state Government
LAA, 1894	Defunct	Provisions of LAA, 1894 used as part of KIAD Act, 1966	Provisions of LAA, 1894 invoked
RFCTLARR, 2013	Statutorily in place	So far not in use	Certain provisions of RFCTLARR, 2013 incorporated as part of KMRL' rehabilitation and resettlement policy
OTHER STATE LEVEL AND LOCAL LEVEL LAWS	Applicable	Invoked on the basis of the discretion of the assigned state or local authority	Invoked on the basis of the discretion of the assigned state or local authority

My dissertation will unpick the intricacies of land conflicts surrounding the two projects against this uncertain policy background.

1.4 Chapter Outline

The dissertation is organized into 8 chapters including the present one. Chapter 2 reviews the key strands of literature for this project and details how land acquisition and related governance processes have been conceptualised mainly within the scholarly traditions of

political economy, political geography and urban development. The issues dealt in the chapter include structural changes between the state and the market as a result of inflow of private investments in post liberalisation India, restructuring of intergovernmental relations and public private partnerships in the light of competitive urban centric economy, and lastly, land deregulation and management of land related conflicts as a deeply embedded political process. The themes outlined in the chapter are subsequently drawn upon in each of the following empirical chapters to locate the transformations ushered in by the UDPs at the focus of this research study. Chapter 3 outlines the methodologies drawn upon to design this research project. This includes a discussion of case selection and some key distinctive features of the two states, Karnataka and Kerala -- the geographical locus of this study. The chapter further details rationale for case selection, research tools and data collection techniques used in the study and also a brief summary of the fieldwork.

Chapter 4 tries to locate how policy patterns converge across two states at the focus of the study as a result of SPVs becoming entrenched within the state governance sphere. The chapter also introduces the reader to some of the new instruments of financing urban infrastructure projects, primarily the land based financing method where the land itself is leveraged as a significant constituent of the financing framework of UDPs.

Chapter 5 and 6 draw on the empirical case studies in Karnataka and Kerala, and bring into focus conflicts surrounding the land acquisition proceedings for each of the projects. Chapter 5 focuses on intra-bureaucratic conflicts and illustrates how these play out within the new institutional hierarchies of superordination and subordination within the urban governance sphere. The chapter through an in depth analytical account of land acquisition for allied real estate projects executed as part of the MRTS projects assesses the impact of institutionalisation of UDPs and the accompanying institutional regimes on the jurisdictions of local state administrative and planning bodies. Chapter 6 draws attention to the conflicts engendered as a result of displacement of local populations and illustrates the bargains made between state actors and non state actors in the process of conflict resolution. The chapter also throws light on how divergences in socio-political attitudes of the state elites across the two locations of Bangalore and Kochi can lead to variations in alliances formed during conflict situations.

Chapter 7 brings to focus the legal aspects pertaining to land related conflicts. The focus of this chapter is the judiciary. Drawing on a longstanding history of intervention by courts in land acquisition policies at an all India level, this chapter attempts to analyse how decisions pronounced by High Courts at the state level can contribute to the outcome of conflicts surrounding land. The cornerstone argument of the chapter is that the judiciary itself is a politically embedded institution. While pronouncing decisions on land related conflicts, the courts convey their own political and ideological predispositions, which significantly influence the course of state policy making process. Chapter 8 summarises the findings of the study and gives concluding remarks.

Chapter 2

LITERATURE REVIEW

This chapter outlines the theoretical underpinnings necessary to understand how the changing economic and development priorities of the Indian state - with a particular focus on the post liberalisation phase - have impacted land use policies. More importantly, by locating the state at the centre of land acquisition politics in India, this chapter brings out the myriad ways in which the role of the state in development has been conceptualised.

Taking nineties as the starting point, I look at how the liberalisation process in India was accompanied by a significant restructuring of state-capital relations. In the post liberalisation economy, the state in India neither fits the withdrawal nor the good governance model, but is instead in alliance with influential capital (Jenkins, 1999; Kohli, 2009; Sud, 2009). In fact, more often than not, it has been posited that state intervention has been central to the processes of rapid capital accumulation that have followed liberalisation. The current processes of capital accumulation and land deals must be viewed against these wider political economic processes. Scholarly analysis on land acquisition (Jenkins, Kennedy, & Mukhopadhyay, 2014; Bedi & Tillin, 2015; Sud, 2012; Chatterjee, 2008; Levien, 2013; Balakrishnan, 2013) has highlighted how the ascendancy of capitalist-led development in the post reform period has impacted the new ways in which the state has stepped in to ensure land supply for private corporations. The idiom of ‘public purpose’ has been extensively used by the state in recent times to acquire land at low prices for private investment purposes, accompanied by other tax and fiscal incentives to promote private investment (Bhaduri, 2015). Levien (2013) and Sud (2009) argue that the post liberalisation Indian state is no more acquiring land for state-led development or infrastructural needs but has restructured itself as the ‘land broker’ for private capital. Consequently, in the post liberalisation phase the state has extensively used its powers of eminent domain to acquire land for private investment projects, often blurring the line between public purpose and private projects (Bhaduri, 2015; Levien, 2013; Sundar, 2011). The scholarly literature further highlights that informal transactions are at the heart of the land governance process.

Following this, I illustrate that reform processes in India have also transformed federal

relations. An important outcome of this federal restructuring is that in the post liberalisation phase it is the regional states that are competing intensely with each other to attract private capital; thus, initiating competitive liberalisation at the subnational scale or ‘competition states’ by strategically pitting states against states and metros against metros (Corbridge, Harriss, Ruparelia, & Reddy, 2011; Bedi & Tillin, 2015). Within this broad canvas that lays the ground for changing state-market relations and its impact on land use policies of the state, I locate the ongoing urban development projects as investment vehicles of economic competitiveness. I further illustrate how the changes at regional and urban state level are facilitating private sector participation in urban economic and governance planning. Thus, the domination of urban and regional governance ‘by high profile projects that rely heavily upon private financial contributions’ (Ren & Weinstein, 2012, p. 110) can be understood as the product of a series of changes occurring at the national, subnational, and subsequently, local urban level.

Lastly, I bring into focus how the new liberalised economic environment is characterised by ever increasing interaction between states and transnational capital forces, which in turn has led to the proliferation of new institutional models of capital operation and economic development, such as the special economic zones (SEZs) or public-private partnerships for large-scale infrastructure projects. This has led scholars to propel investigation through new conceptual frameworks such as that of ‘state spatial rescaling’ (Jenkins, Kennedy, & Mukhopadhyay, 2014; Kennedy, 2014). Borrowing from the theoretical foundations of Brenner (2004), Harvey (1989) and Swyngedouw (2004), ‘state spatial rescaling’ uses a multiscale framework that looks at national, subnational and even urban level shifts in political strategies and institutional configurations that are shaping the competitive advantage of the regions (Jenkins, Kennedy, & Mukhopadhyay, 2014; Kennedy, 2014).

2.1 Pre-Reform to Post-Reform State: Liberalisation, Privatisation, and Refederalisation

To begin with, the role of post-liberalisation Indian state in matters of land acquisition can be assessed in terms of shifts in the political and economic priorities of the state brought about by liberalisation. Following the liberalisation measures of the 1990s, there was a change in the composition as well as character of the capitalist class that began to dominate the Indian economy. Unlike the pre-liberalisation capitalist class that was drawn from a few monopoly

houses protected by the license regime, the opening up of the Indian economy in the 1990s was characterised by a sudden influx of capital, both domestic and foreign (Bardhan, 1984; Chatterjee, 2008). The new capital was technology intensive and much more mobile (Chatterjee, 2008). Thus, the capital made entry at all levels. The most conspicuous example is the rise of the information technology sector. Together the liberalisation of the economy and growth of technology led to intensification of processes of capital accumulation. Simultaneously, there has been an ideological shift in the Indian political and economic landscape that places emphasis on rapid high economic growth driven by private capital, both foreign and domestic (Kohli, 2009; Kochanek, 1974; Chatterjee, 2008). Moreover, this has been brought about not by electoral mobilisation, the prime source of political power of the landed elite in pre-liberalisation India, but by the influence of visual and print media, an echo of the rise of new urban middle class (Chatterjee, 2008).

While the sudden influx of foreign capital did influence the relation of the state vis-à-vis capital, internal changes within the economy also contributed to the rise of the private sector. In decades following 1950s and preceding 1980s, private business was viewed with a strong sense of suspicion and distrust in India, and was said to be motivated solely by greed, interested primarily in quick returns (Kochanek, 1974). In contrast to the negative image of the private sector, the government-run public sector was generally believed to be primarily interested in the welfare of the people (ibid). Moreover, given the low levels of industrialisation at the time of independence, the state was assigned a leading role in achieving an autonomous self-reliant growth, while private industry was protected from international competition till they could attain similar economies of scale (Frankel, 2005). Hence, the economic imperatives of the post- independence Indian state, and the comparatively weak political position of the industrial elite vis-à-vis the state, prevented the private sector in pressing its claims on the government. However, beginning 1970s and through 1980s the public sector began to lose its sheen, and the tables turned for private businesses (Chibber, 2003). The 1970s and 1980s saw a fall in profits in public sector enterprises in almost all sectors leading to a decline in production of power, transport, coal and cement (Frankel, 2005). By this time, business had also begun reorganising itself, giving a new turn to state-business relations in the country. The post independence Indian business community was characterised by a multiplicity of apex organisations representing business and industry in

India, and these were sharply divided on the basis of region, caste and family as well as conflicting economic interests and political orientation (Kochanek, 1995-1996). However, beginning in the 1980s, out of many conflicts between different business associations, the Confederation of Indian Industries rose to prominence in 1990s superseding other organisations. The CII was different from its earlier, traditional counterparts and had the 'reputation of being professionally run, broadly based and outward looking' (Kochanek, 1995-1996, p. 546), and was soon 'recognised to be a key partner for many of the government's policy initiatives' (Sinha, 2005b, p. 7). The rise of an urban middle class further contributed to the view of 'the state apparatus as ridden with corruption, inefficiency and populist political venality and a much greater social acceptance of the professionalism and commitment to growth and efficiency of the corporate capitalist sector' (Chatterjee, 2008, p. 57). The debt crisis of 1989-1991 offered a window of opportunity to these elite groups who wanted to renegotiate the state's relationship to private capital and the process of accumulation (Corbridge & Harriss, 2000).

However, the emergence of the private sector in post liberalisation phase did not imply diminution in the role of the government in the economy. The government intervened in the post liberalisation economy as much as it did before liberalisation, but the quality of state intervention changed (Sinha, 2005a, p. 3; Kohli, 2009, p. 105) - from a 'tutelary state of centrally planned economy' (Rudolph & Rudolph, 2013, p. 315) to 'a wooer and regulator of capital' (Bedi & Tillin, 2015, p. 194). In pre-liberalisation India, the state controlled the economy through what has been termed the 'license raj'- 'a system of central controls introduced in 1951 regulating entry and production activity' (Aghion, Burgess, Redding, & Ziliboti, 2003, p. 1397). The dismantling of the license raj in 1980s and 1990s only scaled down the regulatory role of the state but the role of the state in fuelling economic growth still remained pertinent. Kohli (2009) argues that the process of economic liberalisation in India led to pro-business growth rather than pro-market growth. Pro-market growth focuses on removing impediments to markets and aims to achieve this through economic liberalisation. It favours new entrants and consumers. A pro-business orientation, in contrast, focuses on raising the profitability of the established industrial and commercial establishments. It tends to favour incumbents and producers by easing restrictions on capacity expansion for incumbents, removing price controls, and reducing corporate taxes (Rodrik & Subramanian, 2004). Pro-

business growth is not necessarily pro-market growth. Pro-market growth aims at a more level playing field for business and consumers. In a pro-business model consumers may not have an equivalent share of negotiation. Pro-business growth often encourages cronyism and corruption as businesses try gaining favours from the government rather than pleasing consumers.

The economic growth in 1980s was not led by en masse privatisation or rapid opening up to global investments, but instead through easing restrictions on capacity expansion for incumbents, removing price controls, and reducing corporate taxes (Kohli, 2009; Kochanek, 1995-1996). Thus, Indian economic growth persisted despite the presence of price and other market distortions. The outcome of such liberalisation was that the economy was faced with a situation of an underdeveloped market that was incapable of providing resources that were being demanded by the incoming foreign investment (Evans, 1989). This in general has been the case with late industrialisers where, in the absence of risk taking institutions, business groups look up to the state for mobilisation of resources for industrial investment (see Evans, 1989 on problems of late industrialisers). For instance, in the infrastructure sector, the Annual World Bank Report of 1994, while emphasising the growing inefficiency and inadequacy of public monopolies, advocated for the growing role of the government, not as direct investor in physical infrastructure, but in terms of facilitating private investment in this area (Ghosh, Sen, & Chandrasekhar, 1997). Even in the case of the MRTS projects, government investments at initial stages are put in place to mobilise private investments. Most importantly, the entire responsibility for furnishing land for the projects rests with the state governments.

Therefore, clearly underlying the Indian growth story is a close alliance between business and the political class. Resultantly, there has been a substantial diversion of resources from redistributive measures that would have ensured wider circulation of gains made by growth. This has led to heightened economic disparities, marked by trends of capital accumulation in the hands of narrow interest groups and concomitant dispossession of many marginalised groups (Bhaduri & Nayyar, 1996; Corbridge, Harriss, & Jeffrey, 2013; Jenkins, 1999; Kohli, 2012). Yet, despite the adverse impact of reforms on mass of the population, the political leaders have been able to sustain these reforms in a democratic set up like India.

A popular hypothesis that seeks to explain the sustainability of reforms despite their inherent contradictions was proposed by Ashutosh Varshney. Varshney (1998; 2007) argues that reform measures in India were mainly confined to the domain of elite politics and did not enter the domain of mass politics. Elite politics refers to the arenas of interactions between business and government, and in the dealings between national government and international financial institutions (Varshney, 1998). Mass politics manifests itself through voting, demonstrations or riots (ibid). This implies that reforms were mainly carried out in investment, trade and exchange rate regimes and capital markets, but steered clear of domains that could have led to direct confrontation between the politicians and electorates (Corbridge, Harriss, & Jeffrey, 2013; Varshney, 1998). Despite high fiscal deficits, agricultural subsidies have been left untouched (Varshney, 1998). Similarly, small scale industry and labour reforms have not been affected by reforms (ibid). Jenkins (1999) and Corbridge et al. (2013) posit that many of the reforms measures were implemented by stealth through a series of back door transactions between elites, and thus, avoiding possibilities of organised resistance. In this context, the enactment of SEZs and UDPs through means of special authorities, without having to actually undertake reforms at a wider scale, can be viewed as a strategy of the elites to escape the consequences of mass politics (Jenkins, 2011; Kennedy, 2014). However, the land transactions which are at the core of these projects inevitably bring them into conflict with the masses. The political upheavals in the states of West Bengal and Goa, where opposition parties rose to power by mobilising support along the issues of land acquisition, suggest that no longer can governments introduce economic policies without considerations of mass politics.

Another important outcome of the economic reforms was the restructuring of centre-state relations. In the new economy, the regional states emerged as major players in attracting private investments, leading to inter-state competition for investments (Rudolph & Rudolph, 2013; Saez, 2002; Sinha, 2005a; Bedi & Tillin, 2015). However, as Sinha (2004) argues, it is not that the states did not compete for investments in the pre-reform period but the character of competition changed with the ushering in of reforms. The pre-reform period was characterised by vertical competition between the states, whereby the states competed with each other for centrally determined resources (ibid). In contrast, the dismantling of central regulatory control in the 1990s allowed regional governments to negotiate directly with the

private investors – both, foreign and domestic - giving rise to horizontal competition between the states. The following decades saw several measures that led to increase in the sovereignty of the states in arena of financial decision making. The tenth Finance Commission Report (1995) and the eleventh Finance Commission Report (2000) made recommendations for widening the tax base of the state governments and for developing a stronger database of public finances at the state level, respectively. Moreover, the decline in public investment incentivised states to pursue private investments (Rudolph & Rudolph, 2013). In the new growth environment, even the Communist governments of West Bengal and Kerala that were earlier skeptical of reforms, have initiated reforms to enhance the investment potential of their respective states (Chakravorty & Lall, 2007; Kohli, 2012). In the states at the focus of this research, specifically Karnataka and Kerala, it would not be wrong to say that there is a certain ideological convergence over policy matters between the political regimes in both states. While political regimes in Karnataka are known to support pro-growth policies (Mody, 2014), the situation in Kerala is not very different; that is, despite apparent differences over ‘scale and style and emphasis’ (Palshikar, 2015), both the left front and the Congress led alliance in Kerala seem to be pursuing similar economic policies and endorsing same set of development agendas (see, Manoj, 2016 for an assessment of changing economic priorities of the left front in Kerala).

Economic liberalisation was only one of the reasons that contributed to the consolidation of power of regional sub-units vis-à-vis the central government. There were significant changes in the polity that prompted the change as well. For nearly the first three decades of independence, the Congress party dominated the Centre and in most of the regional states (Yadav, 1999). Single party dominance described as the ‘Congress System’ by Kothari (1964) provided for dissolution of conflicts through consultations and negotiations through internal networks of party channels, which in turn reinforced the ascendancy of centralised planning agencies like the Planning Commission (Schneider, 2004; Kothari, 1964). However, the following decades saw the emergence of stable regional parties and the rise of non-Congress political leaders (such as Jyoti Basu in West Bengal, Ramakrishna Hegde in Karnataka, and N.T. Rama Rao in Andhra Pradesh) in a large number of states. The stabilisation of regional political parties led to a divergence from the nationalistic ideology of the central government and strengthening of regional political agendas. Besides at the centre, since 1989, the central

government has usually been a form of coalition politics, that is, national parties seeking the support of regional political parties and leaders. Successively, the bargaining space of the regional parties has increased vis-à-vis the policies of the central government.

On the whole, inter-state competition and regional concentration of power has implied intensified competition for private investments at the subnational level. At the same time, it has given the states more space to devise their own strategies to woo investors. This competition for private investments is further driven by the capabilities of the states to provide a variety of concessions, not just monetary but also providing resources (the most critical being the land) for attracting and maintaining capital (Chandra, 2015; Rudolph & Rudolph, 2013; Bedi & Tillin, 2015)

2.2 Inter-state competition, Urbanisation, and Rescaling of local government structures

The arguments outlined above broadly based within the disciplines of political science and political economy, have brought to the fore the internal political economic dynamics of state restructuring in India. Adding to this discourse, a complementing discourse has emerged about the interaction between the state and the market from the fields of economic and political geography and regional and urban planning (Chakravorty & Lall, 2007; Brenner, 1998; Benjamin, 2004; Kennedy, 2014). The relevance of this body of literature rests in the fact that it brings into focus the ever shifting configurations of institutions (parastatals, public-private partnerships, special authorities, special economic zones), emerging out of negotiations made by the state as it responds to the demands of the international market. Consequently, it throws light on processes of federalisation, decentralisation and multilevel governance structures (Tillin, Deshpande & Kailash, 2015; Kennedy, 2014), as the local integrates with the global finance markets (Douglas, 2000).

The key conceptual bedrock of this framework has been expressed in the form of state spatial rescaling. Underlying this conceptual framework are two key arguments. Firstly, with the growth in international trade there has been an increasing interaction of the global and the local, giving rise to the phenomenon of 'glocalisation' whereby (a) institutional/regulatory arrangements shift from the national scale both upwards to supra-national or global scales and downwards to the scale of the individual body or to local, urban or regional configurations

and, (b) economic activities and inter-firm networks are becoming simultaneously more localised or regionalised and transnational (Swyngedouw, 2004). Secondly, amidst these changes the state must be viewed in spatial terms, as embedded in networks of governance processes. That is, power today resides in a network of economic connections rather than in any particular place (Smith, 2002). As will be evident in the context of this research, economic interconnections are spread across international (multilateral donor agencies), national government, and (subnational) state level bodies that influence the actions of the state and local urban level government agencies.

The process of rescaling state structures is associated with the emergence of a series of international and political crises that occurred in Europe in the 1970s and 1980s (see, Agnes & Corbridge, 1995 on the nature of crisis), which led to the demise of the Keynesian welfare state and the rise of transnational liberalism. This, in turn, prompted a decentering of the national scale and the proliferation of new institutions, projects, and struggles at subnational scale (Brenner, Jessop, Jones, & Macleod, 2003). The two concomitant changes, emergence of transnational liberalism and rising prominence of subnational scales involved strategic elevation of regions as the engines of economic growth in the global economy (Scott, 1998), whereby local powers were incentivised to maximise the attractiveness of local sites as a lure for capitalist development (Harvey, 1989). A key feature of this regional rescaling strategy was that it was urban centric, which for cities entailed a ‘gradual shift away from distributive policies, welfare considerations, and direct service provision towards more market-oriented and market-dependent approaches aimed at pursuing economic promotion and competitive restructuring’ (Swyngedouw, Moulart, & Rodriguez, 2002, pp. 551-552). These restructuring patterns were not just confined to Europe. Agnes and Corbridge (1995) put forward that as a response to the crisis in Europe the counterrevolution was introduced to the Third World to embark upon local processes of structural adjustment. This new approach advocated for a strategy of economic liberalisation to replace orthodox national and regional policies which had failed to stimulate economic growth and regional development (Cook & Hulme, 1988, p.222).

Adapting the concept of state spatial rescaling to the Indian frame of reference, scholars such as Banerjee-Guha (2008), Jenkins et al. (2014) and Kennedy (2014) illustrate that

development of industrial enclaves and infrastructural corridors (such as the special economic zones, intra and intercity transport corridors etc.) can be viewed as investment promotion vehicles of a particular type of ‘glocalisation’ strategy. Further, these strategies have directly and indirectly led to the building of subnational scales that are increasingly being influenced by their interactions with transnational actors (e.g., international development agencies, multinational corporations, global non-government organisations and organised diasporic groups). A peculiar feature of these development projects is that they are generating project forms that exist as ‘autonomous functional units, delinked from the surrounding areas on functional terms, simultaneously having such links with faraway places through global networks. In reality, they reflect spatial imbalances at local level associated with economic decline, social inequality and fragmentation at wider territorial scales’ (Banerjee-Guha, 2008, p. 55). Many of these projects are executed on the basis of ‘exceptionality measures’ (Swyngedouw, Moulart, & Rodriguez, 2002) and receive several tax and non-tax exemptions from the central and the state governments, exclusion from certain central and state laws, and are usually poorly integrated in local planning mechanisms and democratic accountability measures (Jenkins, Kennedy, & Mukhopadhyay, 2014; Banerjee- Guha, 2008; Swyngedouw, Moulart, & Rodriguez, 2002).

The exceptionality approach or urbanism of exception, as Murray (2017) describes, is a way of addressing urban problems in an *ad hoc* fashion as they arise, and is done through the means of newly established agencies. These newly established agencies can take the form of new form of special purpose authorities; the *ad hoc* invention of private–public corporate forms and other public–private partnerships for supplying public goods and services; privatization under public contract or charter; regulated private monopolies in the public service; and intergovernmental authorities for providing services, or governments that contract with one another as providers (Storper, 2014). Furthermore, these *ad hoc* interventions occur outside of public scrutiny and without sweeping institutional reforms (Murray, 2017; Storper, 2014). These quasi autonomous public/public-private regimes ‘sit alongside and potentially challenge existing territorial arrangements or dominance of particular scales of governance’ (Murray, 2017, p. 63). Harvey (1989,p.7) captures this form of urbanisation as a process of speculative urban development as opposed to rationally planned and coordinated development, and in many instances this has meant that the public sector assumes the risk and

the private sector takes the benefit.

Furthermore, a crucial component of this process of urbanisation is that the state - both the provincial governments and the local government - remains central to the market based urban transformations (Samara, He, & Chen, 2012). The local and subnational governments play key roles in providing the legal, policy and regulatory frameworks in which development occurs (Shatkin, 2008). Factors, such as land use, are strongly influenced by the state (Chakravorty & Lall, 2007). Furthermore, political economy factors like the historical path dependence of particular states, that is, the regional economic trajectories and political motivations influence the outcomes of development projects (ibid). Concomitantly, in the new economic geography produced by globalisation, developing nation-states are also faced with the pressures of incorporating changing systems of local, regional, and/or national regulation and governance (Shatkin, 2008). In the urban governance context, this has taken the form of both 'decentralisation' and 'metropolitisation' of the state (Ren & Weinstein, 2012; Orueta & Fanstein, 2009).

The process of decentralisation of urban governance in India was concomitantly pursued with the economic reforms of 1991. In the light of economic liberalisation, administrative decentralisation was embraced as part of the 'good governance' discourse promoted by the international financial institutions during 1990s (Woods, 2000; Santiso, 2001; Singh, 2014). These entailed measures to achieve higher economic efficiency, better accountability, larger resource mobilisation, and lower cost of service provision, and higher satisfaction of local preferences (World Bank, 2000). Although urban development is a state subject, from time to time the central government has laid down broad frameworks for urban sector reforms in the national Five Year Plans (Mahadevia, 2003; Singh, 2014). The official pronouncement for decentralisation in urban areas came in the form of the 74th Constitutional Amendment Act (CAA) in 1992. Under the Act, amendment was made to the Constitution of India that set up directives to state legislatures to devolve powers to lower level assemblies and to strengthen municipal governance by assigning responsibilities (such as urban planning, land use, water supply, roads, bridges etc.) to urban local bodies respectively (Hamid, 2004). However, scholarly appraisals of the 74th CAA reveal that the Act has not done much to empower the local bodies in practice and most recommendations have remained on paper at best (Bagchi,

1999; Jenkins, 1999; Nath, 2015). In practice, the Act has endowed the local bodies with a list of functions and responsibilities without empowering them financially or politically (Bagchi, 1999; Nath, 2015). The state governments continue to hold political and administrative control over local government structures and enjoy overwhelming powers in matters of appointments and sanctioning of new posts (Nath, 2015; Pinto, 2000; Pancholi, 2014). Urban development, including urban housing, land and infrastructure development are the sole responsibility of the state governments, which they may wholly or partly pass to urban local governments (Mahadevia, 2006). Moreover, as far as land policies are concerned, much of the management rests with the state governments.

In financial matters, any devolution of assigning taxes and levies to local authorities rests on the discretion of state governments (Bagchi, 1999). Moreover, the eighth and ninth plans enabled greater private sector participation in urban infrastructure services (Mahadevia, 2003). Over the course of years, private sector participation in urban development and urban governance has only increased, contributing to proliferation of quasi-market culture at the urban governance level that has undermined the authority of local level bodies. As part of the process, a set of new actors such as special authorities, parastatals, real estate developers, local contractors, transnational developers and liberalising government officials have come to occupy decision making positions in the urban planning process. This has led to the operation of metropolitan scales within the city planning process. In the new globalised economy, metropolitan scale as a spatial unit of governance is posited as a more efficient means of urban planning than both traditionally-bound municipalities that are considered too small in scale to manage strategic urban challenges, and also nation-state that is judged too large to address place specific, environmental, economic and social relations (Sullivan, Brady, Ray, Sikora, & Murphy, 2014). However, the new planning process is performance based and, more and more project-centric, rather than part of comprehensive city level planning frameworks (Bagchi & Chattopadhyay, 2004; Graham, 2000).

In the new project-centric governance landscape, citizens' engagement with the state occurs through what has been termed as 'participatory spheres' (Cornwall & Coelho, 2007) as opposed to informal spaces of state-society interaction. Cooke & Kothari (2004) argue that often participatory ideals are geared to meet formal and informal bureaucratic goals. 'As such,

ideas of participation are oriented towards consensus that are external to project locations. These representations do not necessarily speak directly to local practice and provide little by way of guidance on project implementation, but they are important in negotiating relationships with donors, and more widely in underpinning positions with development policy debate' (Cooke & Kothari, 2004, p. 8). Participatory development practices as public consultations also represent a form of 'manufactured consensus' by the donor agencies, who are aware of the negative tendencies of global capitalism and seek to counter it, but 'while retaining the market principle of economic organisation' (Howell & Pearce, 2002, p. 8). Public consultation meetings are administratively part of the state sphere, yet in their function they are intended to be a check on the state system. The idea of partnership and dialogue, then, as Howell & Pearce (2002) argue, provides a new means of regulation that simultaneously injects a degree of morality into the workings of capitalism.

In sum, the enmeshing of changing capital relations of production with the urban planning processes has led to new ways of managing and governing cities which ultimately determine resource distribution within the urban sphere.

2.3 Land governance as a political process

In the foregoing sections, I have outlined the macro-level political economic transformations that are shaping the current resource extraction processes. In this section, I move away from the state level analysis to the micro-politics that underlie land governance processes. As outlined earlier, the dependent relationship between two sets of actors - state actors and private actors - has led to the formation of an 'elite pact' (Jenkins, 1999), whereby private actors are able to influence how the state allocates business resources, particularly land. Consequently, in recent years state governments have played an increasingly important role in what have been described as instances of 'land grabs' (Goldman, 2011; Levien, 2012; Sud, 2009; Zoomers, 2010). Land grab refers to large scale expropriation of land through means other than voluntary market purchase, and hence usually occurs through the backing of the state (Levien, 2012). It involves both forcible displacements of populations without adequate compensation as well as radical changes in land use and ownership patterns often resulting in conversion of community or public land into private real estate development projects (Goldman, 2011; Levien, 2012; Sud, 2009; Zoomers, 2010). Therefore, land acquisition

projects are not only mired in conflicts over issues of displacement, but there are also issues of abuse of land use conversion laws. Informal political transactions lie at the heart of these conflicts over land.

Scholarly literature (Bedi & Tillin, 2015; Jenkins, Kennedy, & Mukhopadhyay, 2014; Sud, 2009) has provided ample evidence of discretionary interventions on part of the state governments in land acquisition projects, particularly by political leaders and bureaucrats. In the context of this research study, the implementation of the two projects through ‘special regimes’ or bureaucratically run special purpose authorities characteristic of their ‘exceptional nature’ (Kennedy, 2015) creates ample scope for the exercise of power and politics at the higher level of decision making. However, informal transactions are not just the domain of state governments through which they facilitate land transfers. Displaced populations also assert their transient claims to land through a variety of *ad hoc* relations that they enter into, while resisting land acquisition attempts of the state (Benjamin, 2004; Bedi & Tillin, 2015; Jenkins, Kennedy, & Mukhopadhyay, 2014; Roy, 2009).

Empirical studies of development projects and even urban planning practices in India have largely rejected a simplistic ‘state against people’ framework when analysing the implementation of such projects or the situations of conflicts arising around them (Balakrishnan, 2013; Mody, 2014; Singh, 1997; Sundaresan, 2013; Sud, 2016). Singh (1997) in his assessment of the Narmada controversy, one of the major conflict movements in post independent India illustrates how displaced populations may enter into informal alliances with state institutions themselves, when contesting development projects. Similarly, Mody (2014) in her study of land acquisition in Mangalore district of Karnataka brings out how local officials, while carrying out land acquisition, planned simultaneously for resettlement, rehabilitation and compensation for the landowners and the dependent non-land owning communities to avoid possibilities of conflict. Balakrishnan (2013) accounts for divisions across local caste structures that can prompt sections of social groups to part with their lands to challenge the existing agrarian forms of land-based control by the dominant caste landowners. Sami (2013) and Sud (2016) in their study of land deals provide evidence of informal coalitions between local business associations and state officials within urban landscapes. Thus, the complex interactions surrounding land governance processes more aptly falls within the state-in-society framework.

Furthermore, to explain the political mechanisms facilitating land acquisition scholars have extensively delved into the internal workings of the state system. Sud (2014) in the context of politics surrounding land transfers defines governance as a way of understanding the deployment of authority of the state through norms, the practices and policies of bureaucratic governmental institutions and politics. Rewal (2009) and Sundaresan (2013) in the context of urban politics deploy the concept of governance to uncover a series of informal interactions between the multiplicity of actors, both the state and the non-state actors that can be said to have stake in the management of urban affairs. Similarly, Desai (2012) in the context of her study of a riverfront development project in Ahmedabad (Gujarat) identifies urban governance as an approach of 'flexible governing' which according to her are 'the ways in which state authorities took an ambivalent and shifting approach vis-à-vis the urban poor as they pursued their primary agenda of beautifying and maximising gentrification of the riverfront. Rather than committing to or pursuing a particular well-thought-out strategy (violent or benevolent) vis-à-vis the urban poor, the approach of these state authorities fluctuated, and ultimately evolved, in response to changing calculations and pressures' (pp. 49-50). This in turn, she argues, resulted in a peculiar politics 'which took shape through flexible governing of residents [with state authorities engaging in] ambiguous, shifting and competing practices of inclusion, [characterised by] multiple and shifting terrains of compensation, fragmentary evictions and piecemeal resettlement' (Desai, 2012, pp. 49,50). While this allowed for official representation of the project as inclusive, the questions of social justice were profoundly disregarded and were insufficiently addressed (ibid).

Roy (2009) and Sundaresan (2013) further argue that informal interactions or 'informality' is not something external to state structure, but instead must be viewed as an integral part of territorial practices of state power, or as that which is embedded in state planning procedures. Thus, state laws and planning processes are intentionally kept open ended and subject to multiple interpretations and interests, and are instruments of state accumulation and authority (Roy, 2009). The land use violations through laws of public purpose that are often manipulated to acquire land for private purposes can be understood in this light. While the argument of informality as state practice argument accounts for instances where rules and regulations are violated to forward private interests, Jenkins (2011) notes in his study of SEZs

in India that sometimes notifications and instructions do not derive from rules but rather rules (or rule changes) were prompted by an accumulation of notifications and instructions. Sud (2016) offers examples from real-estate deals in West Bengal of how land ceiling waivers were issued by state governments in a non-transparent manner for hand-picked business groups. This is something also characteristic of the UDPs at the focus of this research, where many special government orders were passed at state government level to overcome local hindrances to project implementation or local laws were bypassed to benefit certain favoured business groups.

Moving beyond the elite negotiations, the defining feature of how poor groups counter or bargain with the state to assert their claims over resources is that most of the alliances are formed at the local bureaucratic level (Benjamin, 2004; Gupta, 2012; Mukhopadhyay, 1999). As Gupta (2012) observes, the 'poor show up much more frequently at the offices of lower bureaucrats than they do at higher levels of government. As a rule, the higher up one goes in the bureaucracy, the more likely the poor will appear as representations rather than as clients or supplicants' (p. 78). Often the interaction between the local state and the marginalised is mediated by intermediaries. These intermediaries could be activists, local political leaders, middlemen, brokers, etc. Poor people usually lack the knowledge of the many procedural intricacies associated with state activities. In such a scenario, intermediaries become the bridge through which ordinary people can 'travel the uncovered distance' (Krishna, 2010) that leads to the opening of institutional channels of the state. The intermediaries use their understanding of how the 'system higher up (usually only somewhat higher up) works' (Manor, 2000, p. 819) and create scope for 'assertive and knowledgeable engagement with the state and its representatives' (Nilsen, 2010, p.49).

The intermediaries can often press for demands of the social groups through their informal networks across state channels. Moreover, local social and political structures also shape the nature of interaction between the state and social actors. Kennedy (2014) in her analysis of anti-SEZ mobilisations reminds us that 'social movements reflect to some degree the relative conduciveness of the local political environment to allow or enable collective action. Likewise a state's response to social mobilisation varies, as it depends on the particular configurations of its political-economy' (p.99). Together, the social and political embeddedness of local

bureaucracy-- facilitated by complex informal alliances -- pose a threat to the master-planning mechanisms or mega-development projects formulated at state-level that rely on 'non-elected governance frameworks' (Sood, 2015) which have little representation from local groups.

Furthermore, as Benjamin (2008) has argued, these local political structures remain autonomous of the state and 'pose a political consciousness that refuses to be disciplined by NGOs and well-meaning progressive activists and the rhetoric of 'participatory planning'. This is also a politics that rejects 'developmentalism' where 'poverty' is ghettoized via programs for 'basic needs' allowing the elite 'globally competitive economic development' (Benjamin, 2008, p. 719). In Benjamin's conception of urban economy, urban economic planning is constitutive of two dichotomous systems, the 'corporate economies' and the 'local economies' (Benjamin, 2000). The corporate economies can be understood to represent business corporations and their links with the government that are mostly functional through national level or state parastatal agencies that have little representation from the local groups (ibid). The local economies refer to networks by which poor groups make claims over the economic resources and these are materialised through networks within the local government or local political structures such as the lower level bureaucracies or elected/non-elected local political leaders (ibid). The tussle over land resources in the urban development thus can also be viewed as being negotiated between these two zones of corporate and local economies.

On the whole, beyond written rules, procedures and legalities, the day to day workings of the state are defined by a series of informal interactions and unreported practices that create ample scope for manipulating actual rules and regulations. These fluid spaces in turn make the state permeable to the influence of external actors as well as local resistance, which then indirectly govern the politics of land use policies and programmes.

2.4 Land, Law and Courts

One critical way in which the state has intervened in issues of land acquisition has been in its legal capacity. This section takes into account the role of law, primarily through the lens of the institutional apparatus of courts with respect to land use policies. To this end, the section traces the relation between the legislative and judicial wings in light of the changing economic and ideological imperatives of the Indian state, and how the equation between the two wings

has impacted the prerogatives of the state and the rights of land losers in cases of land conflicts. An overview of the changing relations between the judiciary and the state at different junctures in time: post independence, post-emergency, and post liberalisation, reveals two important things. Firstly, that control over land is ultimately a political question. As will be evident in the discussion below, the state when in conflict with the judicial wing over matters of property rights and compensation to land losers, has not shied away from using its political powers to change the law to suit its own agendas. Second, in the run-in between the courts and the state, the judicial powers of the courts have been substantially curtailed over the years through a series of state initiated amendments when it comes to issues of land and property rights. The latter part of this section illustrates how the courts have dealt with the socio-economic rights of the marginalised as they are impacted by the development agenda of the state.

The initial decades of 1950s and 1960s following independence were marked by serious conflicts between the courts and the state. The right to property was at the centre of this conflict. In the years following independence, the right to property as a fundamental right directly clashed with the land reforms agenda of the Nehru government. From the perspective of the state the redistribution of property was essential to the welfare of the citizens at large, and in lines with the Directive Principles of the Constitution of India. In pursuit of these goals, many state governments enacted laws to abolish *zamindari* landholding system and enforce land ceilings. Perturbed by the actions of the state, many landowners approached the court. One of the very first logjams between the judiciary and the executive occurred in 1951 and then in 1952 in *Kameshwar Singh v. Province of Bihar* case and *Surya Pal Singh v. State of U.P.* over the right to property. Although both the cases raised similar issues, they saw differential judgments passed by the High Court of Patna (Bihar) and the Allahabad High Court (Uttar Pradesh).

The Patna High Court in *Kameshwar Singh v. Province of Bihar* invalidated the land reforms acts passed by the Bihar government on grounds that they violated the fundamental rights of the landowners. Contrarily, the Allahabad High Court while addressing the same issue in *Surya Pal Singh v. State of U.P.* read the land reforms law passed by the then United Province government in the light of Directive Principles and upheld the law (Wahi, 2015b). Both the

cases were appealed in the Supreme Court. However, even before the Supreme Court could offer its judgement the Nehru government amended the constitution in 1951 to protect various land reforms legislations in the country (Reddy, 2008). The Supreme Court later in its judgment upheld the constitutional validity of Bihar land reforms act barring two provisions one of which was on the grounds of compensation.

The following years saw many such cases. By now, zamindari abolition acts were held valid, but the courts took the government to task on issues of compensation (Choudhary, Khosla, & Mehta, 2016; Sathe, 1974). So the parliament again amended the constitution in 1955 (the Fourth constitutional amendment). This time the parliament introduced a provision that restricted courts from questioning compensation provided by the government (Bose, 2010). Again in 1962, when the Supreme Court in *R. L. Arora v. State of Uttar Pradesh* questioned the authority of the government to acquire land for a private textile company through invocation of 'public purpose', the Nehru government amended the law allowing it to use public purpose for acquiring land for private companies provided they engaged in industry or work that served public purpose (Ray & Patra, 2009; Sarkar, 2009; Chakravorty, 2013). This run-in between the courts and the state went on until 1970s, wherein the courts would pass a judgment obstructing the actions of the government and the government in return would simply amend the law itself to nullify the court judgments (Bose, 2010; Dhavan, 1985; Choudhary, Khosla, & Mehta, 2016; Wahi, 2015b).

The skirmish between the two wings reached its pinnacle during the Indira Gandhi regime. In 1967 and 1971, the land-taking power of the state was challenged again in two landmark cases, *I.C. Golak Nath and Ors. v. State of Punjab* and *Kesavananda Bharti v. State of Kerala*. These two cases were important for they not only dealt with matters related to property and land laws, but also because in these judgments the validity of the previously made amendments to the Constitution was considered by the court, as well as the power of the state to make these amendments at all. In *Golak Nath* case, the court held that the parliament cannot amend the Constitution in any way to supersede the fundamental rights provided in the Constitution. The verdict was a severe blow to the state as it brought under scrutiny the many amendments made to Article 31 that enshrined the right to property, and the laws enacted to incorporate various land reforms acts in the country. The only thing in the judgment that was

favourable to the government was that the Chief Justice in the case applied the doctrine of 'prospective overruling' by which the judgment was not to be applied retrospectively, but was only valid for future amendments. The government's response to *Golak Nath* was the Twenty-fourth Amendment (1971) that reinstated the power of the parliament to amend the Constitution.

The tussle between the parliament and the court was finally addressed in *Kesavananda Bharti* case and from here on, conciliation began between the two wings. In *Kesavananda Bharti*, the court reversed the *Golak Nath* judgment and upheld the Twenty-fourth Amendment. The court recognised that the Twenty-fourth amendment was not contradictory to the basic features of the Constitution and only sought 'to authorise the amendment of fundamental rights to the extent of their abridgment but not extending to their abrogation' (Sathe, 1974, p. 892). Therefore, in *Kesavananda Bharti* case the court while recognising the prerogative of the parliament to amend the Constitution, asserted that the powers to amend were limited to the degree that the amendment did not destroy the 'basic structure of the Constitution'. This basic structure was identified and negotiated by the court in its further rulings, but broadly they are: constitutional supremacy, a republican and democratic form of government, secularism, separation of powers, judicial independence, and federalism (Choudhry, 2015). In 1975, following a series of political events in the country, Emergency was declared in the country. During this period the parliament reigned supreme and so the courts were sidelined. Post emergency, Mrs. Gandhi lost elections. In 1978, the elected non-Congress government introduced Forty-Fourth Amendment Act to the Constitution that made private property a constitutional right, disenfranchising it from its earlier designated status of 'fundamental right'. The amendment virtually ended all legal challenges to land takings by the state (Chakravorty, 2013).

In the post-Emergency period, with questions surrounding basic structure of the constitution having been settled, the court moved away from its civil and political rights activism to a more social rights agenda (Thiruvengadam, 2013). The new-found language of the court was Public Interest Litigation (PIL) or as adapted to the Indian context by Baxi (1985), 'Social Action Litigation'. PIL initiative or as is often called the 'PIL revolution' ushered in by the court in the era following the Emergency is viewed by legal scholars as both an attempt to restore the

institutional credibility of the court that had severely been denigrated during the Emergency, and was also intended to compensate for the offences committed during the Emergency (Baxi, 2000; Mate, 2013; Nigam, 2014; Thiruvengadam, 2013; Ramanathan, 2014). There are other viewpoints such as that of Rudolph & Rudolph (2001) who argue that the judicial activism of the late 1970s and 1980s was also a product of the interplay between the state and the civil society, as this era saw an extraordinary burgeoning of nongovernmental organisations and social movements dedicated to the cause of empowerment of the downtrodden in the society. So now the court pursued a more 'social-egalitarian policy' through the instrument of PIL (Mate, 2013, p. 264). The court diluted the rules of *locus standi* for filing a petition to an extent that even a letter on plain paper sufficed as a petition in the court. This is the era, of 1977 to 1980s, when the court widely interpreted the basic rights as integral to right to life under Article 21 of the Constitution (Ruparelia, 2013), and upheld the cause of the most marginalised sections such as prison inmates, bonded labourers, slum dwellers, and mentally challenged persons. However, the court stayed clear of confronting the government on politically salient issues such as economic policies (Mate, 2013). Thus, so far what we see is that the courts are still sensitive to the sufferings of the poor and they have shielded them against the actions of the state in form of the instruments of the PIL. However, the situation began to change in the 1990s.

The court's strategy of refraining from reviewing issues concerning economic policy domains of the government continued through the 1990s. During the liberalisation of the economy several aspects of the new economic policy of the government were challenged in the court. The court in almost all of these cases deferred to the government's policy (Mate, 2013). Furthermore, the new political environment of the nineties that endorsed the virtues of free market policies, accompanied by the rise of corporate capitalism and the new middle-class ethos of development and modernisation did not leave the courts untouched. The consequence was the change in both content and character of public interest litigations, with the middle class increasingly using PILs to address its own issues (Thiruvengadam, 2013). This in turn, as Ramanathan (2002) argues, brought into picture a new set of conflicting interests. These were demonstrated in the forms of right to water for parts of Gujarat versus the rights of oustees in Narmada Bachao Andolan case, the right of slum dwellers versus the need to clean up the city of Delhi, the right of workers to livelihood versus the right to a relatively unpolluted

environment by means of relocation of industries, and so on (ibid). Unlike the post emergency court, this time the court abandoned the cause of the marginalised and ruled in favour of upper middle-class interests.

Ardent critics of the court (Bhushan, 2004; Nigam, 2014; Ramanathan, 2014) have located the 1990s as the time when the court began to abdicate its previously endorsed stance of social rights activism, and instead became enmeshed with the neo-liberal project of the state, or as Singh (2014) puts it bluntly, ‘in the 1990s the judiciary took a ‘conservative turn’, often becoming the surrogate state itself’ (p.163). In temperance to this critical view of the court, Mate (2013) in his assessment of PILs reminds us of instances where the court has time and again come to defense of human rights violations: upheld gender equality in *Vishaka v. State of Rajasthan* (1997), addressed malnutrition in *PUCL v. Union of India* (2007), and deterred custodial violence in *D K Basu cases* (1997-2003). Despite the court upholding human rights in these cases, there still seems to be a consensus between legal scholars that when it comes to economic policies or large scale development projects of the state, the court more often than not rules in favour of the policies or the projects and the remaining issues are sidelined (Suresh & Narain, 2014; Mate, 2013; Bhushan, 2004; Ramanathan, 2014). The contrast is best enunciated by Baxi (2000) when he says, ‘the ‘activist Supreme Court of India is able...to close small tannery businesses that pollute the Ganges and yet finds itself unable to take a coherent human rights-stance in mega- irrigation projects (e. g. Tehri and Narmada dams) and hazardous nuclear power plants that present long-term, environmental and human hazards’ (p. 163). This is when the court becomes one with the state. In fact, as Parthsarthy (2015) argues in the neoliberal India the courts have become skeptical of any socio- economic movement that challenges the supposed development agenda of the state.

Moreover, the decades of 1980s and 1990s saw the state acknowledging the rise of private sector as the predominant actor in ushering economic growth (Sundar, 2011; Gupta & Sivaramakrishnan, 2011; Chakravorty, 2013; Goswami, 2012). Since then, ‘public purpose’ has loosely been applied by the state agencies in an ever expansionist way to acquire land for private capital (Levien, 2013; Goswami, 2012; Chakravorty, 2013). By enabling the language of ‘public purpose’ and ‘eminent domain’ to be used for land acquisition for the private capital the law has opened space for simultaneous operation of market mechanism and state power

for speedier acquisition of land (Vijayabaskar, 2010). Unlike the sixties and seventies where the courts did confront the state by demanding a comparatively stricter application of public purpose, in the post liberalisation phase the courts have left it to the state to determine the content of public purpose (Antony, 2006). Although the courts have jurisdiction whenever a question is raised as to whether a requisition order is or is not for a public purpose (ibid), in practice, separating public purpose from private profit has always been tricky. Development projects have always stood to benefit certain classes at the expense of others (Levien, 2011). Consequently, as long as the state agencies can show ‘a demonstrable public purpose’ (Wahi, 2015a), land acquisition is generally held valid by the courts.

While the post-colonial state has been proactively taking away land in the name of development, little has been done to redistribute the land or carry out successful land reforms in the country. After the 1970s there have been no substantive land reform laws or policies (Chakravorty, 2013). With the departure of property right as a fundamental right, land acquisition done by the state cannot be challenged by the land losers in courts apart from on issues of procedural grounds. Moreover, with the execution of New Economic Policy in 1991 land redistribution policies completely lost lustre as policy options (Kohli & Singh, 2013). On the contrary, there has been significant easing on all types of restrictions and leasing: including the revision of ceilings and holdings, concession to industry for investing in rural areas, and restrictions on conversion of agricultural land for non-agricultural purposes. Consequently, the recent years have seen a considerable diversion of land for the use of non-agricultural purposes. In sum, in post liberalisation India, while the state has been warranted to take away the land of the citizens with impunity, the legal system has been ‘characterised by weak, ill-defined or unclear land rights for occupiers and customary land users’ (Carter, 2015, p. 9).

2.5 Conclusion

The primary aim of this chapter was to outline the role of state intervention in matters of economic reforms, development and land deregulation measures. By drawing on key strands of literature the chapter has illustrated that in post liberalisation India there has been a significant realignment of state-capital relations, wherein the state has actively stepped in to promote resource accumulation for facilitating private investments. Furthermore, the effects of

this restructuring of state-capital relations are not limited to backdoor politics of reforms, but have prompted changes in spheres of institutional governance leading to the proliferation of new institutional partnership models between the public and the private sector.

The new forms of partnerships between the government and private capital have been captured through the framework of state-spatial rescaling. As illustrated, the conceptual framework of state-spatial rescaling is also useful in capturing the changes that are occurring across different levels of the state, that is, central, subnational and local government units. The SPVs, thus, as new models of urban governance can be viewed as embodying tangible shifts in power at different levels of government and also restructuring of state authority at the urban and the state level. As will be evident from discussions in the subsequent chapters, the SPVs are centrally instituted autonomously functioning state authorities that are able to wield influence both at the state government level and local urban level to manoeuvre changes in land use to their own advantages. Subsequently, the competition for land in an urban-centric economy can be located as embedded in complex matrix of changes occurring at the central, state and local government level.

The latter part of the chapter mainly focused the discussion on how in instances of land acquisition and related conflicts state power plays, both formally and informally, to carefully weed out the hindrances to processes and procedures of land acquisition. The chapter also argued that arenas of land conflicts are zones of rich negotiation between the state and the society that are difficult to classify within simplistic frameworks of state versus society. Rather, the chapter illustrated that state spaces are in fact grey zones that are penetrated by social forces as the land losers assert their transient claims to land. The last part of the chapter brought into focus the legal domain of state power and illustrated how claims to land and property have been approached using the language of the law. The section took a broader view of law as an arena of state arbitration and contextualised the role of judiciary in addressing the concerns of the marginalised groups against larger idioms of development and economic growth. In conclusion, it can be said that while processes of capital accumulation and consequently, processes of resource extraction have accelerated in the post liberalisation phase, the state accountability mechanisms including law are still struggling to strike a balance between the excesses of capital accumulation and rights of those marginalised.

Chapter 3

RESEARCH METHODOLOGY

This chapter introduces the research methodology used for the study and how it has contributed to case selection and development of an analytical framework. The chapter also provides an overview of fieldwork methods that I have used to collect data. The chapter is organised as follows. The first section details the use of comparative method, primarily with reference to traditions in political science. The following section looks at the emergence of subnational studies and their role in deepening understanding of complex political economic processes through delineation of regional similarities or differences within and across state units. The next section establishes the case for selecting Karnataka and Kerala as two subnational units suitable for a comparative study of land use policies in India. The following section delves into the rationale for selecting the two empirical projects/sites of investigation and the sub-projects of land conflicts used as case studies in the research. The last section gives an overview of my fieldwork, including the research tools employed to collect data for the study.

3.1 The Comparative Method and Case Study Design

In emphasising the utility of comparative method or simply stated a comparison of two or more cases, scholars have argued that comparison of cases (nation, states, cities etc.) prevents the pitfalls of both false uniqueness and false universalism (Halperin & Heath, 2012; Tillin, 2013a; Rose, 1996). False uniqueness is when the specificity or exceptionalism of a phenomenon in a particular locational context is emphasised to an extent that it ignores general social forces at work and thus, prevents identification of contextually similar or different cases with common analogous underlying factors or causes. False universalism is when theoretical insights from one case are assumed to be equally applicable to other locational contexts without actually testing the validity of this assumption. Comparison, thus, sharpens analytical approaches and strengthens theory building by avoiding ethnocentrism, and by enabling tests to reformulate theories, related concepts and hypotheses across different contexts (Mackie & Marsh, 1995). Depending on the nature of the study, that is whether accounting for inter or intra unit variations and scope of the study, defined by the number of cases analysed, the number of case studies vary. For instance, large N studies involve many

cases, small N studies usually involve small number of cases ranging between 2 to 4, and there are single N-studies also known as case studies. Textbooks on comparative politics have further identified two broad categories of comparisons based on geographical and/or jurisdictional boundaries, these are cross-national comparisons and within nation comparisons (Sigleman & Gadbois, 1983; Rose, 1996).

This research project draws on small-N, within-nation comparison and compares two subnational units in India, viz. Karnataka and Kerala. Subnational comparison is thus a subset of within nation comparative method tradition. Small-N studies allow for in depth analysis and greater scope of contextualisation (Halperin & Heath, 2012). Furthermore, locating the cases within the framework of within-nation comparison allows for the ability to establish control over cultural, historical and ecological dimensions and account for variation in effects of political and economic reforms across territorially defined subunits (Snyder, 2001). Further, the disaggregation of the nation across regionally differentiated units gives insight into complex internal socio-political process and can, thus, help in explaining the dynamic linkages between levels of the political system (ibid).

The small-N comparative framework method used in this study is combined with case study method. Case study method allows for in depth exploration of a sample unit. It is qualitative in nature and rather than establishing average relationships, as is the case with statistical methods, the purpose of a case study is to put multiple pieces together to build a composite argument (Jacob, 2015). Case studies are particularly useful for in depth exploration and detailed consideration of contextual factors such as the nature of democracy, political culture, policy area or institutions, power and state strength, which are otherwise difficult to measure (Burnham, Lutz, Grant, & Layton-Henry, 2008; George & Bennet, 2005). Adopting this method, this research study is embedded in the tradition of qualitative methods with employment of descriptive statistics to present information on similar and differential trends across selected cases, e.g. investment and economic growth patterns across the two regions of Karnataka and Kerala.

The case selection for small N studies is usually on the basis of methods formulated by Przeworski & Teune (1970). These are, most similar systems design (MSSD) and most different systems design (MDSD) and are inherently based on Mills' Method of Similarity or

Difference (Burnham, Lutz, Grant, & Layton-Henry, 2008). In the MSSD system those cases are selected that are similar in most respects, with the assumption that similarities in the cases would make it easier to find the few differentiating independent variables that cause the presence or absence of the dependent variable that is being tested (Gerring, 2010, p. 209). In the MDSD system, cases that differ in most respects are selected, with the assumption that a few common independent variables across the cases can explain the similarities in the dependent outcome variable (Gerring, 2010, p. 212). The research design for this project was guided by the latter system, the MDSD, to select cases to measure the state capacity to facilitate land acquisition for developmental projects. However, in reality it is not always possible to achieve a strict adherence to MDSD, particularly in cases of within nation comparisons. This is so because the subnational units within a single federal system do share certain similarities as a result of belonging to a common political system. This is also true for the case studies selected for this research project (Karnataka and Kerala) that form part of the Indian federal system, and are influenced by similar political and economic currents initiated at the central government level.

The two subnational case units, namely Karnataka and Kerala, due to varied historical trajectory of political economic evolution share regional differences in certain parameters of political and economic factors that can influence land use policies of states in India (a detailed account of the case studies is provided in a latter section). The state of Karnataka is a high growth state and has historically been governed by business- friendly political regimes that have facilitated land deregulation measures to promote investment (Raghavan & Manor, 2009; Mody, 2014). The neighbouring state of Kerala has over the years manifested moderate to low levels of industrial growth, but has surpassed most states in India when it comes to social development indicators such as health and education (Singh, 2015). In contrast to Karnataka, the political scene in Kerala is characterised by heavy dominance of left wing politics that has at times been resistant towards private investment opportunities within the state (Heller, 1996). However, over the course of years, factors such as subnational competition for investments, changing character of caste politics and class mobilisation have led to moderation of these differences.

Nonetheless, despite changing market structures and political climate at an all India level, it is

difficult to completely rule out the influence of historically characteristic regional factors on land use policies of the two states. Keeping this in mind, I wanted to see if variations in political economic structures and motivations of political regimes could lead to divergent outcomes in the land acquisition policies across the two states. As it stands, in general, there is little information within the scholarly literature on the issue of land acquisition policies in either Karnataka or Kerala. What I found was that despite divergent political histories and nature of political regimes, due to similar patterns of state spatial rescaling administered through the employment of *ad hoc* state bodies- the SPVs, the outcomes of land acquisition efforts of the state governments for the two MRTS projects show patterns of convergence. The evidence from this research suggests that the political differences across the two states have not caused any variation in land acquisition procedures for the two MRTS projects. Minor variations were observed only at the level of resistance engendered against the projects, but these acts of resistance have had no consequential impact on the ultimate outcome of land acquisition efforts of the state.

3.2 Subnationalism as a strategy of comparison

The recent years have seen a surge of scholarly interest in state level studies of India. Palshikar & Deshpande (2009) posit that state level studies can rejuvenate the field of comparative politics in India. State level comparisons can not only add to the already explored terrains of electoral and political competition, but can also throw up hitherto unknown complex set of issues that shape politics and public policies. Scholarly investigation driven by subnational agendas has brought forth both similarities and dissimilarities across states, leading to discovery of thematic patterns of classification of state units. The approach of these subnational studies can be understood along the axes of issues approached and factors analysed. From a political economy perspective some of the major issues addressed include poverty and welfare measures (Kohli, 2012; Singh, 2015; Deshpande, Kailash, & Tillin, 2017) on the one hand, and issues of development and governance (Sinha, 2005a; Sud, 2012; Jenkins, Kennedy, & Mukhopadhyay, 2014) on the other. Accounting for the variations in patterns exhibited when examining these issues scholars have highlighted the role of various factors such as nature of political regimes, state-business alliances, policy legacies and social coalitions in causing different outcomes (Kohli, 2012; Sud, 2012; Deshpande, Kailash, & Tillin, 2017).

The above outlined approaches to subnational studies bring to the fore how subnational focus can deepen understanding of social and political processes at the intra and inter state level. However, beyond this it should also be emphasised that processes in one state are not isolated occurrences. In fact, processes in one state are cross linked with occurrences in other states as well as being integrated in the wider national level politics. In the context, subnational comparison as a method can be viewed both as a process of scaling down and also of scaling up (Sinha, 2015; Snyder, 2001). The two processes are interlinked, but nonetheless have different contributions to make to theory building.

In scaling down the focus is on vertical diffusion of policy mechanisms across different levels of state political administrative units within the subnational units. The utility of scaling down as a technique is captured by Snyder (2001) when he quotes an example from advanced industrial economies where free market policy reforms implemented in conjunction with ‘devolution revolution’ transferred authority and resources from central to local governments. What this means is that the growing economic and political salience of state units can have implications on how central or federal level policies are negotiated at the regional state level. In India, the rise of regional parties to prominence in 1990s have consolidated powers of the state vis-à-vis the centre. The individual states have bargained with the centre on issues of economic governance and fiscal devolution depending on their own characteristic nature of democracy, political competition and social coalitions. In such a scenario, scaling down can make us aware of the complex sub set narratives. However, in an effort to unravel regional peculiarities, we should not elude from incorporating state level insights to build an all-India picture or of what is described as ‘scaling up’ (Sinha, 2015). Sinha (2015) emphatically argues that ‘analysis of subnational variation should also yield more complex yet generalisable theories about India as a whole, apart from disaggregating the phenomena that we study’ (p. 129). In this formulation subnational comparative method becomes an opportunity to reformulate and complicate the so far sketched theories about India. Therefore, the process of scaling up can both refute ideas of Indian exceptionalism and pave the way for more feasible cross regional (national) comparisons.

Lastly, in the globalised world as sub-state regions compete as spaces of economic and

political transactions, state governments still remain important actors in defining and controlling the urban governance sphere. Agnew (2000) argues that ‘regional competition is about both the emerging importance of regions as territorial units in global competition and the increase in co-ordinated actions within regions to improve competitive position compared to other areas’ (p. 103). Consequently, new forms of governance mechanisms are being negotiated at the boundaries of urban and state levels to appropriately take advantage of global economic transformations, resulting in multi level governance formations at the interstices of the state and the urban government authorities. The challenging new issues thrown up by these new institutional configurations also demand innovations in methods of enquiry, and subsequently, require merging of subnational comparison with other conceptual/methodological framework/s to sharpen research design and analytical outcomes. This research project is located at one such junction of methodological transition, and addresses it by merging subnational comparison with the framework of state spatial rescaling to account for the strategies underlying the execution of urban infrastructure projects that involve urban, state and even national level government bodies.

3.3 An overview of selected case studies

Land acquisition or land use policies are inextricably linked to infrastructure development and investment policies of the state. Factors like high economic growth, business friendliness of political regimes, lower levels of agitations and socio-political mobilisation have been correlated with better enabling state mechanisms to make the requisite land available for infrastructure or industrial development projects (Jenkins, Kennedy, & Mukhopadhyay, 2014; 2005a; Sud, 2012; Bedi & Tillin, 2015). For these reasons, I wanted to locate two subnational units that share different trajectories of political and economic development on the aforementioned indicators, and subsequently, observe if these variations could potentially impact the outcome of land acquisition policies of the state governments within the respective case units. Therefore, from the pool of high growth states in India I selected Karnataka which has demonstrably been established as one of the frontrunner states in promoting policies that cater to business and industrial groups (Kumar & Subramanian, 2012; Mody, 2014; Bhattacharya & Sakhtivel, 2004).

In terms of parameters of economic growth, the state of Karnataka falls under the category of

high growth states in India and was one the few states to attract a highest share of foreign investments in the post reform era, the others being Gujarat, Maharashtra and Tamil Nadu (Bhattacharya & Sakhtivel, 2004). The state was amongst the worst hit states during the 2007-08 crisis in the world economy, highlighting the high dependence of the state economy on foreign markets (Kumar & Subramanian, 2012). Successive state governments in Karnataka have been supportive of private industries, with several policies initiated to aid the industries and promote a friendly investment climate. These include: encouraging private sector in creating infrastructure facilities, simplification of land acquisition policies with tailor made packages for larger projects having wider implication on state's economy, exemption of stamp duty and concessional registration charges, and waiver of payment of conversion fee for converting the land from agriculture to industrial use. In 1995, the land reform law was amended to make it easier for industries to easily acquire agricultural land, and also to facilitate direct transactions of land between farmers and industrial houses (Pani, 1998).

Politically and socially, Karnataka has been classified as a regional unit that has historically experienced relatively lower levels of tension between competing groups, be it political parties or social groups within the state. The state political canvas has seen three main political parties competing for power – the Congress, the Janata Dal (Secular), and the Bharatiya Janata Party. Historically, there has been a political trend of power sharing and liberal treatment of opposition amongst all governments in Karnataka (Raghavan & Manor, 2009). The state politics has been described by Raghavan & Manor (2009) as being run by 'rainbow coalitions' where successive state governments incorporated numerically powerful lower castes in the government through important political posts, and this occurred without an outright subversion of the dominant caste groups. Consequently, political changes, if any, have occurred against a stable social order and the state has not been hospitable to radical social movements (Srinivas & Panini, 1984). In fact, commenting on the socio-political mobilisation history of the state, Srinivas & Panini (1984) remark that Karnataka has proved to be a notoriously barren field for leftist social scientists. At the same time, incremental efforts to promote communal accommodation prevented the rise of extreme right wing politics experienced by other states in the early 1990s (Manor, 2007). Absence of political extremes has also ensured a stable policy environment within the state and a relatively independent bureaucracy. Additionally, administratively the state has established many facilities that are

geared to facilitate and aid investments within the state. These may be in the form of single window clearance systems or specialised land acquisition bodies for industrial/infrastructure projects.

Beyond the overall casting of the state of Karnataka as a relatively calmer social and political region compared to some of the other Indian states, some of the recent literature subtly challenges the cohesiveness of social and political structures within the state. Growing levels of dissatisfaction have been reported across caste and class lines over inequalities resulting from policies of economic liberalisation, land regulation and zoning, and incompetent governance mechanisms that fail to ensure distributive justice to the most disadvantaged. Manor (2007) in his study of rural Karnataka has raised questions of declining levels of social cohesiveness at village level. He suggests that this could be a result of both corrupt practices at sub district levels, and new tendencies amongst low status groups to address their concerns through middlemen networks rather than seeking assistance of higher status groups of their own villages or through collective action. Assadi (2002, 2004) has reported farmers' agitation in the state that occurred as a response to the impact of policies of economic liberalisation on agrarian economy, and even the rise of radical left wing groups in northern Karnataka in response to unjust redistribution of natural resources within the region. Balakrishnan (2016) in her study of peri-urban land markets in Bangalore highlights how younger generation males belonging to lower castes are in fact using the higher values of their unproductive land and opportunities in informal labour market of cities to exit the caste-ridden agrarian economy.

Although these movements do alarm us to the possibilities of growing tensions within the state, none of these movements point towards a radical transformation of state politics. The reported farmers' agitation led by Karnataka Rajya Raitha Sangha (KRRS) adopted 'Gandhism'¹⁰ as a tactical and ideological means to appeal to masses (Assadi, 2002). Similarly, left wing radicalism in northern Karnataka has failed to gain support of vast majority of social groups and was mainly confined to few localities (Assadi, 2004). Moreover,

¹⁰ Following from the traditions espoused by the Indian independence leader Mohandas Karamchand Gandhi, Gandhism refers to set of ideas and practices that lay emphasis on struggle through non-violent means or civic modes of resistance.

the Communists in northern Karnataka have rejected the parliamentary path to politics and have instead endorsed the path of protracted war (ibid). This again has denied the left wing groups of any substantive political base in democratic politics of Karnataka. Balakrishnan (2016) in her account of peri-urban land markets further suggests that most of the lower caste members entering the urban informal employment markets are poorly paid and difficult to organise as they are frequently moved by contractors from one location to another. Moreover, as Chidambaram (2012) argues in her study that compares urban poor networks in Karnataka and Tamil Nadu, even in cases where urban poor mass movements do exist in Bangalore they have failed to strike any partnership with the government and lack linkages with local politicians or political parties. At the same time, activism engendered by non-government associations in Bangalore, which is largely dominated by upper middle class citizens, has not found any resonance amongst the urban poor of Bangalore (Chidambaram, 2012). In such a situation, most of the urban poor movements in Bangalore, Chidambaram (2012) emphasises, are either cash-strapped or lack organisational strength. In sum, despite evidence of growing social tensions in both rural and urban Karnataka, it is difficult to say to what extent these tensions will translate into sustained and organised social and political movements.

In order to choose a state that was qualitatively different from Karnataka, I selected Kerala which because of its left wing dominated politics is known to be inhospitable to private sector investments and has historically seen mass implementation of welfare programmes through lower class mobilisation. The developmental trajectory of Kerala has often been viewed as a unique ‘developmental model’ that is characterised by remarkable achievements on indices of social welfare programmes without the preceding developments in industrial and manufacturing sector (Prakash, 2004; Singh, 2010). Furthermore, the political canvas of Kerala is dominated by two groups of highly competitive coalitions led by the Congress (United Democratic Front or UDF) and the Communists (Left Democratic Front or LDF). Both the coalitions have supported mass organisations and this, in turn, has helped to sustain lower class organisations.

The state has seen early social reform movements dating as far back as the 1900s in Cochin and Travancore, and peasant unrest in Malabar. The Communist Party capitalised these movements and channeled them into creating student groups, farmers associations and cooperative movements using its own strong cadre based organisation (Heller, 2000). Also as it

came to power in the 1950s, the Communists eagerly participated in procedures of electoral democracy, and at the same time, appropriated the already in place Indian administrative system to translate the mobilised issues into tangible policies (Herring, 1991). This is in marked contrast to the left wing groups in Karnataka that have rejected the path of parliamentary democracy. Consequently, over the years, the integration of social and political movements in Kerala with the procedures of electoral democracy has produced a political system in the state, which is characterised by emergence of democratically institutionalised, but highly contesting coalition parties, and a number of participatory social groups (Herring, 1991; Evans, 1995).

The combination of exceptional economic and political circumstance in Kerala provides an opportunity to test the levels of influence of horizontal factors such as cross-state processes and vertical diffusion factors, such as centre-state model of devolution. Re- testing of the ‘exceptional’ status of such a case unit and measurement of its growth and development indices across time can reveal new patterns of changes within the unit and its tendencies towards integration with the wider national system. My research shows that political regimes in Kerala are now pursuing growth and development policies that aim for convergence with the national average. Drawing on the historical correlation between left wing dominated politics of Kerala and the thriving culture of civic participation in the state to which state political parties of Kerala have necessarily had to respond in a competitive electoral system (Heller, 2000; 1996), I suggest that these factors continue to influence the negotiation of land deals in the state. However, I further argue that in the recent years the state level political parties, including the left wing coalition, have subtly and slowly begun endorsing liberal economic reforms. This is also demonstrated in the withdrawal of otherwise active left wing political groups from mobilisations against land acquisition. Moreover, the 2016 elected Chief Minister of the state belonging to the Left Democratic Front coalition has indicated the adoption of measures that will improve business climate within the state and has even shown willingness to open sectors to private players (Manoj, 2016; Ullekh, 2016).

Evidence from my research also indicates of the growing presence of right wing political groups (affiliated to the BJP) in Kerala. Findings from my research show that the right wing groups, which otherwise have a feeble presence in state politics of Kerala, are trying to assert

their presence by aligning themselves with displaced communities against the ruling political parties. Although at this stage it will be difficult to comment if these indicators of right wing activism are suggestive of long term alteration of power balance in the state politics, my research findings certainly corroborate some of the other recent commentaries on state politics of Kerala that have vouched for growing influence of the BJP in Kerala. In their analysis of 2016 assembly elections in Kerala, Palshikar and Kumar (2016) noted that despite the fact that the BJP's performance in the state was marginal compared to the two main political parties of the state, the UDF and the LDF, it did gather substantial share of votes as a third front. In support of Palshikar and Kumar's finding, Panikkar (2016) suggests that the BJP's performance in the state has improved compared to its own earlier performances in previous state elections of Kerala.

Therefore, my thesis aligns with other studies on Kerala that have challenged the 'exceptional' status of Kerala and illustrates that the so far followed economic development trajectory of the state is now tending to converge towards the national average, and even that there are indications of changes in the state politics of Kerala, however minute they may be at this stage. In sum, this thesis posits cases studies of two subnational units, one of which (Kerala) is characterised by bipolar political environment and with a substantial presence of a penetrative left wing politics, and in general has been averse to the opportunities of private investments within the state. The other one (Karnataka) is known for its business friendly policies and is characterised by political coalitions dominated by multiple groups. These different conditions in the two states may lead us to expect divergent outcomes for land acquisition for the two MRTS projects. However, as this thesis shows, due to similar processes of state rescaling and presence of purpose specific designed state instituted authorities, the SPVs, the outcomes of land acquisition look similar in the two states of Kerala and Karnataka.

3.4 Site of empirical investigation, a synopsis of the selected empirical projects, and rationale for selecting the sub-projects

Following the selection of case studies, the next step was to select two projects of land acquisition in each of the states. These projects were to be my sites for empirical investigation. As I began to look for two projects for empirical investigation, my primary

concern at the stage of project selection was to locate infrastructure/industrial projects that were more or less similar in their design; that is, I should not be comparing apples with oranges (an SEZ with a transit system, or a highway project with an industrial plant located in specific zone). The reason being that two very different projects would have made comparison difficult. If I would have selected two different kinds of projects, there could have been other factors owing to the different designs of the projects that could have influenced the outcomes of land acquisition processes for these projects. To reiterate, my broader concern in this research project is to ascertain if regional (or state) level variations can cause varied outcomes in land acquisition. Hence, similar projects allow for holding the variations owing to the design of projects as constant. Consequently, I narrowed down to two urban infrastructure projects, the Bangalore MRTS project (Karnataka) and the Kochi MRTS project (Kerala). The two projects had at their centre two very similar organisations implementing them.

The lengths of the so far planned corridors for the two MRTS projects as per the Detailed Project Reports of the two projects are as follows. For the Bangalore MRTS project, two corridors running East-West (18.1 km) and North South (14.9 km) have been planned; thus, a total of 33.0 km in length. For the Kochi metro project a corridor running from Alwaye area of the city to Thripunithura area of the city was identified. However, as per the DPR of the project, only a stretch ranging between Alwaye area to Petta area of the city was finally included as part of the construction, as after a detailed study it was found that the construction from Petta to Thripunithura was not feasible unless the existing road infrastructure between Petta and Thripunithura was altered by the concerned authorities. Perceptibly, as per the DPR of the Kochi project, the plan for Alwaye-Thripunithura corridor was suspended in favour of, Alwaye-Petta corridor. The Alwaye-Petta corridor measures about 25.612 km. As far as the land acquisition for the MRTS projects is concerned, land is mainly required for route alignment, station buildings, platforms, entry/exit structures, traffic integration, power sub-stations, ventilation shafts, administrative buildings, and temporary constructions depots/work sites. Additionally, information from interviews and documentary sources reveal that land has also been acquired to develop and exploit the potential of commercial utilisation of real estate projects along the proposed alignment of the MRTS projects. Both government and private lands have been acquired for the two MRTS projects. As state officials told me in the field, the (metro) agencies had tried to minimise the extent of private properties acquired for the

project. However, along certain route alignments the acquisition of (partial or whole of) private properties was inevitable due the requirements of the two projects.

For the selection of sub-projects of land acquisition and related conflicts, initially information was gathered on cases of land conflicts for the two projects through a general survey of newspaper reports, and also by talking to other researchers, journalists, lawyers and even officials. At this stage, about 3-4 major cases of conflicts surfaced in different areas for each of the two projects. There were other case instances of smaller conflicts involving only individual or small number of land losers. As I studied these cases, I located certain common concerns and issues that were raised by all these cases. Finally, I chose two cases from each city that I thought could best represent the gamut of issues raised by different cases of land conflicts. For instance, the two sub-cases of land acquisition and subsequent evictions in each city cited in the thesis are more or less representative of the issues that were raised by evictees in other localities as well. However, as will be evident in the empirical chapters, in the course of analysis I have cross-referred to evidence drawn from other cases also to substantiate my findings. The identification of cases was also guided by the ease of comparability. As I mapped patterns of similarity and dissimilarity in issues uncovered across the two projects, I identified certain common concerns that were raised in case of both the projects. For instance, an examination of interview transcripts and newspaper reports clearly made it visible that the issue of financial feasibility and search for alternative sources of revenues was of concern amongst the project implementing agencies, the SPVs. Such findings were corroborated by empirical case studies in both Bangalore and Kochi, as in each city the project implementing agencies had sought to develop commercial ventures with similar incentives of revenue generation and to provide cross-subsidy to the primary projects. Subsequently, the two projects of real-estate cross-subsidisation were chosen to study certain key aspects of land use changes and conflicts surrounding these changes.

3.5 Operationalisation of some of the key terms used in the thesis

In the course of analysis of empirical case studies elaborated upon in the following chapters, I use some key terms such as ‘regime’, ‘informality’, and ‘land grab’ to describe or denote certain specific phenomena that play a role or impact the implementation of the two MRTS projects. Some of these terms have been widely used within the scholarly literature and by different authors to describe similar or different processes using different perspectives. In order to avoid

any ambiguity, in this section I will define each of these terms to delineate how these terms have been operationalised specifically in the context of this thesis.

Drawing from both Kohli (1983-1984) and Harriss (1999), I use the term regime (sometimes used in the thesis in conjunction with terms state/political, as in state regime/political regime) to denote both patterns of political leadership and the regime organisation of the dominant political parties at the regional level, and also to refer to the nature and organisation in civil and political society giving rise to specific regional patterns of social and political mobilisation. The term informality again has been used interchangeably to describe two set of processes. The first set of processes refer to the procedures and practices of the state itself, wherein the open ended nature of certain planning processes of the state itself renders them subject to multiple interpretations and interests (for example, the undefined nature of ‘public purpose’ projects in case of land acquisition) (Roy, 2009; Sundaresan, 2013). The second set of processes refer to the (informal) interventions made by state officials or state political leaders outside their usual scope of jurisdiction to facilitate land deals (Jenkins et. al. 2014; Sud, 2016). Lastly, the term ‘land grab’ in the thesis has been narrowly used to describe any large scale expropriation of land that has occurred outside the processes of voluntary market purchase and in some way has involved the backing of the state. As mentioned in the literature review chapter, these instances of land grab involve both forcible displacement of populations, and radical changes in land use and ownership patterns often converting publicly owned land for private commercial projects.

3.6 Fieldwork Overview, Data Collection, Research Tools and Methods

The fieldwork for the study was conducted between October 2014 and June 2015 in Bangalore and Kochi. For the purpose of collecting data, I used both primary as well as secondary data collection methods.¹¹ Primary data collection occurred through interviews. Broadly, two set of actors were interviewed. The first set included a range of state actors including political leaders and government officials. Government officials interviewed can, in turn, be further identified as members of higher bureaucracy, that is, officials belonging to central or state cadre, and middle or lower level government officials. The non-state actors included a wide variety of informants including journalists, lawyers, local NGO members and the project-

¹¹ See, Appendix for details of each of these sources.

affected people. The interview schedule was of semi-structured nature consisting of mostly open ended questions. This is so because information on the nature of political events or policy making is not usually available, and consequently, the balance of knowledge and expertise is usually in favour of the respondents (Babb, 2012; Burnham, Lutz, Grant, & Layton-Henry, 2008). In such a scenario, semi-structured or open-ended interviewing technique is a useful way to obtain information about decision making process or when dealing with political events. The number of persons interviewed during the fieldwork is 65.

During the initial stages of the fieldwork, I used snowball sampling to locate few key informants identified through referrals from other fellow researchers, newspaper reports and internet search. At this stage, I mainly conducted informal discussions with a variety of people in the field to enrich my own understanding of issues, for selecting potential participants for the study and to formulate questions for the interviews. Subsequently, to gain insight into specific issues I used purposive sampling to select participants for the interviews. Again the participants were identified from official government websites, court orders on land acquisition cases available on the internet, newspaper reports, and also referrals gathered during the course of each round of interviews. The participant actors mainly included government officials, local MLAs, lawyers, journalists, activists and project affected people. Primary data collection was supplemented by secondary data sources. These included official government documents, judicial documents and newspaper reports. Official government documents were obtained mainly through request applications filed under the Right to Information Act, 2005. Judgement orders were obtained from three websites, namely, indiankanoon.org, karnatakajudiciary.kar.nic.in, and highcourtofkerala.nic.in. Writ petitions were obtained either from informants in the field or through third party request applications in the respective courts filed with the help of lawyers in Bangalore and Kochi. Lastly, newspaper reports of both local and national publications were consulted.

Fieldwork investigation was driven by following questions:

- Which are the key state level agencies involved in the project planning and implementation process? As I addressed this question, particular attention was paid to those agencies that directly or indirectly addressed the land acquisition processes related to the two projects.

- What are the underlying socio-economic and political incentives that guide the state level practice of facilitating land transfers to the MRTS projects under consideration?
- What form of political interventions including supportive policy measures and informal interventions are made on part of the state actors to facilitate land acquisition?

Subsequently, my fieldwork strategy was as follows:

Phase I: October-November 2014

This stage was mainly an exploratory exercise and the task at hand was to locate two similar projects in both the states. I began my fieldwork in Bangalore (Karnataka) in October, 2014. I spent the first few weeks of my fieldwork talking to researchers, officials, and activists who were involved in issues related to land use policies in different capacities. In due course I narrowed down to two land acquisition projects for my own study. As a next step I conducted a pilot study for the Bangalore MRTS project to ascertain the feasibility of gathering data. As part of the exercise I interviewed a few officials associated with the BMRC, the SPV or the key agency responsible for implementing the project. In the meanwhile, I gathered information on the Kochi MRTS project. After about one and a half months of pilot study, by mid-November I had decided on these two projects for my study. The next 7-8 months were spent collecting data on the two projects.

Phase II: Fieldwork in Karnataka -November, 2014 to February, 2015

The Bangalore MRTS project is executed by the Bangalore Metro Rail Corporation Ltd. (BMRCL), a wholly owned government company, with Government of India and Government of Karnataka having stakes in the company. The onus for providing land for the project is on the state government. The board members of the company are mainly bureaucrats. Through open-ended interviews with the institutional actors of BMRCL, I gathered information on the procedures that were followed to acquire land for the project and simultaneously mapped other state agencies that were concerned with the project. As a next step, I spent around 20-25 days understanding the workings of Karnataka Industrial Areas Development Board (KIADB), a quasi-judicial authority on land administration and the land acquiring agency for

the project. At this stage the questions for semi-structured interviews were formulated based on the previous round of interviews. Further as I got hold of legal/policy documents, specific questions related to the procedural matters were included in the interview schedule.

In the meanwhile, through various newspaper reports, interaction with journalists/activists, and court judgement orders I took to understanding the issues related to the project. Through these I located the involved persons in the legal cases related to the project. As I examined these cases, I narrowed down to four specific cases for detailed exploration of the issues. The basis for selecting these cases was that each presented a different set of concerns, although basic contentions surrounding compensation, rehabilitation, and resettlement more or less overlapped across these cases. It is to be noted that not all of these cases have been presented in full detail in the dissertation.

The information on each of these cases was acquired through both documentary sources and interviews with the concerned participants. Depending on the case, the participants included project affected people, lawyers, members of local non-government organisations, local informal leaders and journalist/activists. While some of the project affected people were accessed on my own, wherever required I sought help of local activists/journalists. I also conducted interviews regarding case matters with the officials of the concerned state agencies. In all cases personal interviews were carried out, except in one or two instances where I was refused personal interviews and instead was asked to provide my queries in writing. The questions for each round of semi-structured interviews were formulated on a case to case basis depending on the knowledge of the case matter and on the basis of previous round of interviews.

The duration of these interviews varied between 30-90 minutes. The interviews involving officials, lawyers, and members of the local non-government organisations were conducted in English. With some of the project affected people who knew Hindi or English I personally interviewed them. In cases where I had to interact with Kannada-speakers at the ground level, particularly the case in slum rehabilitation case, I used an interpreter. I was present throughout the sessions, and wherever needed I interrupted the session for more information or clarification. The translation occurred the same day.

Phase III: Fieldwork in Kerala, March 2015- June 2015

I commenced my fieldwork for the second phase of my research in Kerala. In Kerala I replicated the same research design that I earlier followed in Karnataka. However, given the contingencies of the field I made suitable modifications, as and when required. To reiterate the process, I first traced the state agencies involved in the project and carried out interviews with state officials, followed by exploration of cases of land related conflicts, and later interviewed the project affected people. There were some differences in the way in which I gathered information in Kochi in comparison to Bangalore. Unlike Bangalore, where I managed to get interviews from the higher officials at the land acquisition agency, in Kochi I mainly relied on lower level officials for gathering information on land acquisition procedures. The reason was that it took me several days before I could manage to meet the District Collector, the official in charge of acquiring land for the Kochi MRTS project. Even when I did meet him, he had several appointments the same day and my conversation with him was interrupted several times. Sometimes it just lasted for not more than 5-10 minutes before somebody would drop-in to meet him. As I waited for him, I interacted with other members at his office with the intention that they could bridge some of the information provided by the Collector himself. I faced such difficulty with other higher officials as well. This is not to say the higher officials were not interviewed in Kochi, but only to emphasise the fact that I got limited time with them compared to the ease of accessibility for interviews in Bangalore.

Also my fieldwork in Kochi was disrupted by several strikes in the state. This meant the state offices would be shut on the day of the strike. The lack of transport, and hence accessibility was also the issue during the days of strike. This also added to the problem of getting interviews. Sometimes I just had to cancel an interview and wait for a few more days for a response from the officials. Hence, I decided to gather as much information from lower level staff members who were easier to locate and meet. In terms of cases of eviction, the role of one of my fellow researchers whose help I had sought was very crucial, as he helped me to narrow down and trace participants from whom I could extract maximum information. The fellow researcher's familiarity with local politics also enriched my own understanding of political issues in Kerala. He was also present during some of the interviews and added to the list of my own questions, or sometimes probed for more information based on his experience. The joint exercise made the interview process more fruitful.

Phase IV: Coding and Analysis, July 2015- September, 2015

At this stage, data compilation and analysis occurred. I first began collating information on different laws and procedures that were used in acquiring land for the two projects. The interview transcripts and secondary data sources were examined and coded using following words and phrases: laws/acts, compensation/award procedures, and rehabilitation/resettlement procedures. Following this, information was categorically collated to depict the working of different state authorities involved in land acquisition for the two MRTS projects. The name of the state authority that appeared in the documents was mapped against their role, their jurisdiction and if they had any law enforcing power. I also spent a great deal of time to understand the functioning of the SPVs using documents from the field. My analysis proceeded along the key aspects of financial design of the projects, the administrative structure of the SPVs, and lastly, case instances were mapped that documented interaction between SPV officials and other local bodies. Case wise information was collated from different sources of four instances of land conflicts (two in each state) that involved real estate development and eviction of local populations. Subsequently, patterns of similarities and dissimilarities were mapped through comparison of cases in Bangalore and Kochi.

The conflicts surrounding each case was mapped through content analysis method wherein information gathered both through primary and secondary data collection methods was interpreted to understand the perspectives of various stakeholders involved in each case of land acquisition. Out of the four cases of conflicts covered in the thesis, three cases of land conflicts were arbitrated within the judicial domain as well. I managed to get hold of judicial records pertaining to each of the three cases. These were of great help in both interpreting the information gathered through interviews and also in supplementing the information provided in the interviews. The higher officials were particularly terse in their replies when it came to divulging information about cases of land conflicts, and at instances even evaded questions dealing with controversial aspects of any land acquisition procedure or a case of conflict. In such instances, the judicial records gathered during fieldwork became a source of vast pool of information that is usually held back from other public domains or is usually not found in other forms public records, such as newspaper reports.

Furthermore, details of facts and figures pertaining to issues such as extent of land acquired, specificities of government authorities authorising changes in land use etc. were clearly outlined in these documents. During oral interviews it is particularly difficult to confirm or even gather information on such details as often participants may not remember or do not have the knowledge of such details. Lastly, these judicial records became a source of information in understanding how struggles related to land conflicts are negotiated within the domain of law. During their interviews some of the lawyers and evictees indicated that courts like other state authorities have their own viewpoints on notions of ‘development’ or what constitutes public interest or private interest. Such viewpoints can often lead the judiciary to interpret or weigh the benefits of large-scale developmental projects over the claims made by the petitioners against the developmental projects. In the context, the articulations made by the judges, outlined in the judgment orders, in pronouncing their verdicts on cases of land conflicts provided a glimpse into judiciary’s own understanding or interpretation of certain issues surrounding the two MRTS projects.

3.7 Conclusion

This chapter summarised the methodological underpinnings that guide this research project. The chapter began by elaborating on the comparative method and further established a case for applying comparative method at a subnational level. The rationale behind selection of the two case studies (Karnataka and Kerala) and the following overview of developmental trajectories of the two states establish how these case studies complement the comparative research design used in this study. The following sections provide information on fieldwork and, data collection and analysis methods. The remainder of the chapters that follow will draw on different case material sources outlined in this chapter to present the findings and arguments of the thesis.

Chapter 4

URBAN DEVELOPMENT AS A PROCESS OF LIBERALISATION, BUREAUCRATISATION, AND DEPOLITICISATION

In Chapter 2 I had set out the theoretical framework for locating the ongoing urban transformations with the intention to understand how new forms of UDPs impact local urban land management. I also illustrated how the process of land acquisition and conversion is at the heart of current forms of UDPs and that this process is occurring through complex inter linkages operating across national, subnational, and urban scales of governance. I further argued in the previous chapter that as new governance models are introduced, such as special authorities, to implement large-scale infrastructure projects, there is rescaling and restructuring of authority at different levels of governance, often involving national, subnational and urban local governments. As I begin to disentangle the various facets of this scalar transformation, this chapter draws on evidence from documentary sources to give a macro level picture of the policy measures and institutional architecture that set the stage for implementation of large scale UDPs. Specifically focusing on the SPVs, the chapter brings to the fore how key facets of administrative, political and financial design of the SPVs are making land acquisition easier for the two MRTS projects under consideration. Highlighting the similarities in the design of the two SPVs, the chapter shows how through the instrument of the SPVs, similar strategies of state spatial rescaling are being implemented across the two states of Karnataka and Kerala. Also as will be illustrated in the course of analysis, the administrative model of the SPVs allows for incorporation of select characteristics of state agencies as well as corporate governance structure, which in turn gives the SPVs the unique quasi-state and quasi-corporate structure.

The chapter is organised as follows. The first section gives an overview of how national level policy designs are encouraging states to engage in competitive bidding for infrastructure development, and provides a context for the SPVs to be viewed within the larger context of competitive liberalisation. The subsequent sections focus specifically on the SPVs. I locate the entrenchment of SPVs within the urban governance sphere as a form of state intervention that is based on an entrepreneurial approach of the state. Following this, after a brief

introduction to the tool of the SPV, the chapter provides a detailed analysis of the two SPVs central to this thesis, the BMRC and the KMRL.

By the end of this chapter, I will set the context for how policy measures designed at the national level are creating scope for top down implementation of development projects at the urban level, and further how new forms of spatially *dis*-embedded state authorities are producing policy convergence across the state specific sites of Karnataka and Kerala. The term spatially *dis*-embedded denotes two things about these organisations. Firstly, through these SPVs, external agencies are able to exercise influence within the local urban governance level. Secondly, the SPVs, as will be evident in due course are significantly insulated from local accountability measures.

4.1 Shaping of competitive liberalisation through planning instruments of large scale UDPs

Infrastructure development has emerged as one of the key thrust areas in ushering in India's ongoing reforms.¹² The Twelfth Plan envisages a projected increase to 9 per cent in infrastructure investment by 2016-17; wherein around 50 per cent of the total infrastructure investment is expected to come from the private sector (Sinha, 2014). Consequently, a series of financial and governance reforms have been initiated at the central and state government level to stamp out the procedural bottlenecks that lay in the way of implementation of large scale infrastructure projects. While the impetus for these reforms is created at the central government level, it is the state level intermediaries who are expected to be the key agents in strategising the execution of these policy imperatives. With metropolitan cities emerging as the centres of economic growth, the state governments are vying to improve urban infrastructure (Mahadevia, 2006; Rastogi, 2004).

Among many other large-scale UDPs, in 2014 the central government in its budget scheme highlighted the importance of metro projects or rail based MRTS projects in urban areas for 'decongesting large cities' (Speech of Arun Jaitley, Minister of Finance, 2014). These MRTS projects under consideration are a form of modern rail based transit systems. Although the

¹² See, Speech of Arun Jaitley, Ministry of Finance, 2014.

first metro rail system in the country was constructed in Calcutta (now Kolkata), it is the Delhi metro which is credited for introducing intra-city rail system based on modern technologies comparable to the ones in developed countries such as the San Francisco Bay Area Rapid Transit. Given the sophisticated technologies that are required to construct these MRTS projects, apart from other many other involved costs, they are inherently capital intensive.

Furthermore, as stated by the Ministry of Urban Development itself, these projects are not ‘merely transport interventions’ but ‘need to be looked as urban transformation projects’ as they significantly impact the socio-economic landscape of the city (Jadhavi, 2016). The Ministry of Urban Development further recognises that resource mobilisation, land being an indispensable one, and institutional reforms at state level and strategies of urban and regional planning remain key to the implementation of these UDPs (Ministry of Urban Development, Government of India, 2015). Currently, there are as many as eight cities in India that have such projects, either functional or under construction or at planning stage (Ministry of Urban Development, Government of India). Although urban experts¹³ including the urban development ministry have cautioned against unqualified adoption of such technology and capital-intensive transportation forms without assessing their impact and desirability to specific urban locales, state level political leaders are actively vying for these projects as a showcase of infrastructure development in the run up to assembly elections. For instance, Akhilesh Yadav, the Chief Minister of Uttar Pradesh has sought for as many as four such projects for his state (Rawat, 2015). Similarly, Maharashtra Chief Minister Devendra Fadnavis has called for extension of the existing urban transport systems in his state (Gupta, 2016).

In practice, these MRTS projects fall directly under Ministry of Urban Development (MoUD). So far across cities they have been implemented through the institutional mechanism of the SPVs. The SPVs have been recommended on various occasions to implement a variety of UDPs in the country (see, Ministry of Urban Development, 2015; Ministry of Urban Development, 2017; Kennedy, 2014; Sundaresan, 2013). The SPV route to infrastructure development aims to address the issue of both financial viability associated with these projects,

¹³Interview, V. Ravichandar, a Bangalore based consultant, 16 December 2014. Also see, Mohan, D. (2008). Mythologies Metro Rail System and Future Urban Transport. *Economic and Political Weekly*, 43 (4), 41-53; Jadhavi, R. (2016, November 14). Centre advises metro projects as last resort. *Times of India*

and also to ensure hassle free implementation of projects that are often subjected to delays due to multiple bureaucratic clearances.

The central government has proposed to provide support to such projects in the form of equity or one time Viability Gap Funding (VGF), subject to a ceiling of 20 per cent of the capital cost of the project (National Urban Transport Policy, 2014). However, building a modern rail based MRTS is a highly capital intensive process with large initial costs (Asian Development Bank, 2011; Lall & Anand, 2009; Rao, 2011; Sinha, 2014). Moreover due to the long gestation period of such projects they require long term financial support (Asian Development Bank, 2011; Lall & Anand, 2009; Rao, 2011; Sinha, 2014). For these reasons, it is estimated that public investments alone are not sufficient to fund these projects. Consequently, the urban development authorities have resorted to raise finances for MRTS projects from various other sources- such as multilateral donor agencies, commercial banks, and by leveraging land to private capital along the project alignments. In fact, support from the central government to urban transport infrastructures in form of equity or VGF is contingent upon the capabilities of the states to augment resource mobilisation from non-budgetary sources, through exploitation of their own land resources, from likely sources of private participation, and other innovative financing mechanisms (National Urban Transport Policy, 2014; Report of the Working Group on Financing Urban Infrastructure, 2011). Therefore, the states have to compete for the central government's financial support.

Viewed in this light, the degree to which the SPVs are able to mould the administrative and resource mobilisation capacities of the local urban state, suited to the needs of implementing UDPs, will define the competence of the states in securing investments for the projects. Moreover, in this competitive bid as states become ever more articulate in their role of facilitating private capital participation in urban infrastructure projects, there has been an increasing engagement of the regional state units with the global capital market: (the state governments are seeking loans from multilateral donor agencies for UDPs (Baindur & Kamath, 2009; Gopalan, 2012; Kennedy, et al., 2011; Lindfield & Steinberg, 2011).

4.1 SPVs: As forms of state entrepreneurialism

The entrenchment of the SPVs in the urban governance sphere can be understood as an attempt to move towards a new mode of state intervention that is premised on the idea of the

‘entrepreneurial state’ (Chen, 2013). State entrepreneurialism refers to an entrepreneurial urban policy, which assumes more direct forms of support for private capital and private sector involvement in urban regeneration and a more business like way of running the cities on part of the public sector (Chen, 2013). The distinctive characteristic of this form of state intervention is that the state agencies or certain bureaucratically run public sector units, indulge in risk taking and profit maximising activities; hence they are ‘entrepreneurial’ in nature (Pow, 2002; Jessop & Sum, 2000; also see, Duckett, 2001, for similar patterns of state entrepreneurialism in China). State entrepreneurialism is reflective of the larger policy discourses at the global and the national level that desire for market friendly mechanisms for smoother deliverance of urban infrastructure projects, and in consequence are prompting for the creation of the same at the state level.

The international financial institutions, as part of the general prescriptions for introducing reforms in the developing world, seek for the elimination of national and local level restrictions on foreign investment (Kamath, 2013; Nayar, 2007). There is a thrust for a greater role of the corporate sector in the planning and implementation of programmes of urban development, and encouraging public and local authorities to become facilitators of the urbanisation process (Lindfield and Steinberg 2011). While the international actors provide incentives for reforms, the measures sponsored by the central government in support of the demands of the international actors translate incentives into policies. As per the stated intentions of the 2014 NDA government the new economic targets for reforms are to be achieved through the promise of ‘minimum governance, maximum government’ (“Reform Redux: a welcome signal”, 2015). This entails delayering tiers of bureaucracy to reduce the decision making levels, and simplify and rationalise existing rules and procedures to make governance efficient and effective (Press Information Bureau, 2015). According to a press release made by the Government of India, these initiatives will improve ‘ease of doing business’ in the country (ibid). Simultaneously, as Ruparelia (2015) argues that while such measures are geared towards imposing greater discipline in public administration, they do so by introducing a centralised and technocratic style of rule. In consequence, they bolster executive power by limiting political transparency, parliamentary government and social dissent and thus, entail broader changes in state-society relations (ibid).

Viewed in this light, the SPVs, as ‘boldly adapting’ (Chen, 2013) bureaucratic institutions provide state support to facilitate private sector participation in urban development, and at the same time, deter political intervention in decision making (Charton, 2014; Fernandes, 2006; Shastri, 1997). The institutional structure of the SPVs combines bureaucratic hierarchy, hence statist in character, and yet they function with the efficiency and competence that are usually attributed to corporate enterprises. The positions in the SPVs are occupied by a select few members of the higher bureaucratic echelons. These bureaucrats occupy a unique position of privilege in the ‘state-system’ (Abrams, 1988). While they are empowered by the vocabulary of state authority, they are insulated from both local accountability pressures, a feature more pronounced in the case of middle or street level bureaucrats (Gupta, 2012; Lipsky, 2010), as well as pressures of electoral accountability, to which political leaders are evidently subjected to (Graeber, 2015; Shastri, 1997). However, beyond being run by a cohort of state officials, the other state agencies have little say in the functioning of the SPVs. They are registered as companies under Indian corporate law and function as independent entities. The SPVs in question, the BMRC and the KMRL, are actually state owned companies with the government as the main shareholder in the company (the share of central and state government combined) and other private investors as subsidiary shareholders. They are, thus, state owned companies or public sector units that allow for private stake holdings.

In the context of UDPs, they are the key authorities for planning and implementation. They are responsible for granting approvals and sanctions in various matters related to the project, including the responsibility to carry out technical appraisal. As organisations they are provided with considerable operational freedom in their entrusted task, with compliance expected only to the rules of the MoUD, the apex authority of Government of India in matters of urban development. They even have the powers to collect taxes and surcharges, incorporate joint ventures and subsidiaries, and enter into public private partnerships (Sampath, 2016). In terms of finances, the SPVs can source funds from variety of sources including government, financial institutions as well as the private sector and have cost recovery models built in their projects (Mahadevia, 2006). In sum, the SPVs strategically merge a ‘techno-managerial’ (Ghosh, 2005) approach to governance with market competitiveness.

4.3 A brief overview of the organisational structures of the BMRC and the KMRL

The BMRC is an SPV, registered under the Companies Act of 1956 that is responsible for the implementation of the Bangalore MRTS project. The company functions directly under the aegis of MoUD. The company is jointly sponsored by the Government of India and the Government of Karnataka, whereby they contribute equally to the company in form of equities and interest free subordinate loans.¹⁴ The state government further bears the responsibility of providing land for the project at its own cost. Additionally, the state government waives its taxes and duties for the implementation of the project. The chief lending agencies for the project are the Japanese International Co-operation Agency (JICA), Asian Development Bank (ADB) and Agence Francaise de Developpement (AFD). Some of the major domestic agencies, among others, that have extended loans to the project are the Housing and Urban Development Corporation Limited (HUDCO) and Karnataka Urban Infrastructure Development and Finance Corporation (KUIDFC). The loans from multilaterals donor agencies are in form of senior term debts.¹⁵

The company is governed by a Board of Directors (BoD), with Managing Director (MD) as the administrator in-charge, equivalent to the position of chief executive officer in a company. In order to avoid any delays associated with the bureaucratic procedures, the BoD is vested with full powers to implement the project with adequate powers to the MD for day to day functioning of the company. The powers and duties of the company's directors are governed by Articles of Association of the Company, provisions of the Companies Act, 1956. Furthermore, the company has to comply with the conditions of 'sound corporate governance' as specified in the loan agreement of the lending agencies (Asian Development Bank, 2011). Above the BoD, there are three high level committees that influence the functioning of the organisation: the High Power Committee (HPC), the Empowered Committee (EC) and the Group of Ministers (GoM). The HPC is headed by the Chief Secretary of the state government (in this case Karnataka) and comprises of the secretaries of the concerned departments of the state government and the heads of the civic agencies. The HPC mainly deals with the issues

¹⁴ Subordinate loan or debt is a debt which ranks after other debts if a company falls into liquidation or bankruptcy, that is, it has a lower priority in the hierarchy of creditors.

¹⁵ Senior term debt is the debt that has priority for repayment if the company falls into liquidation or bankruptcy.

arising at the state level and local government level, and ensures speedy implementation of the project through synchronisation of state level procedures. The EC is a central government level committee that monitors the project by granting any clearance required at the central government level. The GoM is a union cabinet level committee that reviews the progress of the Delhi MRTS project. It was enlarged to include the Bangalore MRTS project. The Chief Minister of Karnataka is inducted as a member of the GoM in capacity of a permanent invitee, and is required to attend the meetings when issues concerning the Bangalore MRTS project are deliberated upon. The total organisational strength of the BMRC is limited to 45 to 50, eliminating excess tiers to enable faster decision making (Delhi Metro Rail Corporation Limited, 2003). Additionally, the project receives consultancy services from the Delhi Metro Rail Corporation¹⁶ (DMRC) and Rail India Technical and Economic Service¹⁷ (RITES), in addition to financial and construction related service inputs from other agencies.

Along the lines of the BMRC in Karnataka, the KMRL has been instituted to implement the Kochi MRTS project in Kerala. It is incorporated under the Companies Act, 2013 and is bound by the rules and regulations of the Act. The financial and the governing structures of the KMRL are similar to the BMRC. The project receives support from the Government of India and the Government of Kerala in form of equity and an interest free subordinate loan. The external lending agencies for the project are the JICA and the AFD, with supplementary lending from domestic banking institutions such as Canara Bank. The governing structure of the organisation again consists of the BoD, the HPC, the EC, and the GoM, with functions comparable to those assigned in the case of the BMRC. The DMRC extends its consultancy services to the KMRL in execution of the project. Additionally, private agencies have been hired at various stages of the project for miscellaneous functions.

¹⁶ Delhi Metro Rail Corporation or DMRC is a government owned company that was instrumental in executing rail based MRTS in National Capital Region of India. It is also involved in implementation of other high speed rail projects across India.

¹⁷ Rail India Technical and Economic Service or RITES is a government established engineering consultancy company providing assistance in the fields of transport, infrastructure and related technologies.

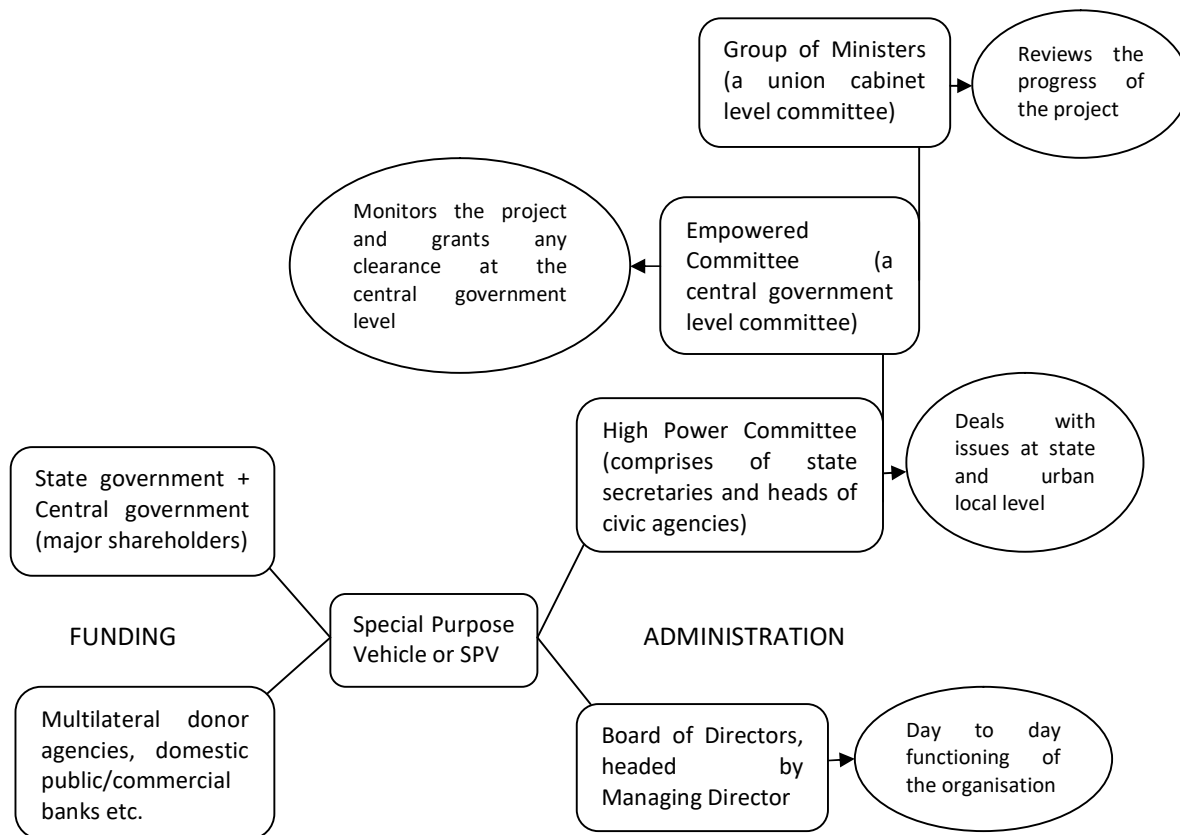


Figure 4.1 Governing structure of the SPV

4.4 ‘Fast-tracking’ infrastructure development: overcoming fiscal barriers, streamlining administrative-legal procedures, and neutralising politics

This section shows how the organisational structure of the BMRC and the KMRL signify practices of financial innovation, corporatisation and depoliticisation in the engines of the SPVs. The section further illustrates how, through the SPVs, the project participants, the public and the private actors, come together to produce a particular power configuration in urban decision making and establish control over local redevelopment, relegating local government officials to non-influential positions (Zunino, 2006).

4.4.1 Ensuring Financial Viability

Large-scale UDPs incur high incremental costs and financial viability is at the core of these projects (Baindur & Kamath, 2009; Lall & Anand, 2009; Young, 2013). Thus, the development of the infrastructural sector depends upon the prior development of a finance sector that can address the fiscal barriers to infrastructural development. This occurs through the incorporation of a diversified set of profit generating instruments for investors and by addressing the key risk factors for project sponsors and financial institutions (Rastogi & Rao, 2011). Intrinsic to the structuring of the SPVs is the belief that private participation is a more efficient way of delivering infrastructure services (Baindur & Kamath, 2009; Chen, 2013; Gopalan, 2012; Lall & Anand, 2009; Rastogi & Rao, 2011). Therefore, the leveraging of finance for the projects is encouraged through commercial bank funding and private sector participation. As outlined by ADB, '[t]he focus of the project is to create a commercially viable and bankable project vehicle that can successfully attract commercial debt and which holds the potential for future wider private sector participation' (Asian Development Bank, 2011, p. ii).

State institutions that are subject to democratic elections are inherently viewed as 'risky investment' options by the commercial players (Young, 2013). State local bodies are subject to day to day cultural practices of democratic accountability and political pressures of council elections, and consequently lack the efficiency to plan and incorporate new revenue generating mechanisms into their projects (Banerji, Gangopadhyay, Thamby, & Wong, 2013). Moreover, urban local bodies are diversified in their functioning and their decision making capacity is often paralysed by lack of effective coordination between different civic agencies. In contrast, from the perspective of investors, agencies like the SPVs associated with the executive branch of the government and staffed by bureaucrats are insulated from popular forms of accountability measures (Young, 2013). Hence, they hold the promise of efficiency in planning and coordination, and at the same time are less likely to face reduction in funds due to democratic mandates. A senior BMRC official while commenting on the administrative strategy for developing high quality infrastructure corridors lamented:

'At present there are just too many agencies [at the urban local level] with none assuming overall responsibility...What is needed is an executive who has the authority to convert strategy into practical actions to ensure efficient utilization of resources...[The Executive

Body should have] independent budget allocation to develop transport corridors by unbundling these corridors from local government' (Rao, 2011).

Thus, the SPVs - the BMRC and the KMRL - with each of them acting in capacity of a single executive authority responsible for channeling funds for the respective large-scale UDPs under consideration, fulfil the need of a 'self-sustaining model for financing urban transport projects' (Asian Development Bank, 2011, p. 6). In effect, the SPV serves as a launch pad for facilitating the participation of the private capital in the project, and this occurs by: (a) generating credit enhancement through state budgetary recourses and non-state credit recourses, and (b) improvising and implementing cost recovery mechanisms as part the project itself (Asian Development Bank, 2011; Lall & Anand, 2009; Nandy & Mahanta, 2005; Young, 2013). On balance, leveraging funds through private capital, either through credit enhancement or cost recovery mechanisms, significantly reduces funding pressure on the government (Rastogi & Rao, 2011).

Government contribution (both the central and the state) to the project in form of equities, followed by interest free subordinate loans, provides the first financial impetus to the project, as funding from multilateral donor agencies takes time (Rao, 2011). Government funding acts as leverage for attracting private commercial lending to the project and these include loans in form of senior term debts from multilateral donor agencies, and even domestic commercial banks. Thus, public funding becomes a channel for orchestrating private capital. It is to be noted that while government lending is on subordinate basis (and interest free), private commercial lending is on senior term basis. That is, government holders have claim on the company's assets only after the claims of the commercial donors have been satisfied. Moreover, in the event of the failing or operational losses, the responsibility to repay external debts falls on the state government (and not central government) (Ministry of Urban Development, Government of India, 2013). The state government further lends support to the project through tax exemptions, and by bearing land acquisition and rehabilitation costs for the project.

The reason behind public ownership of the two SPVs, the BMRC and the KMRL, or the decision not to execute these projects on a purely privately-funded basis can also be

understood from an instance of the Kochi MRTS project. In case of the Kochi MRTS project, prior to its implementation there was a tussle between the two main political coalitions of the state, the LDF and the UDF, over the source of financing for the project. While the LDF was in favour of executing the project on a public ownership basis, the UDF wanted the project to be executed by a private company. It was not just the UDF that wanted the project to be undertaken by a private company, even the government at the Centre- which again was a Congress led alliance (same as the UDF) - was not in favour of implementing the project on a public-private model basis. The reason was that the central government was doubtful of the economic viability of the project in Kochi as it did not qualify as a metropolitan city with a population of over one million (Paul, 2012).

Moreover, the central government wanted to rule out its own financial involvement in the project. It is to be noted that the implementation of the MRTS project on the lines of public model, as in many other instances in the country, would have entailed investments by both the central and the state government. The Centre was of the view that the state may invest its own money and seek help from private investors (“Kerala favours Chennai model for Kochi metro”, 2011). Conversely, private sector installment would have put the onus of generating revenues on the private entities. According to the LDF, this would have been inimical to public interest in general, as it would have implied acquisition of more land for allied commercial activities than what already is the case in a metro project. The CPM leaders also made allegations against the UDF for indulging in corruption by attempting to ‘get kickbacks from private parties’ (Sajith, 2012) through the project allotment process. Also it was likely that the fares for using the transport, in case of private ownership, would be much higher. The reason behind these factors is that private company is more inclined to recover its investments rather than in securing public interest associated with the project.

In the context of the state versus private conundrum for infrastructural projects of this scale as the MRTS projects under consideration, it would also be pertinent to look at the case of Hyderabad Metro in Andhra Pradesh that has been executed by a private company. In the midst of project development, apprehensions were raised about its economic viability and profitability to the developer, in this case a privately owned multinational infrastructure development company- Larsen & Toubro (Kumar, 2012; Pilla, 2014). In fact, for reasons of

economic viability and low profitability, the company at one point threatened to pull out of the project (Pilla, 2014). Due to such risks associated with large scale infrastructural projects, often government ownership of such projects is advocated for.

Apart from generating budgetary support from central government and state government as well as loans from multilateral financial institutions, the SPVs are also entrusted with the task of building cost recovery mechanisms for otherwise unviable projects (Baindur & Kamath, 2009). Increasingly there is growing emphasis that it should be possible to finance the major cost of the project through exploitation of city's land resources itself (Ministry of Urban Development, Government of India, 2012). This has given rise to the phenomenon of real estate 'cross- subsidisation' (John, 2005) of large-scale UDPs or the process of generation of revenues through land-based financing.

4.4.1a A note on land-based financing

Land-based financing is at the core of the financial design of the SPVs that places high priority on the creation of privatised assets that can be traded and borrowed against (Sheppard, 2014), and can further serve to generate additional revenues through taxes, levies etc. Land based financing works on the principle of capturing land value¹⁸ increments along the transit infrastructure corridors. Public investment in infrastructure corridors and changes in land use along the transit infrastructure corridors significantly contribute to the increment of adjacent land values (Balakrishnan, 2013; Chakravorty, 2013; Peterson, 2006; Singh, 2007), and thereby create real estate potential.¹⁹ The increased land value is the sum of intrinsic land

¹⁸ Value capture refers to the process by which 'a portion of or all land value increments... are recouped by the public sector either through their conversion into public revenues through taxes, fees, exactions and other fiscal means, or more directly in on-site land improvements... Although certain actions taken directly by private landowners may enhance the value of land, this situation tends to be the exception. The general rule is that it results from actions other than those of the landowner, most notably of the public sector as in granting of permissions for the development of specific land uses and densities or through infrastructure investments, or of market forces due to a general increase in urban population, etc.' (Smolka & Amborski, 2000).

¹⁹ See reports on real estate boom along Bangalore and Kochi metro corridors: Business Line. (2012). Kochi real estate market to benefit from Metro project; Ganapathy, D. (2012, May 26). Bangalore Metro corridor has good potential for property investors. *The Hindu*.

value, increase in land value due to public investment and changes in land use, land value as a result of investments made by the land owner, and increase in land value due to population and economic growth brought about by infrastructure development (Suzuki, Murakami, Hong, & Tamyose, 2015). They thus offer tremendous development opportunities (in form of demand for space in insurance, finance, information technology, hospitality, retail, leisure and residential sectors in station precincts), which in turn can be monetised by the state transit agencies to generate revenue for the project in addition to the state budgetary allocations (ibid.).

Generating revenue through land based financing is an inherently competitive process, where the land is offered by the SPVs to developers, typically private real estate companies, who can bid for its 'highest and the best use': that which can pay the most (Harris, 2014). The developed properties take the shape of high-end residential complexes or shopping malls. Thus, large scale infrastructure projects trigger a series of commercial developments in the city sphere and subsequently, urban land market is opened to the influence of private capital through private real estate companies. As the avenues for generation of revenue from private capital expand, the incentives for increasing private participation in urban mega-projects are framed by the bureaucracy itself. This entails significant changes in urban land use policies. The incentives are created by way of PPPs, property leasing and through sale of transfer of development rights (TDRs) for additional Floor Area Ratio/Floor Space Index (FAR/FSI).

Additionally, in the vicinity of the project corridors the government can introduce a hike in the FSI/FAR for the development of new properties and for redevelopment of old properties. The additional built-up area (or the excess FAR/FSI in addition to the minimum permissible limit), can in turn be exploited by the government to raise revenue through various taxes and user fees such as stamp duty for additional FAR for properties developed on space created along metro corridors, betterment levy on newly development layouts, and cess on redevelopment of all properties in the core city (Rao, 2011). Policies for hike in FSI/FAR have long been lobbied for, by members of business associations like the Federation of Indian Chambers of Commerce and Industry (FICCI) and the Confederation of Real Estate Developers of India (CREDAI) (FICCI, 2011; Pawari, 2015; CASUMM).

For the purpose of property development along the MRTS corridors, the SPVs through the land acquisition agency acquire land (or built properties) in excess of the land required for the

project construction. The excess land is handed over to the private developers to generate revenue. Since the private developers undertake property construction on land that is handed over to them by the SPVs, they evade several procedures of land and environmental clearances that they would have otherwise required from the local authorities. For instance, the MRTS projects are exempted from environmental clearance (Delhi Metro Rail Corporation Limited, 2013). But this exemption is usually not applicable to projects that are subject to local state review mechanisms. Moreover, the land for the MRTS projects is acquired in accordance to the ‘public purpose’ provision of the land acquisition act. For the Bangalore MRTS project the land is acquired under the declaration of ‘industrial use’, while for the Kochi MRTS project ‘urgency clause’ for land acquisition was invoked quite often. Both of the declarations imply land acquisition for public purpose.

Private real estate companies are invited for undertaking construction activities at their own cost for certain project amenities like train stations on the basis of PPPs. As an incentive to the private parties, they are offered land near to station precincts at concessionary rates and are allowed to develop properties (such as shopping complexes or residential arenas) and connect them to the stations, under arrangements to share rental/advertisement income. According to the MD of BMRC, it saves the government approximately four and a half million USD if a private player builds the station on a PPP model (“BMRC open to private players building metro stations”, 2014). The KMRL has initiated a township development project called ‘Kochi Startup Village’, a private-public enterprise where it has sought investments not only from domestic private companies, but also promotes the enterprise to attract investments from non-resident Indians (“NRI investment sought in Kochi metro townships”, 2015). Alternatively, revenues are generated by leasing metro property for commercial activities and advertisement (Chandran & Needhesh, 2015; Sastry, 2012). As per the estimates of the BMRC, revenues to the extent of 10 per cent of fare box collection are to be raised through property development and advertisement during operation. The main beneficiaries in the process of land re-allotment are usually big multinational companies or large private real estate companies.²⁰ This is because land space allotment to MNC chains or big property developers holds a scope for much higher revenue generation, than say land allotment to small

²⁰ I will take up case studies exemplifying land allotment to private real estate companies in the next chapter. Also see, CASUMM. (n.d.).report on investments made by multinational retails chains.

business owners. In fact, the loss for small business owners and vendors is double. For one their land is taken away for want of land for the project. Secondly, they lose their business with the coming of large retail chains. The transfer of development rights for additional FAR occurs through the instrument of saleable Development Rights Certificates (DRCs). These profit a select cartel of private players specialising in marketing of TDRs (Balasubramanyam, 2015). Evidently, the leveraging of land as a resource for financing urban infrastructure has opened the state policy arena to a range of private players.

4.4.2 Corporatisation and Depoliticisation as mechanisms of capacity-building and efficiency

The main governing body of the SPV, the BoD, consists of central and state level officials. Most of these officials serve as independent directors of the various portfolios incorporated under the SPVs.²¹ The BoD as a whole have all the powers in matters of decision making pertaining to the implementation of the project, with only a memorandum of understanding with the MoUD setting targets for their performance evaluation (See, Delhi Metro Rail Corporation Limited, 2003; Delhi Metro Rail Corporation Limited, 2013; Report of the Fourteenth Finance Commission, 2014). The executive style of functioning of the individual board members and the coherent corporate structure of the organisation as a whole fulfils the demand of investors for an executive agency with independent powers. For further enhancing the efficiency of the organisation and speedier implementation of the projects, specialised central government level and state government level committees- namely the HPC, the EC and the GOM- have been instituted for the purpose of solving issues that are beyond the day to day administrative capacity of an individual SPV member. The constituent members of these committees are mostly the secretaries of the state. Thus, for issues that are beyond the jurisdictional capacity of the SPV, the state (read, the higher state authorities) steps in to ensure speedy redressal of corporate efficiency and state protection.

²¹ See, Smart Cities Mission, c2015; Report of the Fourteenth Finance Commission;<http://bmrc.co.in/mgmt.htm>;<http://kmrl.co.in/board-of-directors/>.

Moving beyond the composition of the staff cadre of the SPVs, in terms of numerical strength of its deputies, the SPVs are limited in their staffing, comprising mainly of the independent director level regulators and the requisite ancillary staff. Most of the tasks (such as those of technical expertise on project planning, consultancy support for project construction, project evaluation, price estimation of required landed properties, and rehabilitation and resettlement etc.) are subcontracted to external government and non-government expert agencies. The project authorities, the SPVs, can also undertake various project related activities on PPP basis, such as establishing tracks, signaling and telecommunication systems), and can vie for VGF from central government for these. Thus, the SPVs in question, the BMRC and the KMRL, only manage and coordinate the various activities associated with large-scale UDPs of the Bangalore MRTS project and the Kochi MRTS project, but are not themselves employed in servicing the tasks associated with the project. In consequence, they coordinate the process of project planning and implementation both by channelising the project activities to relevant expert agencies as well as by reducing the bureaucratic inertia associated with large state organisations.

When it comes to land acquisition for the project, while the day to day procedural requisites pertaining to the project are dealt by the local state agencies, the SPVs are present in the state system as an ‘overseer’²² to facilitate the process. The SPVs do this by facilitating, offsetting or overriding the regional procedural mechanisms and thus are supposed to bring in efficiency to the process of project deliverance. And, as a state agency in authority, with accountability only to the chief executive of the state (mainly through the secretaries of the urban development department), they have the sufficient enforcement mechanisms to do so. A legal officer at the KMRL, while describing land acquisition proceedings for the Kochi MRTS project, expressed discontent over the lethargy of the local state agencies and hence, a need for an intervening agency:

‘We [KMRL] just submit a requisition [for the piece of land required] to the district office and they carry out the acquisition process. But you see they [District Collectorate]²³ can be very

²² Interview with a KMRL official, Kochi, 15 March 2015.

²³ A special team under the aegis of District Collectorate, Ernakulam (also Kochi) is the land acquisition agency for the Kochi MRTS project.

slow at times, so during the court hearings our [KMRL] counselor is present to ensure speedy disposal of the cases'.²⁴

A description from a Special Land Acquisition Officer at Karnataka Industrial Areas Development Board²⁵ (KIADB) further enforces the role of the SPV as an overseeing agency for the projects:

‘They [BMRC] function like a company...They send a letter to our [KIADB] office, signed by the MD, stating what they want. [But] they do not deal with any actual procedures of acquiring land. In case of dispute in the court, BMRC officers have no authority to appear in the court [as BMRC is a company]. They are represented by an advocate. It is our [the KIADB] officer [particularly the Special Land Acquisition Officer] who represents the government in the court hearings.’²⁶

The above testimony further reinforces the corporate or company style of functioning of the SPVs. However, at the same time these corporate entities are able to exert influence on particular state institutions and actors of the local government machinery (in the above cases the office of the District Collectorate and the state land acquisition department) to leverage state support for the project, without themselves engaging with local level state proceedings. This is an outcome of their unique position of privilege in the state governance sphere, defined by the authority to command the services local state agencies as a state bureaucratic agency of higher order, and the advantage of insulation from local accountability measures by the merit of it being a company.

Furthermore, through the use of overriding government orders the SPVs are able to bypass the regional planning laws that may otherwise impede speedy implementation of the projects (this is illustrated through case studies in Chapter 5). In fact, often on occasions of impasse between the local authority and the SPV, the jurisdiction of the local authorities is overridden in favour of the project executives. In a case concerning the Bangalore MRTS project, when the state municipal body the Bruhat Bengaluru Mahanagara Palike (BBMP) objected to the transfer of property development rights for building a station-cum-commercial complex to a

²⁴ Interview, Kochi, 13 March 2015.

²⁵ Land acquisition agency for the Bangalore MRTS project.

²⁶ Interview, Bangalore, 07 November 2014.

private real-estate developer by BMRC, the BBMP's case was dismissed by the court (Krishnaprasad, 2014).²⁷ The issue was also raised in the city council, but then the councillors have no power to make decisions on this project and most of the decisions are made by the top bosses in Delhi and in the Karnataka State Government (CASUMM). Therefore, while the elected council was devoid of decision making power with regard to the project (ibid), the actions of the local authority were viewed as 'delay tactics' ("BBMP has no power to conduct survey: HC", 2014) that were causing cost escalation to the project. A government officer previously employed at the Bangalore Development Authority²⁸ (BDA) admitted to the inability of the local authorities to get much headway in such impasses:

'These projects are big [with huge financial implications] and it is already behind schedule. With the debt piling up they [the state government and BMRC] would want the project executed at the earliest; [in such a situation anyway] what say will BBMP have in front of metro officials?'²⁹

Thus, the local agencies are made to succumb to the authority of external agencies (international and domestic) through nodal exercise of power by the SPVs, while they themselves remain outside the legal jurisdictional purview of the local administration, politically unaccountable to the urban legislative bodies and electorally unaccountable to the local citizens. Moreover, while the SPVs desire least 'political interference' from lower level political circuits (Benjamin, 2000), they themselves depend on the 'final call of the [higher] polity' (Gopalan, 2012) for the ultimate servicing of their demands. On the whole, through the institutionalisation of the SPVs there is an attempt to instill a change in character as well as component of public management systems. The new patterns endorse incorporation of the ethos of the private sector in public management systems, and also actively involve the private sector in the business of governance (Gopalan, 2012).

²⁷ With regard to the same case, a fresh Public Interest Litigation (PIL) was filed in the High Court of Karnataka; the case remained pending in the High Court of Karnataka as of January, 2015 (Interview with one of the six petitioners in the PIL, 13 January 2015).

²⁸ A local government planning authority in Bangalore.

²⁹ Interview, Bangalore, 16 January 2015.

4.5 Conclusion

Through an examination of the role of the SPVs in unfolding the UDPs, the chapter reveals the key strategic design that lie at the core of the SPVs, making them autonomously functioning governing bodies that solely take charge of implementing the UDPs. Although in the process of implementing the projects and also in acquiring land for the projects, the SPVs do rely on the assistance of other state level and urban planning agencies. The exploration of administrative and financial aspects of the SPVs also bring to the fore how the SPVs as single coordinating agencies for the implementation of the UDPs are fulfilling the longstanding demands of the investors to streamline and facilitate the process of implementation of large-scale infrastructure projects. The uniformity in design of the SPVs can also be viewed as strategy to iron out the multiple local level hindrances that are often cited as causes for delay of infrastructure projects.

Furthermore, as I explained the constitutive and functional aspects of the SPVs, I illustrated that UDPs can be understood as a top-down scheme of city-planning, and this occurs through simultaneous incorporation of market driven models of urban development. These two aspects are interrelated. Through UDPs the state governments intend to attract private investments to boost domestic economic growth, and as a result end up adopting a series of changes in the sphere of urban governance. These UDPs entail significant investments from international financial institutions. The increasing role of international financial institutions in funding infrastructural projects has led to the institutionalisation of market driven models for implementing UDPs. A symbiotic relationship between the donor actors and private sector seem to operate. While the donor agencies consistently seek private sector support to improve the effectiveness and efficiency of aid, the private sector actors seek clearer policy signals from donor agencies to promote new business models and develop new models (Horn-Pathanothai, 2013). These policy measures include: improving the business climate in developing countries, extending service delivery, benefitting from the “de-risking” role that the public sector can play, and particularly understanding and navigating local politics (*ibid*). Apart from these both private sector and even external donor agencies seek reconfiguration of local urban state.

The reconfiguration of the local urban state involves reinventing the local state to the needs of the liberal market economy. This occurs through both restructuring and rescaling the state. Restructuring entails introduction of innovative financial instruments and streamlining and enhancing the administrative servicing capacities of local bureaucracies. Rescaling involves limiting the territorial boundaries of influence of the local state authorities, by eliminating local authorities from processes of decision making and substituting them with executive state level authorities (such as the SPVs). Together these point towards the establishment of new hierarchies of superordination and subordination in the urban governance sphere, with the local state bodies reduced to the status of disempowered service delivery agencies for the SPVs. In this context, the SPVs symbolise the exceptional nature and special regime that accompanies the implementation of large-scale UDPs, which require special authorising, funding, land acquisition, and regulatory actions by two or more levels of government (Kennedy, 2015). Through careful exploration of macro level state strategies (financial, administrative and political) intrinsic to the design of the SPVs, the chapter presents evidence to support these claims. It shows that entrenchment of the SPVs is in fact aimed at both restructuring and rescaling of the local state structures by systematically weeding out the local level hindrances to the implementation of large-scale UDPs and by strategically manoeuvring the capacities of the local state institutions to the advantages of the SPVs.

Lastly, an examination of the SPVs illustrate how the state authorities are accommodating demands of private capital within the spaces of urban governance (such as municipal restructuring, creation of specialised agencies etc.) (Rastogi, 2004). And, this occurs through a combination of processes that involve ‘planning, implementation and enforcement mechanisms’ (Sundaresan, 2013), in which the order of hierarchy flows from the SPVs to the various local level state authorities (Baindur & Kamath, 2009; Mahadevia, 2006; Swyngedouw, Moulaert, & Rodrigues, 2002). The subordination of local authorities to electorally unaccountable exogenously instituted agencies, consequently leads to the exclusion of the local citizens from urban planning spheres. While these strengthen the entrepreneurial stance of the cities enhancing their competitive attractiveness for investment and businesses (Asian Development Bank 2011; Chen 2013; Gopalan 2012), they weaken economic and political democracy.

Moreover, as slowly and systematically the local state is sidelined from the processes of decision making and reduced to the role of enabler, partner and client (Chen, 2013) in matters of urban development, the control over the local resource base also moves away from the hands of the local agencies into the hands of the higher state level bodies (SPVs) and allied private capital investors. But by what political authority these external agencies are able to exercise control over the electorally mandated local state authorities remains questionable. As evident, the SPVs have no linkages whatsoever to regional governance mechanisms, and are yet able to override local planning laws and procedures. On balance, the institutionalisation of the SPVs reflects a growing legitimacy in removing urban development from the purview of the local institutions, with the local state institutions projected as hindrances to urban development rather than having a rightful claim to the processes of decision-making pertaining to local planning issues. The platform of the state is itself being used to engineer this cause, whereby a newly crafted state organ in partnership with private actors is promoting the subjugation of other state organs.

Chapter 5

AN INVESTIGATION INTO PROCESSES OF REAL-ESTATE CROSS SUBSIDISATION: DEVELOPMENT OR LAND GRAB?

The previous chapter threw light on the process of restructuring the urban governance sphere through the institutionalisation of large-scale UDPs, particularly the Bangalore MRTS project and the Kochi MRTS project. Focusing on the role of the Special Purpose vehicles (SPVs) - the key implementing agencies for UDPs – the chapter illustrated how the SPVs are restructuring urban governance sphere with the aim of promoting project-centric planning, which in turn can facilitate processes of implementation of large-scale infrastructure corridors that are otherwise mired in multiple bureaucratic bottlenecks. The chapter also highlighted how special state authorities are redefining the ways in which urban resources, particularly land, are being leveraged to generate finances for capital intensive MRTS projects. In the context, this chapter particularly focuses on how the institutionalisation of the SPVs in the urban governance sphere is indicative of the broader processes of changes in practices of urban land management.

As outlined earlier, given the high costs associated with these projects, the project development agencies, the SPVs, rely on land based financing as a cross subsidising mechanism. This creates incentives for private investment through real estate development projects. Under such arrangements land is offered to developers, typically private real estate companies, on public-private partnership basis for developing commercial properties. These commercial ventures, in turn, are expected to generate revenue for the primary project. The opening up of economic activities to private sector investors through unaccountable parallel state regimes renders the process susceptible to practices of favouritism and corruption. In the arena of land markets, the alliances between the state and profit seeking private actors have further led to many cases of land transfers which can be termed as instances of land grabs. While on the surface these cases of land grabs are labeled ‘legal’, in practice there are several illegalities involved in their execution (Zoomers, Noorloos, Otsuki, Steel, & Vestel, 2017). Most notably, there is a general ‘disavowal of existing forms of *local land use* regulation [italics added]’ (Kennedy & Sood, 2016, p. 42).

In the context, in this chapter I delve into the intricacies of land transfers of two real estate projects that are intended to generate revenues for the primary projects, that is the MRTS projects. An exploration of details of land transfer for these two real-estate projects, also bring into focus the myriad local level laws and procedures that govern land use policies within the city spheres of Bangalore and Kochi. I further illustrate how the local level state bodies are impacted by the shifts in authority to the SPVs. As the evidence from the two cities of Bangalore and Kochi exemplifies, the land transfers have not gone uncontested. In fact, at the time of my fieldwork, the two projects faced litigations for land encroachment and for violating local environmental laws. What is interesting to note is that local level authorities themselves did not sanction the land transfers. Rather the land transfers were made in flagrant violation of the local planning laws, without due regard to the local procedures for land acquisition. However, the dissenting voices at the level of local authorities were silenced by overriding mandates issued by higher state authorities. Thus, UDPs are also sites of competing claims between various state and local level authorities over issues of urban land use policies.

To address the issue, this chapter looks at two case studies of real estate development projects, namely Mantri Square Sampige Road Metro Station and Kochi Metro Village each of which were implemented as part of the Bangalore MRTS project and the Kochi MRTS project, respectively. The first case represents an instance of land encroachment or unlawful possession of land by a private developer that was facilitated by involvement of certain state officials. The second case involves the transformation of a protected ecologically sensitive peri-urban zone into an integrated urban development project. Beyond these differences, both projects share underlying commonalities of high-end, consumer oriented constructions, appropriation of public assets for private construction, and a lack of consultation with local level state authorities in project development and planning.

Besides promises of financial incentives of revenue generation that real-estate property development projects bring with them, these high-end property development projects also appeal to the aspirations of urban neo-middle class that seeks ‘promises of respite from the congestion and poor infrastructure that plagues large Indian cities’ (Balakrishnan, 2013). Emphasising the need to upgrade the infrastructure of the city a senior official from the BMRC commented:

‘We should have started this sort of development of our cities in 1980s itself. As always, there are pros and cons of such projects. In Bangalore, we have allowed business houses to expand, but then our infrastructure facilities do not match up [to the growing needs of] such development’.³⁰

The Mantri Square residential-cum-commercial complex along the Bangalore MRTS project was promoted by its developer in a press release as a ‘state of the art’ project with ‘unique landscape features and driveway facilities around the metro station... [where] Bangaloreans can hop on to the metro and hop off at Mantri Square without having to worry about traffic or getting parking space’ (‘Signature’, Mantri Developers, 2013). Similarly, Kochi Metro Village project was floated as an idea of ‘a mix of urban facilities like urban re-creational centres, open parks and water bodies as well as commercial and office-space buildings...which will be an eco-friendly, urban development showpiece for the country’ (N. Sudhakaran Pillai and another v. The Local Level Monitoring Committee and others, 2014). Based on the suggestion of the customer- experience consultant Tata Elxsi, Kochi Metro stations are to have area-specific themes to be ‘aesthetically appealing’ (Paul, 2015). Thus, together the vocabulary of ‘development’ combined with urban ethos of modernisation has become the normative ground for defending these projects.

The rest of the chapter is organised as follows. The first part outlines some of the key institutional actors that are responsible for regulating land use and planning in the cities of Bangalore and Kochi. The remainder of the chapter is mainly concerned with the two case studies, each from Bangalore and Kochi. These case studies demonstrate intra-state contests over land management practices in urban areas.

5.1 Urban Land Management: Mapping the Institutional Actors

Urban land management is a complex terrain. Although the Constitution of India vests provincial level governments with the powers to regulate land use, in practice land is managed by various government agencies at state, district and rural levels (Zhang, 2015; Balakrishnan, 2013; Sundareshan, 2013). Each of these agencies possesses different degrees of power to regulate land.

³⁰ Interview, Bangalore, 18 October 2014.

Moreover, since the economic liberalisation of the 1990s, a significant trend in bureaucratic management practices in India has been of bringing in change through parastatals (Chandrashekhar, 2011). Parastatals are quasi-state, single purpose agencies created by acts

List of key acronyms featuring in this chapter

BBMP	Bruhat Bengaluru Mahanagare Palike
EIA	Environmental Impact Assessment
KCPW, Act	Kerala Conservation of Paddy and Wetlands, Act
KIAD, Act	Karnataka Industrial Areas Development, Act
KIADB	Karnataka Industrial Areas Development Board
KMC, Act	Karnataka Municipal Corporations, Act
LLMC	Local Level Monitoring Committee
SLC	State Level Committee

passed by the state legislature to perform specific functions, and enjoy more financial discretion and lower levels of accountability than general purpose governments like the municipalities (Chandrashekhar, 2011; Balakrishnan, 2013). Consequently, over the years parastatals have come to hold significant powers in regulation of urban land. However, as will be evident from the institutional configurations of the two states of Karnataka and Kerala, the trend has not been uniform across states. Karnataka has been one of the frontrunner states in bringing in legislation to create parastatal agencies (such as the KIADB) to facilitate industrial development within its boundaries. On the contrary, in Kerala land management is still under the control of district level bodies such as the District Collectorate. Beyond these, in case of both the projects land conversion for integrated real estate development projects- depending whether the land falls in the urban zone, sub-urban or urban-rural periphery- requires sanction from local municipal bodies and local *panchayats* (village level committees). While in general the entire urban sphere has many agencies playing different roles in land management, here I will restrict myself to a brief description of the agencies (and their roles) relevant to the context of the two real estate development projects that are the focus of this chapter.

The first real estate project- Mantri Square Sampige Road Metro Station, an integrated residential and commercial complex alongside the station- is located within the city of Bangalore. The land for this project, and for the Bangalore MRTS project in general, is acquired by the Karnataka Industrial Areas Development Board (KIADB), an industrial parastatal constituted under Karnataka Industrial Areas Development Act, 1966 (KIAD Act, 1966). The BMRC being a company is not authorised to acquire land and is, thus, dependent on the KIADB for acquiring land for the project. Based on the requisition submitted by the BMRC, the KIADB initiates the process of acquiring land for the project.³¹ The KIADB functions under the Principal Secretary of Commerce and Industry, who in turn reports to the Chief Secretary of the Government of Karnataka. The land is acquired by the KIADB under the rubric of 'industrial use' with implied connotations of public purpose.³² Apart from the KIADB, the implementation of infrastructure plans in Bangalore is also regulated by the Bruhat Bengaluru Mahanagare Palike (BBMP). The BBMP is the local city council of Bangalore instituted under Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976).

³¹ The actual process of land acquisition for the Bangalore MRTS project is as follows. RITES, an engineering consultancy company employed by the BMRC, identifies land for the project and collects details of the identified lands, such as owners' list, geographical area and survey numbers. After the receipt of these details, the engineers from the technical department of the BMRC visit the sites to identify the property owners, collect documents from the owners and collect records for the land from the state departments. Following this a statement is prepared for the acquisition of land. This includes owners of the property/tenants, survey number of land to be acquired, total extent of the land to be acquired, records of rights, such as those allotted by the BBMP or otherwise rights. The statement along with the documents is sent to Special Land Acquisition Officer (SLO) of KIADB, who then verifies the properties required for the project and the related documents produced by the BMRC and initiates the proceedings to acquire land under Section 28 (1) of the KIAD Act, 1966.

³² For land to be acquired under KIAD Act, 1966 the land has to be declared 'industrial area'. Under the Section 2 of KIAD Act, 1966 the definition of industrial areas has been extended to include 'industrial infrastructural facilities' – which contribute to the development of industries established in industrial area such as research and development, communication, transport, banking, marketing, technology parks and townships for the purpose of establishing trade and tourism centres; and any other facility as the state government may by notification specify to be an industrial infrastructural facility for the purpose of this Act. This definition has been applied to the Bangalore Metro project as it is envisaged that the metro will connect the various industrial hubs of Bangalore and will contribute to the smooth flow of industrial workers, employees, officers and the public in general.

All new developments within the BBMP limits should obtain a building and planning permission from the BBMP (Sundaresan, 2013, p. 151). The BBMP is both a political and an administrative body. However, in practice most of the functions of the BBMP are controlled by the state government. The BBMP council is formed of elected representatives, called ‘corporators’ from each of the wards (localities) of the city. Additionally, the KMC Act, 1976 prescribed designations of Mayor, Commissioner and the various standing committees to carry out functions for the BBMP. The Mayor is elected indirectly from among the councillors (corporators), and only for a tenure of one year. The Commissioner is an appointee of Government of Karnataka and acts as the Chief Executive Officer of the Council. He is the head of all the administrative departments of the BBMP including town planning. In practice, the Mayor is only a nominal head, with all the real powers vested with the Commissioner. Further, as Nath (2015, p. 38) notes in his study of local administrative institutions in Bangalore, ‘the ideal officer to become the BBMP commissioner is one who is efficient, competent and committed. However, none of these traits are taken into consideration in the appointment of the BBMP commissioner. It is the proximity of the officer to the Chief Minister which matters in posting’. Additionally, all other senior administrative officers and additional commissioners of the Corporation are appointed by the state government. In sum, the state government ‘sits above the Corporation as its big brother’ (Sundaresan, 2013, p. 132).³³

³³ For a detailed account on the powers and administrative capacities of the BBMP and for local urban administration in Bangalore in general, see Nath (2015) and Sundaresan (2013).

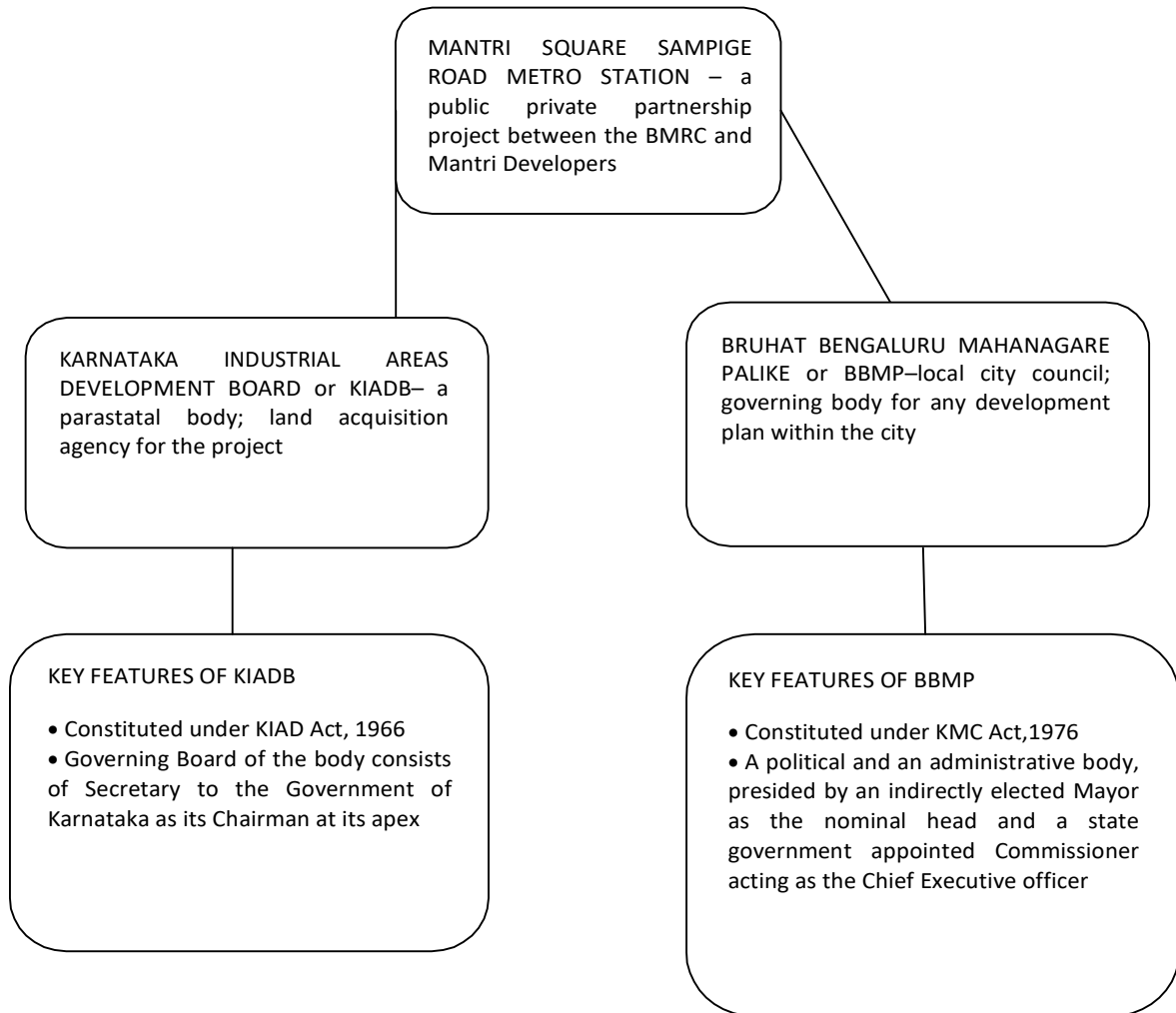


Figure 5.1 State agencies regulating Mantri Square Sampige Road Integrated Development Project (Bangalore)

The second real-estate development project - Kochi Metro Village, a commercial township development project - was to be constructed in the periphery of Kochi. Land for the township was acquired in six villages including Choornikkara, a village part of Greater Cochin Area. At the time of the inception of the Kochi MRTS project, there was no dedicated body for acquiring land for the project. This was unlike Bangalore, which already had a parastatal organisation in form of the KIADB that specialised in the task of acquiring land for private and government units. As a solution to the problem, under special orders issued by the state government Kerala, a team at the office of the District Collectorate of Ernakulam (also Kochi) was constituted under the Revenue Commissioner on an *ad hoc* basis to acquire land for the

project. This team carried out land acquisition only for the Kochi MRTS project. However, as already mentioned, other local agencies are involved in land management within the jurisdictional boundaries of Kochi district. So for instance, the land required for the Kochi Metro village is protected by the Kerala Conservation of Paddy Land and Wetland Act, 2008. Under the Act, land conversion in the area requires approval of a Local Level Monitoring Committee (LLMC), consisting of the President or Chairperson/Mayor of the local Gram Panchayat, the Agricultural Officer/Officers having jurisdiction in the Gram Panchayat, Village Officer/Officers having jurisdiction in the area, and three representatives of farmers in the Panchayat that are to be nominated. The Agricultural Officer is the Convenor of the LLMC. The LLMC has the power to make recommendations for conversion of paddy land for public purpose projects to a State level or District Level Committee. However, the Committee cannot recommend for filling of paddy land of more than ten cents³⁴ in a Panchayat or five cents in a Municipality/Corporation, as the case may be. On the basis of recommendations made by the LLMC, the State Level Committee (SLC) has to submit a report that no alternative land is available and such conversion or reclamation shall not adversely affect the cultivation of paddy in the adjoining paddy land on ecological conditions in the area. The SLC consists of an Agricultural Production Commissioner, the Commissioner of Land Revenue, and experts in the field of environment and paddy cultivation. However, Section 10 of the same Act empowers the Government of Kerala to grant exemption from the provisions of this Act if the state government deems that the reclamation of conversion of land is essential for public purpose.

³⁴ Cent is a unit of measurement for area used in southern Indian states such as Kerala and Tamil Nadu. One cent is equal to an area of 1/100 of an acre, or approximately 435.5 square feet.

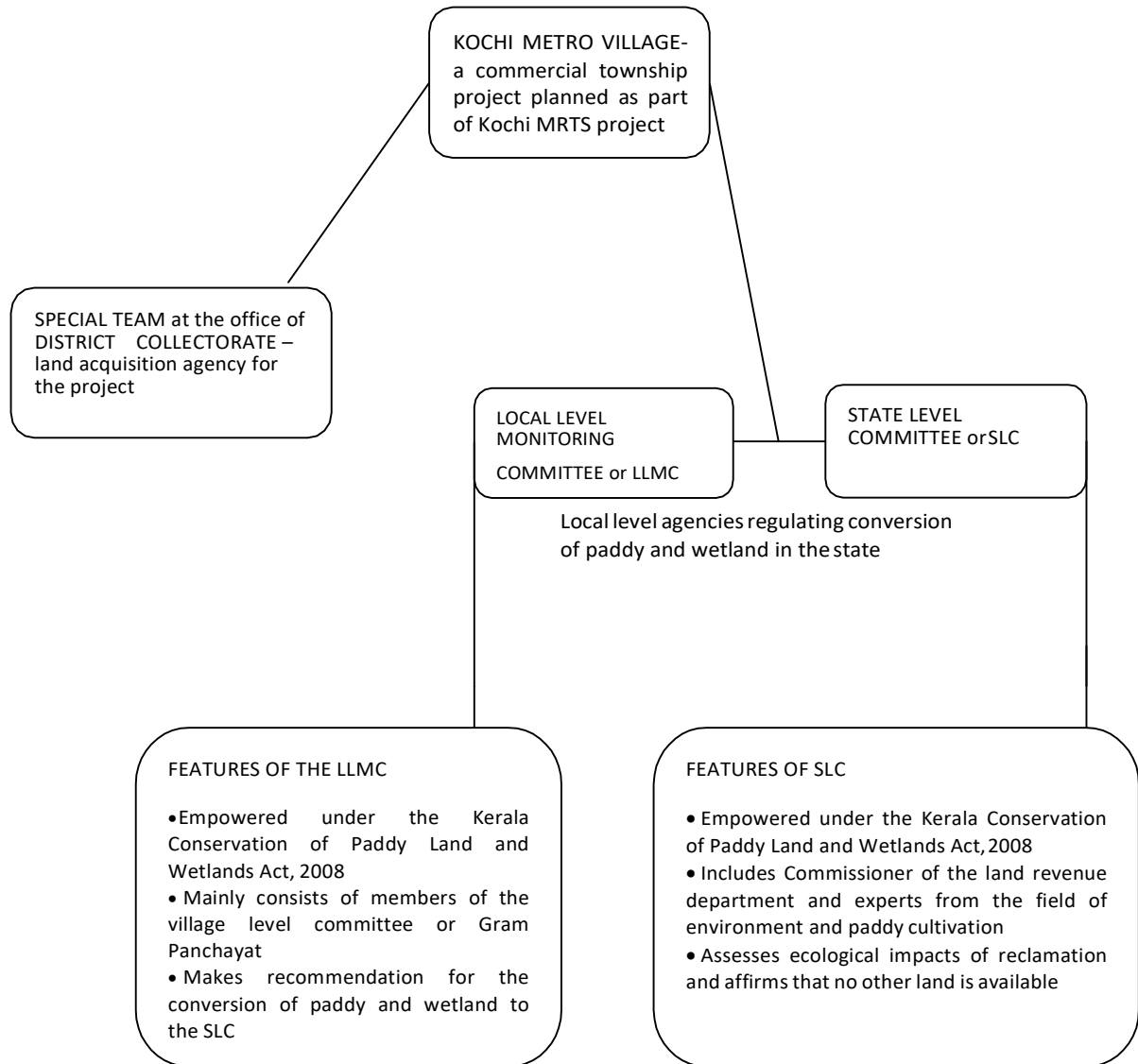


Figure 5.2 State agencies regulating Kochi Metro Village Project

On the whole, although the local level bodies do possess powers to regulate land use within their jurisdiction, the state governments can override these decisions. In practice, the state governments have used (and misused) their powers to bypass local laws to ensure speedy delivery of commercial projects, and at times to favour certain specific interest groups. As I suggested previously, this has given rise to a trend of exceptionality measures in

implementation of the two UDPs. These exceptionality measures include measures such as freezing of conventional planning tools and bypassing statutory regulations and institutional bodies in ways that set aside both local authorities and constituencies (Swyngedouw, Moulart, & Rodriguez, 2002).

5.2 Case Studies

5.2.1 Mantri Square Sampige Metro Station: A question of land encroachment³⁵

In 2009, the BMRC entered into a public-private partnership agreement with Mantri Developers,³⁸ a private real estate company in Bangalore, for construction of a metro station and development of an integrated residential and commercial complex alongside the station. The project in its entirety consists of a 32-storeyed residential complex and 27-storeyed commercial complex alongside the Sampige Metro Station, and was to be constructed on a stretch of land measuring 5.03 acres. Through this agreement, Mantri Developers agreed to construct a metro station at their own cost, and were entitled to put in other constructions on terms and conditions agreed with the BMRC. The partnership was described as a ‘win-win’ deal by the BMRC officials for both the parties, that is, Mantri Developers and the BMRC (“Mantri Metro Station: A win- win proposition”, 2016). The agreement saved the BMRC the capital expenditure that it would have otherwise incurred by constructing the metro station on its own. For Mantri Developers, the deal meant a lease of ninety-nine years over prime land in the city at a nominal price. Moreover, the metro connectivity to the commercial complex meant a rise in customers for the private developers.

However, even before the project could take off, it got mired in multiple controversies. There were allegations against Mantri Developers that they had encroached a piece of state owned land, and had obtained a lease for building a real estate project over the same piece of land through counterfeit means. The BMRC was accused of practicing favouritism in allocation of

³⁵ The details of the case were gathered through a combination of interviews (with lawyers, petitioners, local MLA and journalists), and through documentary sources. A copy of one of the writ petition concerning the case, and a copy of the public-private partnership agreement between BMRC and Mantri Developers were provided to me by a petitioner in the case. The judgment order for the case pertaining to land encroachment is available on the internet. The other writ petition regarding the case was obtained through a third party application in the High Court of Karnataka. Additionally, I have referred to newspaper reports on the matter.

the PPP deal for the real estate project. As of March 2015, the project faced two litigations: one by the BBMP and another by an ensemble of non-government organisations engaged in raising awareness of and protecting the rights of citizens as regards public infrastructure, urban planning and other civic issues pertaining to the city of Bangalore. The first case against the Developers was dismissed by the Court. However, the issues raised in the first litigation were taken up again in the second case along with additional charges against the project. When I ended my fieldwork, the writ petition pertaining to the case was still pending in the High Court of Karnataka. The issues raised in the case petition included illegality in land transfer for the project, the scope of the BMRC's authority, and even accusations of corruption in the execution of the PPP deal between the Mantri Developers and the BMRC.

In October 2007, the KIADB published a notification to acquire 5.04 acres of land from Mantri Developers for the construction of the Bangalore MRTS project. Mantri Developers had earlier acquired this land in an auction by National Textile Corporation in 2004. Following acquisition of land by the KIADB, Mantri Developers in October 2008 submitted a proposal to the BMRC for construction of an integrated commercial-cum-residential complex and a metro station on a public-private partnership basis. The integrated project was proposed on the same land which the KIADB had acquired from Mantri Developers. The proposal was ratified by the BMRC in March 2009. This land was now a government property as it had been notified for acquisition by the KIADB. Therefore, to construct a project on the land required the BMRC and Mantri Developers to obtain sanction for the plan from the BBMP. However, as the parties approached the BBMP, the BBMP withheld the sanction to the plan. A local corporator, Ashwath Narayan, and other BBMP council members also criticised the project ("Brouhaha over Mantri TDR in BBMP Council", 2012). The events that unfolded subsequently brought both Mantri Developers and the BMRC under legal scrutiny for alleged encroachment of land.

The withholding of sanction to the Mantri Square Sampige Road Metro Station by the BBMP brought to the fore the fact that the land on which the construction of the integrated development was proposed was a disputed property and a case regarding the same was pending before the High Court of Karnataka. The case involved both the BBMP and Mantri Developers. Therefore, the BBMP contested, in a scenario where the ownership of the land was itself under dispute, it could not sanction the plan. The BBMP alleged that the piece of

land that the KIADB had acquired from Mantri Developers never actually belonged to Mantri Developers. According to the BBMP, it was government owned land that Mantri developers had encroached. Thus, Mantri Developers had illegally possessed a piece of state owned land. According to BBMP, at least, Mantri Developers had encroached at least 2 acres 11.5 guntas of land out of the total 5.04 acres of the land that the KIADB had acquired from Mantri Developers. This land had actually belonged to the Railway department, the BBMP and the state government. When the Developers were issued notification of acquisition for this land (the encroached land) by the KIADB they showed the land to be theirs through counterfeit means. This in implication means Mantri Developers had handed over to the state authority (the KIADB), a state owned land, without having any authority to do so and by illegal means. That is to say, one body of the state (KIADB) acquired the land owned by other state bodies (the railways, the BBMP and the state government), under the impression that the piece of land was actually owned by a private developer.

The second issue in the case pertained to the authority of the BMRC to transfer state land to a private developer. The land under question was acquired by the KIADB from Mantri Developers as part of the land acquisition proceedings for the Bangalore MRTS Project. Once land has been acquired by KIADB it vests with the state government, and as per Section 28 of the KIADB Act, 1966, once land has been acquired by the KIADB, the land may not be re-conveyed to its erstwhile owners. Moreover, the BMRC has no authority to transfer any state land to other party. The land acquisition agency is the KIADB, so any acquisition or allotment of land, if at all, can only be done by a state authorised body, that is the KIADB, and not the BMRC, which functions as a company. Furthermore, only the activities for which land has been acquired may be carried out on it. Therefore, as the acquisition of the land was only for the purposes of construction of a metro station, the petitioners contested that the construction of residential and commercial complexes will be *ultra vires* the acquisition and therefore liable to be struck down (Writ Petition 2014).

This is not the first time that land acquired by the KIADB only for 'industrial use' purpose has been reallocated for the benefit of commercial interests. Given that multiple agencies are involved in regulating land use, land acquired by one state agency is frequently re-conveyed away from its original use by a different planning agency, very often with the collusion of

government officers (for a similar account of land reallocation, away from its intended use, see Chairman's Report, 2011). Hence, land utilised for a commercial project may have initially been acquired for building an industrial or infrastructural project.

Moving the focus back to the case, following the above outlined allegations, in 2011 the BBMP commissioned a joint committee, consisting of Deputy Commissioner (Estate), Deputy Commissioner (Land Acquisition) and Deputy Commissioner (Health) to investigate the matter. Mantri Developers were served a 'show cause'³⁶ notice in the matter. Mantri Developers replied to the 'show cause' notice stating that since the aggrieved parties (that is the survey department, railways and the state government) had not raised any issue regarding the encroached land, so the BBMP had no authority to initiate proceedings in the matter. Simultaneously, a writ petition (dated 2012) was filed between Mantri Developers and the BBMP in the High Court of Karnataka. In this judicial contest between the two parties, the court held that under the Land Revenue Act of the State of Karnataka the duty to carry any investigation or enquiry in the matter falls to the Commissioner for survey and settlement. Hence, when a statutory authority was already empowered to discharge its duties in the matter, the BBMP had no jurisdiction to conduct a joint survey of the properties under question. The court in its judgement dated 26th June 2014, subsequently, ordered a stay on the BBMP report. The action of the BBMP was described as 'arbitrary, illegal and a colourable exercise of power' by the court (M/S Hamara Shelters Private Limited v. The Commissioners & Ors, 2014).

Moreover, the claims of the BBMP against Mantri Developers were not supported by other state organisations. A lawyer who had been involved in the case between the BBMP and Mantri Developers described the situation in the following way:

‘What happened in the court was that when we raised the issue of encroachment of the land by Mantri Developers, the state government (to whom the land belongs) stated they were not

³⁶ A show cause order is a notice to an individual or corporation to appear before the issuing state authority and provide reasons for why the state authority should not perform a particular action and mandate the party to meet the *prima facie* case set forth in the complaint or affidavit.

aggrieved by the action. With the government not laying claim on the property, our case just fell through.’³⁷

The BBMP faced another humiliation when the Chief Managing Director of Mantri Developers, who was also the President of the Confederation of Real Estate Developers of India (CREDAI), Bangalore, at that time, along with other members of CREDAI released a press statement on behalf CREDAI alleging that the BBMP was causing harassment to the real estate developers (Khan, 2011). In 2012, the BBMP was directed by Secretary of the Urban Development Department to accord sanction to the proposed Mantri Square Sampige Road Metro Station Plan. Subsequently, in 2013 the BBMP approved the plan.

Ultimately the BBMP had to succumb to the pressures of the higher state authorities to grant sanction to the plan. It also seems that the matter has been hushed up in the official circles. In January 2015, when I approached the BBMP Commissioner with regard to this matter, the response to any question raised about this case was either ‘no objection was raised [that is against the construction of the project]’ or ‘don’t know’.³⁸ Commenting on the incident a local activist noted:

‘Now nobody is going to talk about the matter. Based on my previous experiences with Bangalore Development Authority [a planning agency in Bangalore], this is not the first time that a big developer has been caught in cases land theft;³⁹ and usually these builders (developers) manage to turn things around for themselves. Once the constructions are up, carrying out demolitions is not easy. Court cases go on for years.’⁴⁰

³⁷ Interview, Bangalore, 05 January 2015.

³⁸ I met the official once (13 January 2015) but could not complete the conversation that day, so he asked me to submit the remaining queries in writing to his assistant. I later (after about a week) collected the response sheet from the assistant.

³⁹ See, Chandrashekar, 2016; Manjusainath, 2015; Patel, 2016.

⁴⁰ Interview, Bangalore, 28 January 2015.

Table 5.1 Timeline of events for Mantri Square Sampige Metro Station case

YEAR	ACTION	REMARKS
2007	The KIADB acquires land from Mantri Developers for the construction of the Bangalore MRTS project	This land is a disputed property; allegedly a state owned land encroached by Mantri Developers
2008	Mantri Developers submit a proposal for developing an integrated real estate on the land acquired by the KIADB	This ‘disputed’ land is now a state owned land to be utilised for the construction of the MRTS project only
2009	The proposal is ratified and the BMRC enters a PPP agreement with Mantri Developers for construction of the integrated UDP Both Mantri Developers and the BMRC approach the BBMP for gaining approval for the integrated UDP	The BMRC does not have the authority to transfer a state acquired (KIADB) land to a third (private) party. PPP was executed in an unlawful manner and disproportionately favoured Mantri Developers BBMP withholds the sanction to the plan
2011	BBMP commissions an enquiry into the project; issues a show cause notice to Mantri Developers	Local councillors also criticize the project
2012	A writ petition filed in the High Court of Karnataka between the BBMP and Mantri Developers	Secretary of the Urban Development Department directs the BBMP to accord sanction to integrated UDP
2013	The BBMP approves the plan	-

2014	The High Court of Karnataka dismisses the case against Mantri Developers	A fresh writ petition was filed in concern with the same case and was pending in the court when I ended my fieldwork
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PPP: An Unfair Deal?

A parallel accusation made against the project was with respect to the public-private partnership deal between the BMRC and Mantri Developers. It was alleged that the partnership agreement between the BMRC and Mantri Developers was executed in an unlawful manner. Allegedly, the tendering process for the purpose of construction of the Sampige Square Metro Station was marred with illegalities. As per the case filed by the local NGOs (Bengaluru Residents Associations Confederation Ensemble and Citizens Action Forum) in the area, the BMRC had allocated the project to Mantri Developers even before calling for bids for the project. To look at the facts of the case, the tenders were called for the project in October 2009. However, the Board of the BMRC had approved the PPP agreement between the BMRC and Mantri developers as early as March 2009; that is, the project was approved even before the tenders were called. Moreover, the approved tenders that were called by the BMRC in October 2009 did not include the name of Mantri Developers. In March 2010, the tendering process was cancelled by the BMRC without any stated reason. Thus, by withholding the facts from the public domain, the BMRC favoured one specific private entity over others.

A second issue that was raised with respect to the deal in the same case petition was regarding the limited benefits that the deal would accrue to the BMRC. It was contended by the petitioners that the deal generously favoured Mantri Developers. In return for the permission to develop a commercial and residential complex in the vicinity of the metro station, Mantri Developers were only obliged to share revenue earnings from the proposed commercial towers with the BMRC. Moreover, this value was to be realised over a period of ninety-nine

years, and amounted to not more than rupees 1500 per day (approximately USD 24).⁴¹ As per an independent valuation report, Mantri Developers will earn sales revenue of rupees 689.3 crore (approximately USD 108 million) and will incur a cost of rupees 184 crore (approximately USD 29 million). Hence, the total benefit to the Mantri Group will be of rupees 505 crore (approximately USD 79 million) only in respect of the Residential Complex being constructed (Writ Petition 2014). In addition to the profit gained from the direct sale of properties within the premises, Mantri Developers were entitled to derive income therefrom in the form of license fees, rentals and other user charges, royalties etc. and to utilise the FAR/TDR available within the larger property for the concession period (Development of Swastik Station on PPP basis, Concession Agreement). The concession period in this case was of ninety-nine years. In sum, Mantri Developers' earnings from the project far exceeded the value of the land that they had surrendered, which anyway they had illegally possessed. Responding to the partnership between the BMRC and Mantri Developers, V Ravichandar an urban expert from Bangalore explained:⁴²

‘The ability of the government to structure and monitor these [public-private] partnerships is quite weak in general. Consequently, interest of the citizens is put at stake. What happened in this case? Prime land was given away for pittance and the private players further secured development rights worth several crores; [a significant loss to the state exchequer]’.⁴³

Thus, the PPP agreement between the BMRC and Mantri Developers is a clear example of the backdoor nature of deals between state authorities and private commercial interests that occur as part of large scale development projects.

5.2.2 Kochi Metro Village: Easing land conversion rules for facilitating sub-urban development⁴⁴

⁴¹ All currency conversions in this dissertation are as per exchange rate applicable on 03 August 2017.

⁴² V Ravichandar is currently the Chairman&MD of Feedback Consulting. For details see, <https://feedbackconsulting.com/team/ravichandar/>

⁴³ Interview, Bangalore, 16 December 2014.

⁴⁴ The details outlined in the section are based on information gathered both from interviews and documentary sources. There are four key persons who provided me with most of the information pertaining to the case. The first is a lawyer involved with case. He also gave me the writ petition of the case for further reference and

As part of the Kochi MRTS project, the KMRL commissioned the establishment of a Metro Rail yard for repair and maintenance of the carriages, engines and coaches of the Metro Rail trains. The project was proposed on a stretch of land that was part of an ecologically sensitive zone and any construction activity in the area was governed by local planning laws as well as and also required sanction of the local village council. For the purpose of building the Metro Rail yard a total of about twenty-eight hectares or sixty-nine acres of land was acquired across six villages including Choornikkara. This plan was later modified to further include a ‘Metro Village’, a commercial venture to be executed as part of the Kochi MRTS project. Kochi Metro Village consists of a mix of urban facilities like urban recreational centres, open parks and water bodies as well as commercial and office space buildings, which were intended to bring revenue to the KMRL and the state government. Subsequently, the extent of the land required for the implementation of the entire plan, which included both Metro Rail yard and Kochi Metro Village, increased to about thousand acres of land.

The proposed plan of the KMRL implied large scale conversion of paddy lands and wet lands in the area that would have caused grave damage to the environment and water resources in the area. As mentioned earlier, the paddy land and wetland in the state are protected by the Kerala Conservation of Paddy Land and Wetland Act, 2008, whereby the state government has explicitly taken cognisance of the fact that ‘it is expedient, in public interest, to provide for the conservation of paddy land and wetland and to restrict the conversion or reclamation thereof, in order to promote agricultural growth, to ensure food security and to sustain the ecological system in the State of Kerala’ (Kerala Conservation of Paddy Land and Wetland Act and Rules, 2011). Allegedly, the project was in contravention of this particular law and was implemented without the approval of the local area committees responsible for the protection of paddy and wetlands in the area. Consequently, the project came under scrutiny for causing damage to the local ecology, and for violating local planning laws by intruding in the jurisdiction of the local area bodies.

clarification. The second person is a journalist covering matters related to environmental issues in and around Kochi. Lastly, a local activist and a university student (who was looking at environmental issues in the city) provided other information on the case.

For these reasons, as of May 2015 (during my fieldwork), the project was caught in litigation between the KMRL and members of the local village committee. The project also saw resistance from a section of the local population. A ‘dharna’ or a protest was also staged against the project on the World Environment Day. This was led by local youth Congress leader. However, the youth leader admitted in his interview, he ‘did not intervene on behalf of his party, but only as a ‘concerned citizen’.⁴⁵ No political party of the state has directly intervened against the project. A local activist explained,

‘[W]e made sure no political banner was attached to the agitation. What happens otherwise is that officials approach the political bosses and offer them some contract, and that is how the protests are killed. So we decided not to fall for these tactics. Some people from the Left party came for two days, but they just disappeared after that. I don’t know [the reason]...may be were not interested in the issue!’⁴⁶

However, despite the resistance against the project, as of May 2015, over 300 acres of land had already been filled and converted fully or partly (N. Sudhakaran Pillai and another v. The Local Level Monitoring Committee and others, 2014). As will be evident from the following account, the objections raised by the local level bodies were overruled by the state government.

In December 2012, the Choornikkara Gram Panchayat passed a unanimous resolution protesting the proposal to convert the paddy fields in the name of the Metro Rail yard. The LLMC (of Choornikkara Gram Panchayat) along with the Village Officer and the Agricultural Officer rejected the application submitted by the KMRL on the grounds that the conversion of low lying areas by raising the land level 15-20 feet (as was being done in the case of Metro Village) would cause a loss of the sources that store and replenish ground water. They stated that it would also cause uncontrolled flooding and untold misery to the people in the Monsoon season, as traditional canals were being filled up indiscriminately, without any regard for the effect it will have on the natural drainage of water in the entire Panchayat. In addition, the

⁴⁵ Interview, Kochi, 18 April 2015.

⁴⁶ Interview, Kochi, 24 April 2015.

members of the Panchayat filed a representation with the District Collector pointing out the inevitable and drastic harmful effects of filling up paddy lands in the name of the Metro Village (N. Sudhakaran Pillai and another v. The Local Level Monitoring Committee and others, 2014). The members of the Panchayat further alleged that the Metro Village project was ‘being implemented in extreme haste, without studying the environmental impact’ of the project ‘to promote the interest of the real estate developers and the land mafia and their allied political leaders on either sides of the political spectrum who are only interested in pushing up the land prices and to indiscriminately convert the paddy lands and wetlands in Greater Cochin Area’ (ibid).

While the LLMC had not granted permission for the conversion of wetlands and paddy lands in the area and also the decision of the State Level Committee (SLC) on the matter remained pending, the Agricultural Production Officer issued a government order⁴⁷ allowing for the conversion of the wet lands and paddy land in the area. The Agricultural Production Commissioner under Section 10 of the Kerala Conservation of Paddy and Wetland Act, 2008 exempted the project from the act, classifying the project as a ‘public purpose’ project. The LLMC argued the decision of the Agricultural Production Officer was ‘arbitrarily and unilaterally’ passed (ibid). They stated that the Agricultural Production Commissioner was only the convener of the SLC and a nominated member of the SLC. Hence, the issuing of orders by him on behalf of the government, at the junction where the decision of the SLC was pending, was illegal and *ultra vires*.

Furthermore, the order by the Agricultural Production Commissioner was issued without conducting any public hearing in the matter involving the local people. With reference to the public purpose nature of the project, the members of the *panchayat* contended that only the land required for the Metro Rail Yard should be considered under the ‘public purpose’ clause. The Metro Village was a purely commercial venture of the KMRL and hence, to reclaim large acres of paddy fields for the same cannot be termed as ‘public purpose’. Additionally, neither the government nor the SLC nor the Agricultural Production Commissioner had made any

⁴⁷ A government order is a statutory legal order binding upon all the actors (public and private) within its jurisdiction (Sundaresan, 2013).

inquiry as to whether any other alternate land was available for the project, which is in contravention of the KCPW Act that requires the state agencies to carry out such an exercise. It was alleged that the KMRL had made a false submission that no other suitable land was available for the project and that there will be no adverse impact on ecology or nature. The aggrieved parties alleged that the government had suppressed the fact that about 132 acres of dry land in Thrikkakara North Village was available with the government by the side of the National Highway.

The KMRL not only got the approval to convert the land without the sanction of the local committee, but also obtained the permission for a change of the agencies that were to conduct environmental impact assessment (EIA) for the project. Earlier the decision on the feasibility of the project was to be taken by the SLC, based on the EIA study for the project jointly conducted by the Centre for Earth Science Studies (CESS) and the Kerala State Bio Diversity Board. However, the KMRL obtained the permission to have an EIA study from a non-governmental agent, and subsequently, entrusted the task to M/s. SenesIndiaPvt. Ltd. (NOIDA, Uttar Pradesh). The KMRL defended its stance against allegations of environmental violations by stating that the EIA study is not required for a metro rail project. Hence, the KMRL was not mandatorily obliged to carry out EIA for the project under consideration. However, as per the condition forwarded by the external funding agency the funding for the project was contingent upon its environmental suitability, and hence, the KMRL had decided to conduct an EIA study for the project. Despite these justifications, it remains ambiguous as to how the Metro Village, as an ancillary commercial project of the KMRL, remains exempted from the EIA study. The KMRL further justified the project by stating that the project would be executed in an 'eco- accommodating way',⁴⁸ 'with more than adequate facilities for holistic water management, provision of water bodies and biological mitigation measures to neutralise and even improve the impact on the environment' (Counter Affidavit Filed by Kochi Metro Rail Limited, 2014). Notwithstanding the claims of the KMRL, a local journalist termed this 'a farcical exercise' carried out 'only to fill policy documents'.⁴⁹ She argued:

⁴⁸ KMRL charms greens for town venture. (2016, January 15). Kochi Metro, An Informational Website, <http://www.kochimetrorail.info/kmrl-charms-greens-for-town-venture>.

⁴⁹ Interview, Kochi, 05 April 2015.

‘The administrators don’t really care. They are trying to develop Kochi into a commercial hub, and they see this [Kochi Metro Village] as ‘development’. Environmental impacts are to be taken into consideration before you start the project. But what is happening here? They are doing the environmental impact study after they began the project. What is the point of such a study if you have already decided to go ahead with the project?’⁵⁰

The High Court of Kerala in its judgement dated 26th June, 2014 dismissed the plea of the local level bodies on the grounds that the court cannot interfere in ‘technical matters’ where expert agencies like the DMRC are involved. They, therefore, upheld the selection of the site for the construction of the Metro Village (N. Sudhakaran Pillai and another vs. The Local Level Monitoring Committee and others, 2014). Further, the court held that the project was in the larger ‘public interest’, important for economic growth and development of the infrastructural facility within the state and must be supported over private apprehensions (ibid) (The decisions and role of the courts will be discussed further in Chapter 7) . However, as told to me by a lawyer involved in the case, as of May 2016 this judgement of the High Court of Kerala is subject to appeal to the Division Bench of the court. The Division Bench of the court (again as of May 2016) has put a stay on the construction of the Kochi Metro Village while the work on the Metro Rail yard continues.⁵¹

⁵⁰ Interview, Kochi, 05 April 2015.

⁵¹ Telephonic interview with the lawyer in the case, 06 May 2016.

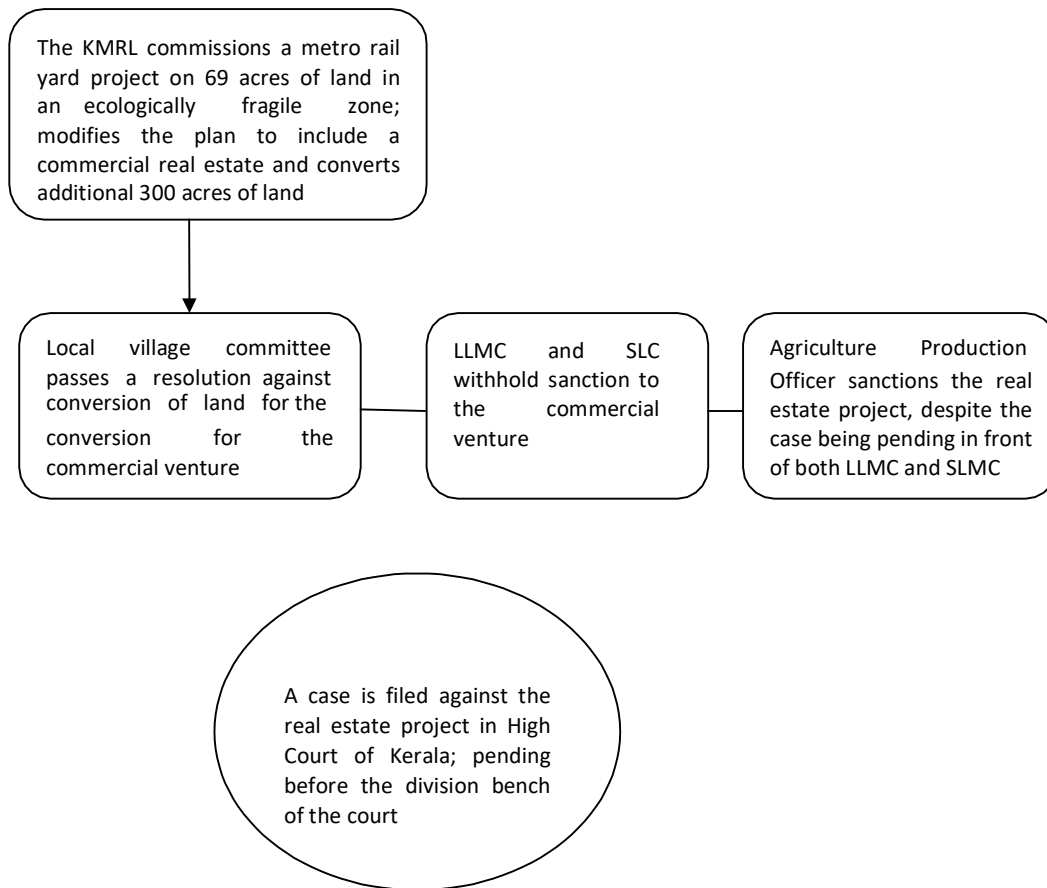


Figure 5.3 A diagrammatic representation of events for Kochi Metro village case

5.3 Conclusion

Despite differences in the nature of land transfers in the two projects, the account in this chapter has clearly demonstrated the opaque nature of state proceedings through which land acquisition and land use conversion for the projects occurred. In both the cases the objections raised by the local level authorities were negated by orders or acts of other higher state level authorities at the behest of the respective SPVs. To recall the cases again, in case of the real estate project in Bangalore, one major reason why the BBMP's case fell through was because the state government whose land had been encroached did not admit to being aggrieved by the action of encroachment. Similarly, in the case of Kochi while the LLMC and SLC had

withheld their consent the project, the Agriculture Production Commissioner issued a government order contradicting the decision of the other two bodies. Such extraneous actions by state bodies that are both contradictory to local conventions of land management as well as *ad hoc* in nature were prompted at the state government level.

These cases of land grabs also denote spaces of complex interactions between the SPVs, state governments and urban local state bodies that result in shifting of regulatory scales in urban land management practices. The chapter shows how vast tracts of land in cities of Bangalore and Kochi are converted into commercially viable real-estate projects through the singular agency of the SPVs and in collusion with state level political and administrative agencies, but without actually gaining sanctions of the multiple local urban level planning and regulatory agencies that ideally should have the claim over the land conversion processes in the urban spheres of Bangalore and Kochi. In fact, through the empirical case studies outlined in this chapter, what we see is that urban local state authorities, which are in principle empowered to regulate land use in urban and peri-urban areas, are constantly bypassed through collusions between the actors of state government and the SPVs. The visible manifestation of these collusive alliances are tools of ‘exceptionality’ (Swyngedouw, Moulart, & Rodriguez, 2002) or extraneous state government level interventions made on *ad hoc* basis to bypass local political and administrative procedures to facilitate land transfers for the integrated real estate development projects.

Furthermore, such extraneous measures taken by the state governments at the behest of the SPVs to expedite commercial development involving private entities are indicative of rescaling up of authority to metropolitan level structures as the SPVs, and at the same time they signify the weakening of democratic governance structures within cities and the subversion of urban planning by profit seeking private interest groups. Lastly, the *ad hoc* nature of measures to modify land use and conversion procedures to expedite real-estate projects also suggests that changes in the urban governance of land management is through means of institutional layering, that is change in urban land management practices is initiated through new rules and institutions alongside the old ones but without actually changing the old rules (Mahoney & Thelen, 2010). This brings back to my earlier stated point that the SPVs usher in a project-centric planning approach, wherein piecemeal changes are introduced to cater to specific projects rather than through comprehensive city planning processes.

Chapter 6

LAND CONFLICTS, SUB NATIONALISM, AND THE POLITICS OF PARTICIPATORY DEVELOPMENT

6.1 Introduction: Urban Political Economy of Land Conflicts

As in Chapter 5, this chapter also looks at instances of land expropriation by the state. However, unlike the previous chapter that dealt with intra-state conflicts or conflicts arising out of competing claims made to land by different state agencies, the cases of land acquisition discussed in this chapter depict instances of land acquisition that have occurred through forceful evictions of populations, and thus, this chapter delves into the domain of state-society negotiations. The chapter examines two case studies of land conflicts with the intention to explore the state level strategies of dealing with resistance to land acquisition in Bangalore and Kochi. As I do this, I put forward two arguments. First, that state strategies and responses to resistance to land acquisition are influenced by state-specific political economic factors, that is, land conflicts are inherently local in nature. Second, the multi-scalar governance framework within which these projects are located is redefining the contours of urban politics, with consequent restructuring of state-society interactions in cases of land conflicts. I further illustrate that the outcome of confluence of these two factors - which shape the urban political landscape within which the land conflicts for the two projects are negotiated - is that despite variations in state-specific political economic factors, the resistance to land acquisition in either of the states fail to impact or alter the outcomes of land acquisition processes for the two projects.

To elaborate further, our case studies of Karnataka and Kerala illustrate that the historical political economic trajectories of the two states are crucial in influencing the approach of state elites to investment policies, land acquisition, and any acts of resistance that these policies may engender. True to its tradition of accommodative politics (Raghavan & Manor, 2009), the state political leaders of Karnataka irrespective of their party affiliations have refrained from indulging in any major confrontation over the policy decisions concerning the MRTS project. They have also stayed away from active intervention on behalf of any group resisting land acquisition for the project. In the absence of political interference, negotiations over land acquisition have largely occurred between the officials of bureaucracy and the local groups involved in resistance.

In contrast to Karnataka, in Kerala the two major political coalitions of the state have had differences over the manner of implementation of the project since the very inception of the project (as discussed in Chapter 4). The issue of contention was whether the project should be implemented by a private company or a public company. Such contestations are symptomatic of the longstanding history of competitive politics between the two main political coalitions in Kerala, the LDF and the UDF. However, beyond macro-level dissensions over the model of project implementation, the MRTS project *per se* has not witnessed any opposition from the two state-level political coalitions. This has also had implications for the conflicts over land acquisition processes in the state. In a scenario where state level political coalitions (the LDF and the UDF) support the project, it is unlikely that they will support any agitation against the project or against land acquisition for the project. However, beyond the stance taken by the two main state level political coalitions, the Bharatiya Janata Party (BJP) - an opposition party with a feeble presence in state politics of Kerala has allied with those agitating against land acquisition to strengthen its own political base in the state. The land conflict in Kochi is, thus, enmeshed in political competition amongst the three political contenders. In this triangulation, the LDF and the UDF can be located on the same side, with minor differences over the project implementation process. The local wings of the BJP, on the other hand, occupied the thin end of the wedge, and threatened to disrupt land acquisition for the project. Unlike Karnataka, in this case, the bureaucracy is not insulated from political influence. In fact, the conflict over land acquisition in Kochi and its resolution has seen involvement of state political parties, with the state bureaucrats acquiescing to the demands of political parties depending on whether they form part of the ruling or opposition coalition. It is the ruling coalition (at the time of my fieldwork it was the UDF) that wields the most influence over the state machinery or administration. The negotiation process over land acquisition in Kochi, thus, reflects the triangular influence of political calculations made by state political leaders, discretionary interventions made by the bureaucracy, and the claims made by those resisting the acquisition.

On the whole, the differences in the political landscape of the two states influence the ways in which local populations strategise their resistance against instances of land acquisition, and the consequent response of the state agencies to these acts of resistance. However, based on my fieldwork observation, I show in this chapter that despite these differences, the ultimate outcome with respect to land acquisition proceedings for the two projects remains the same

across both the states. To this end, I argue that beyond the socio-political cultures of the two states and their implications for land acquisition and negotiation process, the acquisition process is also influenced by external agencies (multilateral donor agencies) that have stakes in the project and the project implementing authorities (the SPVs). In acquiring land for the projects, the local authorities are constantly responding to the demands made on them by external government and non-government actors.

This brings me to my second argument. The ongoing urban transitions have entailed significant restructuring of power relations at the urban governance level, with new institutions defining the rules of the game. The external donor agencies involved in the project have mandated participatory practices embodied in notions of public consultations/hearings that must be carried out as part of the project implementation process. Also as mentioned earlier, the state elites in both states are faced with the constant pressure of the financial burden associated with the projects and hence, push for timely execution of the projects as any delay implies cost escalation. This in practice entails that any hindrance to the projects, including resistance to land acquisition, is dealt with utmost severity, with state authorities even resorting to forceful evictions.

The practices of participation are crucial in meeting requirements set by the multi-stakeholder arrangements (particularly the multilateral donor agencies). In this scheme of participation, when it comes to involving local groups or affected communities, the precedence is given to 'civil society', while 'political society' is rendered invisible (Ghertner, 2011; Harriss, 2007; Shatkin, 2014; Chatterjee, 2004). Civil society embodies the notion of forms of citizenship articulated through non-government organisations, resident welfare associations etc., mainly of the middle or upper middle class citizen groups. Political society is the mass of poor citizenry that accesses the state through informal political networks (Chatterjee, 2008). For instance, ADB in its report, one of the key donor agencies for the Bangalore MRTS project, enunciates that the crux of participation is to ensure involvement of the key stakeholders of the project, these are mainly: the government, private sector and the civil society (Asian Development Bank, 2012). Simultaneously, by entrenching the idea of participatory development practices through notions of formal public consultative meetings, there is a systematic effort to move away from informal spaces of interaction and instead bring in to place a system of state controlled spaces of negotiation. Cornwall (2009, p. 2) describes these

‘invited spaces’ as transient in character or rather policy moments where public space is opened up for deliberation or communication, before being closed again as authorities return to business as usual.

In the larger scheme of things, at the heart of the idea of participatory development employed by donor agencies is the containment of informal spaces of interaction where the poor can more assertively make their claim on the state or what Benjamin (2000) has described as ‘local economies’. These local informal networks amongst lower level bureaucracies are essential to ensure representation of marginalised groups in the urban political economy. Further, they are also an important means of resisting ‘corporate economies’ (Benjamin, 2000) which are dominated by alliances between big businesses and higher level state agencies. Against these two intersecting themes, of state level political economy factors and new institutional regulations defining contours of urban politics, one of my concerns in this chapter is to understand how the implementation of UDPs impacts the spaces of resistance used by the poor to challenge land use changes in urban areas.

I illustrate that these kinds of UDPs threaten to undermine spaces of resistance available to the poor and consequently their claims on urban resources. Throughout the process of implementation of these UDPs there is a constant attempt to curtail local political practices. This occurs through both formal institutional mechanisms and informal tactics of subverting local politics. Formal institutional mechanisms primarily involve the use of legal resources and negotiation through the state administered spaces of interaction, embodied in notions of ‘public consultations’ where the thrust is on a ‘top-down mode of incorporation rather than bottom-up integration of people into politics’ (Stokee, 2014, p. 265). The informal tactics may include use of intermediaries, coercion, and negotiations that occur outside state administered spheres (Jenkins, Kennedy, & Mukhopadhyay, 2014; Sud, 2014; Vijayabaskar, 2010). Through a combination of these tactics, formal and informal, land acquisition is achieved through what Page, Seawright, & Lacombe (2015) refer to as ‘stealth politics’. Stealth politics refers to ‘political actions intended to push public policy in a particular direction that are not accompanied by serious public argumentation or political reasoning. That is, political action that is minimally accountable to the public’ (Page, Seawright, & Lacombe, 2015, p. 3). It is usually local bureaucrats who are entrusted with the task of handling the stealth politics of

land. Chandra (2015) in her study of state-business relations in post liberalisation India succinctly locates the role of local bureaucrats in processes of land acquisition as ‘keepers and interpreters of land records’ who are responsible for ‘notifying the public, surveying and measuring the land, determining the persons of interest, verifying their claims, hearing their objections, making an award, and determining who was eligible to receive it and who was not’ (p. 52). This equips them with immense information and authority to influence the land allotment process. In such a scenario, it becomes important to understand the pulls and pressures operating on the local state officials. In fact, even their own predispositions with regard to local conditions are crucial in shaping their actions.

6. 2 Case Studies

In this section, I introduce two case studies of land conflicts that illustrate how the land losers resist land acquisition and the subversion of these acts of resistance by state authorities. As I suggested in Chapter 3, scholarly investigation into conflicts over development projects has complicated the simplistic state against society framework. Rather, the resistance struggles are better conceptualised as arenas of rich negotiation between the state actors and the social actors with several informal alliances spread across the state-society boundaries. In such a scenario, the state actors (mainly the local bureaucrats) faced with multiple pressures - both from the tiers of the higher bureaucracy and state level political leaders, and the agitating actors representing the displaced local population - adopt a ‘flexible governing’ (Desai, 2012) approach when dealing with resistance to land acquisition.

Applying the flexible governing approach to cases of land conflicts in the context of the Bangalore MRTS project and the Kochi MRTS project, I illustrate how informal alliances struck at the local level combined with discretionary practices of bureaucrats can subvert, but only to a limited extent, master planning practices of land acquisition. The characteristic nature of local level alliances which, in turn, is subject to variations in urban political economy within which the two projects are situated ‘presents both government actors and communities with a different set of opportunities, dilemmas and choices’ (Shatkin, 2014, p. 6). In both the cases, locally displaced residents failed to prevent land takeover. However, tactical alliances forged between local political elites and the displaced populations did provide substantial means to necessitate demands for compensation and rehabilitation in one

case (Bangalore), and created scope for prolonged resistance in another (Kochi). Prior to delving into the specific cases of conflicts, I outline how the political-economic contexts in each state influence the space for resistance.

6.2.1 Karnataka: A pro-investment regime and a case of an ‘absent state’⁵²

In my earlier review of the industrial policies of the state of Karnataka, I argued that in general the political regimes in Karnataka are encouraging of private sector participation in the economy. The state in general is known for its ‘business-enabling’ (Mody, 2014) policy environment. This pro-investment rigour, a hallmark of successive state political regimes in Karnataka, is reflected in the implementation of the Bangalore MRTS project as well. In an interview with a senior BMRC official, he described the position of the state political parties on the MRTS project as follows:

‘Political parties, either ruling or in opposition, will not oppose the metro project. It will cost them political mileage. In fact, if anything, both the sides in their attempt to bring down each other would like to thump their chest and say “we brought the metro”’.⁵³ An article in a fortnightly national magazine, while commenting on the progress of the project, reported how on the occasion of inauguration of the first stretch of the MRTS project in Bangalore, various leaders from both the ruling party and the opposition party were present trying ‘to score subtle brownie points for their respective political parties by claiming credit for the idea of the Metro’ (Frontline, 2011). My interviews with the local political leaders further confirmed their favourable stance towards the project. A local BJP MLA Ashwath Narayan related the MRTS project to the economic growth of the state by describing the project as ‘important to keep the [state] economy rolling’.⁵⁴ Similarly, another local MLA, who belonged to the Congress Party, embraced the MRTS project as a step forward to the ‘development of the city of Bangalore’.⁵⁵

When it comes to resistance against land acquisition, it seems that the local political parties

⁵²I borrow the phrase from Bedi and Tillin (2015); the phrase will be elaborated upon in the text.

⁵³Interview, Bangalore, 18 October 2014.

⁵⁴Interview, Bangalore, 06 January 2015.

⁵⁵Interview, Bangalore, 07 January 2015.

have refrained from forging links with resistance movements against land acquisition for the project. A senior land acquisition official while reflecting on the local acts of resistance against land acquisition described the situation as such:

‘See as it is with this [politics], wherever there are troubled waters politicians like to take advantage. So obviously you will have one or two cases where one leader may take up an issue and speak about it. But then it fades as fast. They find some other issue. In general, in my experience over the years, I have not really seen any political party coming forward in support of local agitators. They are generally wary of extending support to these agitations, or at least do not support them openly. Yes, they do allow them to make noise. However, in most cases where we have faced agitations, it is usually due to involvement of the self- proclaimed local leaders or the so called farmer leaders... [Also] apart from few pockets, particularly the coastal belt where there is concern about flora and fauna, here [Karnataka] people usually accept compensation.’⁵⁶

The ‘self proclaimed local leaders’ as mentioned by the official, are usually the actors belonging to the displaced population groups that emerge in the course of agitations or can also be leaders of local activist groups such as caste organisations who may assume the role of negotiating with the state agencies on behalf of the displaced population.

Even the local political leaders in Bangalore who I interviewed during my fieldwork did not seem inclined to support the discontent of those who were displaced as a consequence of land acquisition for the project. A local BJP MLA when asked for his comments on the discontent of some of the slum dwellers who were relocated to a new site and were consequently facing hardships in terms of livelihood issues or provision of basic services like health or education, responded to their situation as follows: ‘they will be rehabilitated in course of time, they [certainly] cannot be given houses at the same place’.⁵⁷ The views of another Congress MLA who I interviewed during fieldwork were in alignment with his BJP counterpart:

‘When the project of this scale is executed you cannot rule out evictions, and there are always problems when evictions begin. But these will be sorted out in due course of time. It takes time to get amenities at the new sites of relocation. And anyway before the eviction had been carried

⁵⁶ Interview, Bangalore, 07 November 2014.

⁵⁷ Ibid.

out, metro officials had conducted meetings with the people about what they were going to do'.⁵⁸

Thus, in the absence of political support, the acts of resistance against land acquisition in Bangalore have largely been 'the dispersed efforts of under-resourced local people' (Mody, 2014, p. 225). Bedi and Tillin (2015, p. 207), while making a general observation on the state of Karnataka as a whole, classify Karnataka as a case of an 'absent or an unresponsive state', where political leaders maintain a silence over issues of land resistance, particularly in cases where those affected represent a marginalised or minority community lacking sufficient numbers or enough clout in state-level politics. Consequently, the resistance movements in the state have struggled to pursue political avenues for resolving land conflicts, since individual politicians may not feel the need to engage in complicated land negotiations on behalf of a constituency lacking a strong political presence (Bedi & Tillin, 2015). Contrarily, the case of Kochi is quite different from Bangalore, where the opposition political party did capitalise on the agitations against land acquisition for the project to gain political mileage against the ruling coalition.

*6.2.1a Slum eviction and rehabilitation in Bangalore: Sympathetic bureaucracy and negotiation through local informal leader*⁵⁹

As part of the land acquisition proceedings for the Bangalore MRTS project, the residents of

⁵⁸ Interview, Bangalore, 07 January 2015.

⁵⁹ The details outlined in the section are specific to forty-five houses that were evicted from Old Bangalore (pseudonym) slum and were later rehabilitated to a Slum Board Colony near Laggere in Bangalore. The details of eviction and rehabilitation given in the section are based on information provided by the following people: Two residents of the slum who emerged as informal local leaders for the task of rehabilitation of the slum, provided information on the notification procedure and other happenings at the slum (local meetings within the slum dwellers, interaction with the officials etc.). They are husband and wife. Other than them, I also interviewed three other slum dwellers who corroborated some of the facts that were provided by the two local leaders and gave information regarding the general problems that were faced by them at the time of eviction, and later at the site of rehabilitation. The happenings at the district department are based on accounts of a leader of a local caste organisation who has been involved with processes of rehabilitation of slums across Bangalore. A journalist/activist bridged some of the information provided by other interviewees and added other bits of information. I cross checked at the local area slum development board with respect to specificities of policies and procedures of rehabilitation.

Old Bangalore (pseudonym) slum were issued a notification to vacate the slum by the land acquisition agency, the KIADB. Old Bangalore is one of the many unauthorised slums of Bangalore. This is despite the fact that the slum had existed for a very long time, with over a hundred residents, and the slum dwellers possessed official documents like ration cards or voter identity cards. This condition is not unique to Old Bangalore slum. A land acquisition official told me:

‘Most of the slum residents of Bangalore are migrants-mainly from Tamil Nadu, and some from Bihar and Uttar Pradesh. So when they initially came to Bangalore, they occupied footpaths of large roads along the [unoccupied] government lands. As they earned more money, they called their families to Bangalore and that is how these slums grew. A lot of them are not notified...[but] they get water supply, electricity supply etc., from the government and they pay water tax, electricity tax etc. to the BBMP.’⁶⁰

A local MLA told me during an interview that, in general, prior to any eviction the state officials conduct meetings with the slum dwellers to inform the evictees about the plan of eviction and consequent measures of resettlement and rehabilitation. However, in the case of this particular slum, the residents when I interviewed showed little awareness of any such meetings prior to eviction. The slum dwellers only recalled of one officer visiting the area to serve them notification of eviction. In general how such meetings actually materialise in practice has varied across locations in Bangalore. In other instances, where public consultations were carried out it seems the state officials had an upper hand, while the local population had hardly any say in the way the project impacts them. The president of a local traders’ association of one of the well- established market of Bangalore where demolitions had occurred for the project described the interaction with the officials during a public consultation meetings in the following way:

‘The meetings with the metro officials went on till late at night. They had a very adamant approach during these meetings. They told us that the alignment has been decided by an expert from Delhi and they are only implementing the project. We told them that they should have taken the consent of the local people before deciding the alignment. But then these [contentions]

⁶⁰ Interview, Bangalore, 18 November 2014.

were futile. In the end they [officials] said that they were providing compensation to both owners and tenants, so they [the traders] should vacate the place in the larger public interest. Ultimately we had to succumb to the government pressure.’⁶¹

Responding to the above testimony a senior official at the BMRC commented: ‘[Once it is decided] how can we change the alignment of the metro every now and then?’⁶² As per a newspaper report, in one instance when the Managing Director of the BMRC was faced with questions raised by local residents who had lost their property, his response to most questions was that the citizens were free to approach the court (“Bangalore metro chief gets a taste of public anger”, 2013). It seems that the project implementing officials (the SPV officials) maintain a distance from the decision making process over how the project is implemented, and whenever questioned on any aspect of project planning or implementation they put the onus on central level agencies. This was evident from the above testimony where a Delhi based organisation was responsible for deciding project alignment. The situation in Kochi was not very different. The state agencies were unyielding when it came to aspects of project planning, such as changing the project alignment.

Moreover, local residents in Bangalore expressed their concern during an interview session that none of what happens during the consultative meetings has any legal binding on the officials. In such a scenario, there is no guarantee that promises made during meetings will be fulfilled in future. An NGO member who had led a public consultation meeting in Bangalore described the process of consultation:

‘A public consultation was held by a Residents’ Welfare Association of the area, but then it was chaotic and they didn’t really answer our questions. We forced them for another public consultation then... as such no statutory consultation is required by them. But then it was of no use; [the construction started]. Matter went to the court. When the hearing started, initially the case remained pending for a long time. They never really gave any judgment. By the time fresh hearing started the building was already constructed. The court only directed them to conduct public consultations in the future. What happened [had] happened! Now the second phase has

⁶¹ Interview, Bangalore, 06 November 2014.

⁶² Interview, Bangalore, 18 October 2014.

begun and I don't see much happening this time either. They are functioning their usual way. Even during these consultations they have an upperhand'.⁶³

Thus, it seems that the local residents do not have much say during these consultative meetings. Moreover, by the time the public consultations are held, the project implementing authorities have already made decisions on key aspects of project planning. Consequently, the managerial approach employed by officials during public consultative meetings only reinforces the top-down process of project implementation.

Coming back to the case of Old Bangalore slum, I was told by an evictee that when the initial notice for vacating the slum was served, the majority of the slum dwellers had little information about the Bangalore MRTS project or why were they being relocated. They were told by a land acquisition official who had visited the slum that the government had decided to take over the site for the construction of a project, and hence, they had to move to a different location. Moreover, since the slum dwellers were illegal occupants of the land they had no legitimate right over the land, which actually belonged to the government. As the news of eviction spread across the slum, meetings were conducted amongst the slum dwellers. At first the slum dwellers approached the local MLA of the area and asked for his help. The local MLA expressed his inability to prevent the takeover of the land. He instead tried to convince the slum dwellers that the project construction was finalised, so they should not resist. He further insisted that since the people from nearby areas had moved to different location, so they should follow the suit too. Meanwhile, the news of eviction was received by the members of a local NGO that conducted classes for the slum children. The NGO workers inquired about the eviction and subsequently, informed an urban activist associated with the NGO. The activist conducted meetings with the slum dwellers and asked them to stay at the slum site. The urban activist, in turn, approached a local leader of a caste-based organisation. The local leader had previously been involved in struggles for slum rehabilitation in the city of Bangalore, and as a result of which he had connections with members of the city council and local governing bodies. The local caste leader became the channel for arbitration between the slum dwellers and the district administration.

⁶³Interview, Bangalore, 27 January 2015.

When the local leader had gathered information on the matter, he conducted a meeting with the slum dwellers. In the meeting the local leader decided to call on the office of the BMRC to seek permission for delaying the process of eviction. The initial notice served to the slum dwellers demanded that they vacate the slum within forty-eight hours. The slum dwellers wanted more time. A slum resident told me that there were hours of bitter arguments between the two parties, the slum dwellers and the BMRC officials, at the BMRC office. But after that a delay of fifteen days on the eviction process was granted to the slum dwellers. Thus, now the slum dwellers had fifteen days time to vacate the slum instead of the initial forty-eight hours. During those fifteen days the local leader collected the documents of the slum dwellers (such as their voter identity cards or ration cards) and prepared a memorandum with the help of a lawyer. This memorandum demanded the authorisation of the slum and was submitted to the Governor, Chief Minister, the Deputy Commissioner (equivalent to District Collector) and the city municipal corporation. The authorisation of the slum was necessary to establish the legality of the slum, without which it would not be entitled for rehabilitation. During the fifteen days, an official from the BMRC also visited the slum and this time offered the slum dwellers a compensation of rupees 20,000 (approximately USD 314) for vacating the slum. The amount was later raised to rupees 50,000 (approximately USD 785). However, he told them that if they resisted, they ran the risk of losing the compensation offered. While some of the slum dwellers accepted the compensation, many of them this time demanded that they would relocate only if they were given alternate housing.

In the meanwhile, the memorandum submitted by the local leader was circulated amongst the officials of the local governing bodies. When I interviewed the local leader, he told me that an official at the city municipal corporation was known to him, and was aware of the previous instances of struggles for rehabilitation. Seemingly, because of this connection the local leader was able to press on the administration to deal with the matter urgently. Moreover, the official was wary of the fact that if the matter was not dealt cautiously, it could result in a protracted struggle. Hence, the official urged other officials within the municipal corporation to take the matter seriously. Following which, the District Collector (DC) held a meeting with the local leader and forty-five other delegates from the slum. The DC was aware that this particular slum had existed for a very long time and had many residents. Hence, despite its unrecognised status in the official government directories the slum should not have been excluded from the

state rehabilitation plans. At the conclusion of the meeting, the DC decided to authorise the slum, and for the purpose a letter was sent out to the concerned local authorities. In a week's time the slum was declared as an 'urban slum'. On obtaining the authorisation certificate from the local governing body, the local leader along with members of the slum again called on the BMRC office. In the meeting, they produced the documents stating the legality of the slum and hence, demanded that since the slum was authorised they cannot be evicted without proper rehabilitation. With legalisation of the slum, the matter slipped out of the hands of the BMRC. Subsequently, the BMRC called for a High Power Committee meeting with officials of the local civic bodies including the DC and the members of the Karnataka Slum Board. In the HPC meeting, the DC warned the BMRC officials to not evict the slum dwellers without providing them proper rehabilitation, otherwise it could lead to a situation of conflict. The BMRC officials finally agreed to the DC's proposal to rehabilitate the slum dwellers, but on the condition that while the BMRC would provide the cost of rehabilitation, the local urban body, that is the Karnataka Slum Board, would take the responsibility of the rehabilitation procedures. Ultimately, the eviction was deferred for one and a half years. The deferring of eviction and the subsequent rehabilitation measures taken by the state authorities is an example of how state administrative authorities constantly juggle between varying approaches - from coercion to negotiation - to deal with resistance from the displaced populations, or what has been described earlier as adopting a flexible governance approach to conflict management.

A local activist-cum-journalist, who had also helped me in gaining access to the residents of the slum, described the role of the local leader in matter of the slum eviction as follows:

'See what happens in a scenario of struggle is that the slum dwellers need someone who can give them some direction. So these middle-men brokers as they take the active role of leading the evictees, they become the face of the struggle. But it would be wrong to say that what was achieved here was solely because of his effort [local caste leader]. You need to look at this in a broader context, in the recent times what has been happening is that a lot of slum dwellers are being displaced because of such [developmental] projects. Consequently, the authorities have come under scanner. I remember there was a meeting, in which several NGOs, civil society actors and even the state officials from the BMRC took part, and in that meeting they [state

officials] were urged to take concerns over rehabilitation seriously. So there is a growing pressure on them [state authorities] also.’⁶⁴

As of January 2015, the time around which I had conducted interviews to collect information on this case, the residents of forty-five houses of Old Bangalore slum were rehabilitated in a slum board colony in Laggere⁶⁵ area of Bangalore. However, their struggles had not ended as the rehabilitation site lacked essential services such as an ‘anganwadi’ (a form of basic healthcare service in India) centre and schools for the children of slum dwellers. Even for day to day essentials like continuous water supply the slum dwellers were still negotiating with the slum board and the local MLA. A major issue for the residents was the loss of employment. The location of rehabilitation was far from the previous location of employment. Even those who were continuing with their previous vocations were now spending a significant amount of their wages on commuting, which had forced them to reduce expenditure on other essential needs. Many of the better off residents who could afford housing in other areas had decided not to move to the rehabilitation site. Consequently, many houses at the rehabilitation site were lying vacant.

6.2.2 Kerala: Selective liberalisation and a case of political opportunism

In my comparative review of growth policies of the two states of Karnataka and Kerala I established that relative to Karnataka, Kerala has been conservative in opening up its economy to private investment. Since the introduction of the new economic policies of the nineties, successive state governments of Kerala have initiated measures to improve levels of investment within the state. Yet, the ideological differences between the two main political coalitions of the state, the LDF and the UDF, have persisted. The UDF endorsed the economic liberalisation policies of the Centre, and espoused that the state cannot continue to rely on public action to revive its productive sectors and must inevitably depend on private capital. In contrast, the LDF continued to lay thrust on public action to revive the state’s productive sector (Nair, 2007). However, in the light of growing subnational competition for investments in the post liberalisation phase even the left regime in the state has opened up to

⁶⁴ Interview, Bangalore, 27 January 2016.

⁶⁵ The slum board colony near Laggere was built under the scheme Jawaharlal Nehru National Urban Renewal Mission with the intention to provide housing to urban poor.

opportunities of private investments, if selectively.

My fieldwork account further strengthens these arguments and illustrates that political regimes in Kerala are progressively endorsing private investments within the state. However, some skepticism towards private capital investment continues, especially as far as the left coalition is concerned. In one of the most recent articulations of the state's policies, Pinarayi Vijayan, the 2016 elected Chief Minister of the state, has asserted that the state government will encourage industrial development and pursuit of long term infrastructural projects including the Kochi MRTS (Metro) project, but with a simultaneous thrust to protect the state's public sector units (Vijayan, 2016). Such conflicting approaches to state economic policies brought the two parties to loggerheads over the Kochi MRTS project. While the LDF wanted the project to be implemented by a public company, the UDF had proposed for private sector undertaking of the project (refer to Chapter4).

The tussle between the two coalitions led to a delay in the project. The alternating coalitions, the LDF and the UDF, tried to pursue the project on their own terms as each resumed their electoral cycle. Finally, the LDF was successful and the project was undertaken by a public company, the DMRC, with investments from both the central and the state government. However, beyond the policy level debates, in 2015 when I began my fieldwork in Kerala, the members of both coalitions, the LDF or the UDF, were eager to take credit for the initiation and implementation of the project. In fact, the members of the two coalitions decried the claims of the opposition by making counterclaims such as, 'the project was actually thought under the LDF regime' or 'the project was brought to the state by our [the UDF] government'.⁶⁶ Consequently, when it comes to resistance against land acquisition for the project, the two main state level political coalitions, the UDF and the LDF, have refrained from extending support to the resistance movements. The LDF, particularly known for its strong roots in traditions of grassroots level mobilisations, has stayed clear of land acquisition disputes. When I interviewed a CPM⁶⁷ member in Kochi, he described the position of the

⁶⁶ Interviews with a local BJP leader and local secretary of the CPM, Kochi, 18 April 2015, 23 April 2015.

⁶⁷The main constituting party of the LDF coalition.

party as such: 'Whatever land is required for the project must be acquired'.⁶⁸ On occasions, the local members of the CPM have held agitations against the project authorities but these were largely on issues of road widening or commencement of construction work in violation of a contract ("CPI(M) warns DMRC", 2014), but not against land acquisition. A district official, who was dealing with the cases of land acquisition for the Kochi MRTS project, in his interview confirmed the non-involvement of either of the parties in acts of resistance against the project:

'The present government [the UDF] has one and a half years left. They want to use this project for their campaign in the next elections. As far as the CPM is concerned, they are known to be anti-development but they are the ones who spearheaded the project. As such no mainstream political party is opposing the project.'⁶⁹

However, the lack of involvement of the two mainstream parties does not imply that resistance against land acquisition for the project has not received any sort of political support from local political leaders. While the LDF and the UDF distanced themselves from resistance against land acquisition for the Kochi MRTS project, the local wings of the BJP proactively extended support to agitations against land acquisition. Although the agitations were not successful in preventing the land takeover, the support of a political party (in the form of local BJP members) to the evicted populations in Kochi gave the evictees in Kochi an opportunity to pose a stiff resistance to land acquisition against the project.

Here I will briefly throw some light on the political position of the BJP in the state politics of Kerala and its role in the resistance against land acquisition with respect to the Kochi MRTS project. The BJP, often classified as an upper-caste dominated, Hindu Nationalist party has struggled to make headway in the state politics of Kerala historically (Kumar, 2009; Santha, 2016; Thachil, 2009). The demographic nature of Kerala, with a tiny number of uppercastes and a sizeable presence of minority populations of Muslims and Christians (together forming forty- six per cent) has prevented the rise of conservative Hindutva politics in Kerala (Thachil, 2014; Kumar, 2009). Furthermore, the powerful presence of the Communist parties amongst

⁶⁸Interview, Kochi, 24 March 2015.

⁶⁹Interview, Kochi, 23 March 2015.

the Hindu voters of Kerala has left little space for the BJP in state politics (Kumar, 2009). In the absence of elite support, the BJP tried to attract non-elite support in the state through provisioning of basic social services in fields of health and education targeted at lower castes (Thachil, 2014). However, these attempts of the party fell through as they were encountered with relatively reliable public services of education and health compared to many other states in India. This weakened the attractiveness of the services offered by the BJP (ibid). On the whole, the political position of the BJP in Kerala is only marginal to the two main alternating coalitions of the state, the LDF and the UDF.

In the context of the Kochi MRTS project, the extension of support of the local BJP leaders to the agitations against land acquisition for the project, as perceived by a local activist, is ‘to bolster their own political position in the state’.⁷⁰ Bedi and Tillin (2015) while drawing similar analogies in cases of land-related struggles in West Bengal and Goa typologise these instances of land conflicts as products of ‘opposition party politics’ (Bedi & Tillin, 2015; also see, Banerjee, 2014; Bedi, 2013), wherein the opposition parties have used land conflicts as political opportunities to rise to power. In these particular types of land related struggles, ‘the opposition parties have sought to harness a wave of public sentiment against unjust land transfers and acquisition methods, and sought to hold state governments responsible for coercion around land deals’ (Bedi & Tillin, 2015, p.206). The dovetailing of the dissent of the local populace with the political motives of the local BJP leaders in Kochi led to protracted resistance against land acquisition, with the state authorities ultimately resorting to coercive action to seize the land.

*6.2.2a Protests in Kochi: Opposition party politics and acquisition through coercive state action*⁷¹

⁷⁰Interview, Kochi, 02 April 2015.

⁷¹ The details of this case are based on information provided by the following people. Three members of an evicted family- husband and wife, and their son- provided me with most of the details as to what happened when the evictions began, and also gave details of interaction with the state officials. I interviewed a few other evictees who corroborated much of the information provided previously. The local BJP leader of the area gave information on the strikes conducted and the response of the state officials to it. Apart from him, two journalists who had

Unlike Bangalore, where the local populations in general find themselves distanced from any political mechanisms to channelise their grievances, in Kochi and in Kerala more generally, political networks are an important means by which local populations necessitate their demands on the state machinery. As I outlined earlier, the historic culture of grassroots level mobilisations by political parties and affiliated political organisations, and active citizen participation in state politics has created scope for the engagement of citizens with political actors. A local journalist who had covered matters pertaining to the Kochi MRTS project for about two years described the situation in the state:

‘See unlike Bangalore where people may not know their local leader well, here [in Kerala] from local shop keeper to the tailor has some contact with the local politicians of their area. [Moreover], what happens here [Kerala] is that people are democratically active, so what they do is form a ‘samrsamiti’ or [what you may call a political action committee] and then they get some support from a local politician...He could be from the LDF, the UDF or the BJP ... That is what happened in Pachalam [the case that is discussed in this section]. The local people started resisting and then the BJP leaders started supporting them. That’s how it became an issue’.⁷²

Land conflicts in Kochi must be viewed as embedded in the matrix of such intermeshed state-society networks.

In December 2013, a plan was sanctioned for the construction of a railway-over-bridge as part of preparatory works for the Kochi MRTS project in Pachalam area of Kochi, one of the most densely populated areas of Kochi. As the construction for the bridge began, some of the local residents inquired about the project at the district office. They were told by a lower official that only government land would be acquired for the project. However, after a few days’ time local authorities began surveying the properties of some of the residents of the area, who were later issued notices for the takeover of their land. Soon it was revealed that around thirty-two private properties in the area would be taken over by the government for the construction of

covered the strikes gave their recollections of the incident. I also interviewed three lawyers who had dealt with three different petitions with respect to the eviction. They also provided me with the copies of the petitions which I have used to further gain insight into the case. Lastly, I interviewed the state officials for gaining insight to their perspectives over the agitations.

⁷² Interview, Kochi, 05 April 2015.

the bridge. Soon the news of acquisition spread amongst the local citizens and the local residents began agitating against the construction of the bridge. They were supported in their cause by the local BJP leaders. The protests were organised under the aegis of Pachalam Janakiya Samara Samithi (PJSS) (or Pachalam People's Action Council), and was led by a BJP member, also the president of the local BJP constituency committee. The agitation lasted for about eight months.

While the protests continued in the area, many of the protestors also filed petitions in the High Court of Kerala contesting the land acquisition attempt of the state. The protestors contended that the land acquisition proceedings initiated by district administration for the construction of the bridge were arbitrary, marred by lack of transparency, and in violation of the due procedures established by the law (Haneef, 2015; N. P. Verghese and others v. The District Collector and others, 2014; Riya Suraj and others v. State of Kerala and others, 2015). The affected local residents complained that the district administration had proceeded with land acquisition without offering any alternate land for rehabilitation and resettlement of the displaced residents (Riya Suraj and others v. State of Kerala and others, 2015). Moreover, the protestors were not aware whether the whole of their properties or only a portion of it would be taken over for the construction of the bridge (ibid). Apart from demands of rehabilitation, the agitators questioned the validity of the attempt of the state administration to acquire land acquisition using the emergency provision of the LAA, 1894, which was invoked on the grounds that the land acquisition in Pachalam was to serve 'public purpose'.

The agitators contested that with the enactment of the new Land Acquisition Act, RFCTLARR Act, 2013, the LAA, 1894 stands defunct. Therefore, the agitators demanded that the land must be acquired on the basis of the RFCTLARR Act, and only after complying all the requisite formalities envisaged under the newly enacted law (N. P. Verghese and others v. The District Collector and others, 2014). Further, as per the new RFCTLARR Act, a social impact assessment study and public hearing are supposed to be conducted for determining the 'public purpose' nature of a project (Riya Suraj and others v. State of Kerala and others, 2015). Allegedly, none of these requisite formalities were met by the state authorities while acquiring land in the area. The district administration dismissed the demands of the agitators on the grounds that the RFCTLARR Act was not applicable to the land acquisition in

Pachalam as the rules for the bill had not been formulated by the state government (Haneef, 2015; Riya Suraj and others v. State of Kerala and others, 2015). However, the plea of the administration was not accepted by the agitators, and they retorted that government cannot take advantage of its own lapse in not framing rules. When I ended my fieldwork these petitions remain pending in the High Court of Kerala.

Outside the courts, several meetings were convened by the District Collector in an attempt to persuade the agitators to surrender their land. They were also offered a compensation of rupees fifteen lakhs (approximately USD 24,000) in lieu of their properties. However, the agitators demanded higher compensation of rupees twenty-five lakhs (approximately USD 39,000). A local resident expressed his discontent over the compensation value:

‘They [state authorities] are giving [rupees] fifty lakhs (approximately USD 78,000) to Seematti Textiles [a textile company a part of whose land had been notified for acquisition for the MRTS project]. The area is only two kilometers away from Pachalam. So what is the reason for paying such low compensations to us?’⁷³

With the failure of the administration to guarantee the demands of the agitators, the discussions just fell through without any consensus being reached between the two parties. The local BJP leader of the described the meeting as such:

‘Most of meetings were a farcical exercise. When we made our demands, they would hand over us an agreement stating that our demands would be considered by the state authorities...but then agreement is not money’.⁷⁴

The above testimony also brings out how state redressal mechanisms of consultative participatory meetings often fail to meet the expectations of the displaced populations. This is something we saw in the case of Bangalore slum eviction as well where the displaced populations were provided with little opportunity to express their discontent or grievances. In both these cases, the displaced populations to make their voices heard ultimately took recourse to informal channels of negotiations that fell outside the invited state spaces of arbitration. In the previous case (Bangalore slum eviction case) it was through the channel of the local

⁷³Interview, Kochi, 25 March 2015.

⁷⁴Interview, Kochi, 25 March 2015.

informal leader. In this case (Pachalam), the agitators, as told to me by the DC, continued with the protests even when after six rounds of negotiation. Consequently, the district administration was 'left with no choice',⁷⁵ and decided to forcibly acquire the land. The DC in his interview gave the reasons for the coercive state action as such:

'We took to the demolition after six rounds of extensive negotiations with the landowners. They were not amenable to anything. We had to divert [the traffic] for the construction [of the MRTS to begin]. How long could we wait?'

The act of forcibly acquiring the land was instituted in a tactical manner by the district administration so as to avoid any possibility of getting a 'stay' (the act of temporarily stopping an activity through notice of a judicial authority) on the eviction process by the local population. A prior notice of forty-eight hours was issued by the administration to the landowners before carrying out the demolition. The notice was issued on a Friday evening. The next day, that is Saturday, was a holiday in commemoration of the death of the state speaker and again Sunday was a holiday. So no proceedings could have been initiated in the court to stop the demolition which was to occur on Monday morning. On Sunday evening, around 30 evictees decided to meet the DC for obtaining a 'stay' on the demolition. However, an evictee told me that the DC did not respond to their calls. When these 30 people tried approaching the DC at his residence, they were detained by the police, only to be released the next morning after the demolitions had occurred. On Monday morning, the DC, along with heavy police protection, began demolitions at the site around 5 am. On the same day, the evictees tried to get a hearing at the High Court which was initially scheduled to start at 10 am. However, the hearing was later delayed until 2 pm in the afternoon. The protestors interviewed during fieldwork claimed that the delay was purposefully secured by the state officials to bargain for time until the completion of the demolition. By the time the court hearing was convened, the demolition was already over. The court directed the officials to initiate the proceedings for compensating the land owners, and appointed a commission to assess the illegality and damages afflicted by the demolition (Haneef, 2015). While the demolitions quelled the agitations against land acquisition, the demands for compensatory

⁷⁵Interview, Kochi, 27 March 2015.

⁷⁶Interview, Kochi, 27 March 2015.

packages for the evicted population continued (“Compensation package for Pachalam ROB sets rolling”, 2014).

As of March 2015, the evictees were still struggling against the authorities for securing compensation. One of the evictees, who had also participated in the protests led by the PJSS, informed me:

‘We are still fighting for compensatory packages. Most of the displaced residents are either living in rentals or putting up in make-shift accommodations... leave aside rehabilitation, so far they have not even fully compensated the evictees.’⁷⁷

Beyond the contestation between the local residents and the district administration, the land acquisition and eviction at Pachalam has been a pitch for political battles between the opposition party, the BJP and the ruling UDF government (“Devpt juggernaut takes a toll at livelihood in Pachalam”, 2015; “BJP takes protest to MLA Eden”, 2015). On the one hand, the BJP activists have been at the forefront of decrying the land acquisition at Pachalam, with party activists even taking out a march against the demolition (“BJP takes out march against Pachalam ROB eviction”, 2015). On the other hand, the local Congress MLA and the UDF government in general, have pushed for land takeover and construction of the bridge at several instances (see “Devpt juggernaut takes a toll at livelihood in Pachalam”, 2015; “Issues to be taken up, says Hibi Eden”, 2013). The local BJP activist also alleged that the demolition drive undertaken by the district administration was supported by the ruling UDF government. The allegation was dismissed by the local Congress MLA, who asserted that the land takeover was the decision of the district administration solely. However, the claim of the local Congress MLA runs counter to the other testimonies in the field, and it is quite likely that the district administration could have been politically influenced in its decision to forcibly clear the land. The land acquisition official at the District Collectorate indicated that the resistance at Pachalam was intensified because of the involvement of the BJP, and that the political leaders of the ruling regime wanted to end the conflict to allow the construction of the bridge to proceed.⁸¹ Further, a local journalist corroborated, ‘the present government is in a hurry to

⁷⁷Interview, Kochi, 16 March 2015.

finish this project. That is why the demolition was undertaken in such a hasty manner'.⁷⁸

6.3 Conclusion

In this chapter, I have tried to bring out the dichotomies that exist between the state approaches to resolve conflicts over land acquisition and the ways in which poor groups approach the state in order to assert their claims. Arguably, informal socio-political networks are important in channelising demands of the pro-poor groups. In both the case studies presented in the chapter, the local political and informal leaders played important roles in organizing evictees against the involuntary land acquisition by the state authorities. The nature of coalitions formed during the agitations movements is influenced by 'existing patterns of socio-political relations and legacies of mobilisation' (Kennedy, 2014, p. 103) of the respective regions. Evidently, the changing contours of political economic priorities of the regional regimes also matters. In Kochi, the shift in stance of the left front, which seemingly has opened up to investment opportunities while withdrawing from actively supporting agitation movements, can be said to have contributed to a more conducive political environment for investments to occur. At the same time, the void has been filled by comparatively weaker political parties in the state such as the BJP, which seek opportunities to rise to power. But then most political parties in general have been fickle in their position with respect to land acquisition; once in power most parties are more or less pro-land acquisition or at least demonstrate a tacit consensus to land transfers to industry (Chakravorty, 2013). Also the BJP in other states like Gujarat has extensively promoted pro-business policies and even at the central government level had attempted to dilute the new land bill. In fact, in June 2017 Prime Minister Narendra Modi (a member of the BJP) himself was present at the inauguration of the Kochi Metro (Press Information Bureau, Government of India, 2017). Viewed in this light, the stance of the local BJP wings in Kochi is more suggestive of an *ad hoc* political opportunism directed at destabilising the ruling party.

However, beyond the nature of contestations between the displaced populations and state authorities, in terms of outcomes there is little difference between the two projects. That is, the

⁷⁸Interview, Kochi, 16 March 2015.

state agencies have been able to acquire land for the project. By and large, the state agencies in both Karnataka and Kerala have managed to curb resistance to land acquisition by the local populations and have successfully acquired the land required for these projects. Furthermore, despite differences pertaining to the nature of politics, the two case studies substantiate the claim that inter-state competition for investment has intensified, with state governments adopting aggressive strategies for land acquisition. These converging tendencies can be attributed to the metropolitan level of planning that is conspicuous in these projects. In both cases of eviction, the pressure exerted by the SPVs as well as donor agencies for timely completion of the projects was a crucial factor in facilitating the acquisition process. Inevitably, the sidelining of local governance authorities has led to the dilution of local democratic mechanisms that mainly operate through local municipal or regulatory agencies. In the context, the multiscalar governance framework of these projects combined with bureaucratic managerial practices of consultations and public hearings promoted by the SPVs contribute to the reinforcement of a top-down structure of city planning process. The local citizens, in practice, in these consultative meetings are only informed of the plans already formulated at the level of higher state authorities.

In both Bangalore and Kochi, most of the public consultation meetings held by the project implementing agencies seemed to be only formal exercises that ultimately had no legal bindings on the authorities, and hardly any claims made by the evictees during these meetings were addressed by the authorities later on. Moreover, in some cases, particularly when it came to marginalised groups like slum dwellers, it seemed that in the name of public hearings the state officials (SPVs and the land acquisition officials) merely informed the land losers about what was impending, that is land acquisition and compensation, if there was any. That is, to the evictees, the acquisition and eviction were presented by the state officials as *fait accompli*, where they had little choice or say in the matter. Participation then was used by the state as a ‘discourse that wishes away conflicts of interest or power, and which promises the poor not just direct sightings of the state but powers of oversight as well’ (Corbridge, Williams, Srivastava, & Veron, 2005, p.121).

In other words, the chapter illustrated how the institutionalisation of the SPVs is influencing the ways in which conflicts around land are negotiated. As evident from the case studies in the

chapter, this primarily occurs in two ways. Firstly, it is the ideological instruments through which the project implementing agencies, that are the SPVs, create legitimacy for the project as well as a sense of urgency. For example, the MRTS projects are linked to prospects of development and growth of the cities of Bangalore and Kochi. Moreover, a constant reassertion by the SPVs that these MRTS projects entail huge financial implications and any delay in their implication would lead to huge cost escalation puts pressure on the state land acquiring agencies to expedite the process of land acquisition for the projects. Secondly, through practices of participatory development, the project implementing agencies curtail local politics of claims to land by subjecting the assertions made by the local populations to state instruments of control. The informal alliances and agitations, as evident in this chapter, do pose challenge to master planning schemes. However, the sporadic and fragmented nature of such agitations makes them ineffective, and the gains sought in the end would appear piecemeal and consolatory. The outcomes in each of the cases do not indicate of substantial paradigmatic change in the planning process itself or any long-term commitment by the state agencies to alleviate the discomfort of those displaced. Thus, quite likely, in the absence of a sustained coordinated effort at the grassroots level, the project implementation is to remain opaque and undemocratic.

So far I have discussed how conflicts over land acquisition for the two projects play out at different levels of the state, focusing mainly on the administrative and executive wings of the state. In the next chapter I bring into focus the judicial wing of the state. Locating courts as the domain of arbitration between the various actors that lay competing claims on land, I look at the role of courts in matters of land conflicts, and how the judicial pronouncements have shaped outcomes of land conflicts for the two MRTS projects.

Chapter 7

LAND, LAW AND COURTS

7.1 Introduction

The foregoing accounts of land related conflicts make it clear that legal battles remain integral to the process of resolving of land conflicts. This chapter conceptualises courts as a domain of the state that regulates the resolution of land conflicts, and also as a forum where land losers try to hold the SPVs accountable. The intervention of judiciary, then, can influence how competing claims to land are negotiated and resolved in the sphere of urban land management. The chapter analyses how the courts, through instruments of legal acts and procedures, and through their powers of judicial intervention, have impacted the outcomes of land conflicts for the two MRTS projects. The chapter puts forth that judicial intervention powers are underpinned by formal rules and procedures, as well as informal conventions. By formal rules I mean the legal tenets that courts invoke to decide the validity of land acquisition procedures. However, formal judicial rules and procedures are not the only factors that govern legal resolution of land conflicts. Informal factors, such as delays in court procedures, ideological predisposition of the judges, and even the ability of the participating actors (state authorities, litigant groups etc.) to effectively negotiate the complex judicial bureaucratic system also determine the outcome of the conflict. Moreover, courts work within dominant currents in the political and policy environments, and court decisions are effective when supported by political, bureaucratic and civil society actors (Gauri & Brinks, 2008). In this light, the chapter seeks to understand how the claims made by the SPVs for furthering processes of land acquisition for the two MRTS projects find legitimacy within the judicial forum.

Drawing from a repertoire of court judgments, testimonies of lawyers, and petitioners, in this chapter I reflect on the political economic embeddings of the adjudication process. By comparing the judgments delivered in the case of the two UDPs under consideration, and some of the landmark judgments of the courts delivered in cases of other development projects, I mark the points of similarities and departures between court judgments in case of the two MRTS projects and other development projects. The purpose here is to understand to what extent the regulatory process at the subnational level in the specific context of Karnataka and Kerala is influenced by the wider currents prevalent at the national level and across other

states.

The remainder of the chapter is organised as follows. I first begin with a general overview of the issues brought to the court, and the constituent groups of litigants. Following this there are three subsections, each reflecting thematically on some of the key grounds on which the UDPs have been considered by the courts in Karnataka and Kerala.

7.2 UDPs as judicially contested processes

Due to their sheer scale of land acquisition, the Bangalore MRTS project and the Kochi MRTS projects ran into disputes for a variety of reasons. As the previous chapters showed these included disputes between state authorities, environmental violations, and most importantly the rights of the land losers. For speedy implementation of the two UDPs, in both the states, the MRTS projects have been granted several exemptions from local planning laws, and they bypass the statutory processes of gaining approval from the many local regulatory authorities. The sanction for such bypassing or even flouting of rules is usually achieved, as revealed earlier, through state government level orders. Furthermore, in deciding the alignment of the projects the local public bodies do not have any role to play. These are considered technical issues demanding expertise and are consequently, the domain of expert bodies that are usually external to both project location and outside the jurisdiction of any urban level body.

The process of deciding the project alignment is also opaque in the sense that, if at any point, a particular stretch of alignment is not agreeable to local residents of the area or local planning bodies, there is little that can be done by the local state or public associations. These issues have led to conflict between the local resident bodies, urban level authorities, the state government, and the project implementing agencies, with the parties often resorting to the courts for the resolution of the conflicts. Consequently, the litigants have varied from state authorities to non-government groups, including resident welfare associations. Some of these issues are also of intra-state character that pit lower level government authorities against the state level ministerial bodies. Hence, at a very basic level they also raise questions of effective control of local authorities over the city planning process or decentralisation measures. In general, as observed by Mehta (2007) in his note on the record in the Indian judiciary in

promoting decentralisation measures across country, courts have usually been less receptive to the claims of the lower tiers of government against the state governments.

The other set of issues that have occupied the judicial domain in the context of the two UDPs are those pertaining to the rights of the land losers. These include objections arising out of forcible eviction by the state authorities, demands for higher compensation, and rights of rehabilitation and resettlement. The instances of forced eviction that were appealed in the court mainly sought judicial interventions against administrative inconsistencies on part of the state authorities. There is little evidence of any stringent punitive action taken by the courts in these cases. The courts either direct the authorities to take further action to rehabilitate the evictees or may reprimand the state authorities for their actions. However, it would appear that these verbal reprimands have not deterred the state authorities from resorting to such actions in the future. Also, in a case in Bangalore, the court reproached the evictees for bringing the issue to the court after the demolitions had already occurred: ‘you should have come before the demolition we could have protected it. Let us not mess up and complicate the matter further now. We have to hear the other side as well’ (“Status quo ordered in razed slum”, 2015). However, in case of evictions at Pachalam in Kochi (see Chapter 6 for case details) the district administration carried out demolitions even as cases pertaining to acquisition were pending in the court. In fact, as Chapter 6 suggests, it is possible that the district administration itself had some role to play in delaying the hearing of the case pertaining to forced eviction in Pachalam. From this comparison, in the absence of stern punitive actions by the courts, the time juncture at which petitions are filed does not appear to play a major role in preventing demolitions.

Furthermore, courts may not be the first reference point for all citizens to seek redressal for their grievances. In the slum demolition case detailed in Chapter 6 the evictees approached their local MLA, and subsequently a local informal leader to channel their demands. At another rehabilitation site where I conducted interviews, the interviewees revealed lack of resources and knowledge to approach the courts. Moreover, to many land losers the project eviction seemed inevitable. Hence, many evictees accepted the compensation for they saw no other alternative to it. A news publication in Bangalore reported, ‘majority of people [are] looking for good compensation...compensation is what we want... everyone seem to know

that the project was final and they cannot afford to fight it ...99 per cent objections [are of] no use, [project] alignments do not change once decided' (Citizen Matters, 2013).

The fight for compensation also occurred under circumstances where virtually two laws were operative, the old LAA 1894 and the new RFCTLARR Act. While some of the compensation awards were sought under the old LAA 1894, there were other litigants who had demanded for higher compensation as per the new RFCTLARR Act. However, perceptibly the ongoing litigations do not impede the construction of the project. A land acquisition official explained:

'[In cases where] the party demands de-notification of land or do not agree to the 'general award' [compensation passed by the land acquisition authority]. We try [negotiating with them] for some time. Then the matter goes to the court. They can file a case in the High Court. We also fight the case. These things go on for long. From single bench the matter goes to double bench and if not [decided then to the] special bench of three judges, and at times to the Supreme Court. In the meanwhile [the land is taken into possession and] the project construction progresses. After four or five years when decision is to be taken the scenario is very different [that is when some construction has already taken place].'⁷⁹

A lawyer added to the above testimony:

'Once the construction has already occurred, the courts also understand the implications of demolishing structures of the metro and are wary to give orders [for the same]. A disruption in one area can cause a disruption in the entire train service and these projects are expensive.'⁸⁰

Thus, recourse to dispute resolution by the judiciary is not only a form of arbitration but also a delay strategy used by the state officials to evade disputes arising out of land acquisition. That is, the judicial delay in the decision making process itself facilitates the project. Lastly, other than objections to land acquisition itself, it is the issues of resettlement and rehabilitation that have been raised by litigants in the courts. These demands especially gained prominence in the light of the enactment the RFCTLARR Act.

The following subsections delineate the adjudication process of the aforementioned land

⁷⁹ Interview, Bangalore, 18 November 2014.

⁸⁰ Interview, Bangalore, 30 October 2015.

related conflicts along three key lines: the judicial review process of the projects themselves, the ideological predispositions of the courts with respect to economic and development policies of the state, and the socio-economic rights of the land losers.

7.2.1 Defining the Limits of Judicial Review

In connection with the Bangalore MRTS project, members of the CMH Road Traders' Association, some of whom who were evicted challenged the decision of the state government to shift the alignment of the project along the CMH Road from an earlier proposed alignment along Old Madras Road of Bangalore in the High Court of Karnataka (The CMH shops and Establishment and Ors v. State of Karnataka and Ors., 2010). The latter according to the petitioners was more suitable for the metro to be viable. In the same case judgment another petition was dealt with, which was submitted as a PIL and sought relief of *writ of mandamus*⁸¹ by directing the project authorities to implement the project by way of underground broad gauge as opposed to its current status, which is of over ground rail transit system (ibid).The suggested underground broad gauge according to the petitioners was more suitable to the Bangalore city condition (ibid).The High Court of Karnataka dismissed both these contentions and held that the issues raised fell within the policy making powers of the government where the court has no jurisdiction. The court judgment stated:

‘The state government being a policy making body must have examined all pros and cons of shifting the project by realignment from Old Madras Road to CMH Road. The correctness of the same cannot be examined in exercise of judicial power’ (The CMH shops and Establishment and Ors v. State of Karnataka and Ors., 2010).

‘The technical expert Committee must have examined geographical, topographical area of the corporation limits to implement both the elevated as well as the underground metro railway system depending on the soil structure and other relevant feasibility factors. Therefore, correctness of the same in a Writ Petition cannot be examined by this court...In the place of experts Committee’s recommendation made in the DPR [detailed project report] by the DMRC

⁸¹ *Writ of mandamus* is a judicial remedy sought in form of an order from a superior court to subordinate court or government to fulfil (or refrain from) a certain act that it is obliged to do in nature of its public duty.

the same has been accepted and the State Government has passed its order for implementation of the project. Therefore, the same cannot be interfered with by this court in exercise of its Judicial Review power' (The CMH shops and Establishment and Ors v. State of Karnataka and Ors., 2010).

The court in delivering this judgment referred back to the Supreme Court's judgment in *Balco Employees Union (regd.) v. Union of India and Ors.* In the *Balco Employees* case, the apex court had extensively examined the question whether public policies can at all be subject to be judicial review, and if so, to what extent. In the judgment, the apex court cited separation of powers to argue that it should not be called upon to take on governmental duties as charting the course of public policies. The Supreme Court emphasised the role of the court as limited to upholding the law: it held that unless the government violated the constitutional or legal limits of power, the courts cannot interfere with the decision of the government. It further articulated that in matters of public policies the legislature has to deal with complex problems and hence, should be allowed the right to 'trial and error' as long as both trial and error are bona fide and within limits of authority (*Balco Employees Union (Regd.) v. Union of India and Ors.*, 2001). Therefore, the state could both alternate between different policies, with the complete authority to implement any of them. The court is certainly not the forum to consider relative merits of different policies or even to suggest something new to the government (*ibid*).

Applying the *Balco Employees* case analogy, the High Court of Karnataka invalidated the appeal of the petitioners in the *CMH Road* case to examine the alignment laid by the BMRC or to consider the merits of alternate alignments as proposed by the petitioners. In a similar vein, the High Court of Kerala dismissed a plea to examine the question of appropriateness of the location of a maintenance yard and an ancillary real-estate project designed as part of the MRTS project, namely 'Kochi Metro Village', and stated that:

'Expert agencies like DMRC is involved in the matter of selection of appropriate site for the yard as well as the metro village. If they have identified certain area and it is approved by the Government, being a highly technical matter, being done with such professional expertise, this Court cannot interfere with the same' (*N. Sudhakaran Pillai v. The Local Level Monitoring*, 2014).

The judgments passed in the two cases are reflective of the broader trends of ‘non-interference’ (Upadhyay, 2000, p. 3789) on part of the courts when it comes to infrastructure projects. As noted by Upadhyay (2000) and also Sathe (1974), in cases of infrastructure projects be it issues of environmental concerns, safety aspects or forced displaced, the courts have restricted their role to examining whether all aspects are relevantly considered by the government before taking decision on the project, but have ultimately vested the decision making powers to the government. The courts are generally of the view that these projects involve technical and policy issues that are best left to the expert bodies (Upadhyay, 2000; also see, *Dahanu Raluka Environment v. Bombay Suburban Electricity*, 1991). Criticising such an approach of the court, Rajagopal (2005) articulates that while the ‘court has intervened in many areas of public policy in fields ranging from criminal justice to environment, human rights, women’s rights or public accountability. Yet, when it comes to development projects... the court suddenly discovers the virtue of judicial restraint’ (p. 380).

Adopting a similar approach, John (2001) in the context of Narmada Bachao Andolan case argues that such measured intervention on the part of the court using the separation of powers as a justification prevents any meaningful debate to occur on the relevance of the projects themselves. Baxi (2000) cautions us against such an activist approach and nudges us to think that it is probably impractical to ask the Indian judiciary to intervene in such projects to an extent of issuing cease or desist orders against the projects, and in fact, is something impossible for any judiciary in the world to do; for such interventions may entail questioning the very foundations of ideas of development, which are more of a political question and may best be left to the state. So with respect to questions of economic or developmental policies that have large scale implications, the judiciary has left it to the state to determine the aptness of policy decisions. However, what remains pertinent is that the refrain exercised by the High Courts of Karnataka and Kerala to question aspects related to the two MRTS projects, also stifles any debate on questions whether the SPVs as external agency have any legitimacy to steer changes in local planning laws and regulations. Or for that matter it remains unaddressed if the SPVs as external agencies should at all have the power to design policies and programmes pertaining to urban development within the cities of Bangalore and Kochi, and moreover, without the consultation of any of the local level urban administrative and political bodies. Also, as we will see in the next section, the judiciary has invoked rhetorical appeals of

development, modernisation and national interest to weigh in what is more important or beneficial to the larger interest. More often than not, the concerns raised by those displaced are abandoned when pitted against the state goals of development and economic growth, symbolized in forms of the two MRTS projects.

7.2.2 Prevailing Idioms of Development

During my fieldwork, a particular apprehension that was expressed by some of the lawyers and activists involved with court cases against the two MRTS projects was that often raising any charge against the MRTS projects was equated with indulging in ‘anti-developmental’ activities. This apprehension was applied even to the courts, which again are hesitant to rule against the MRTS projects as they also see any objections raised against the MRTS projects as hindrance to both development and also that it may lead to financial losses for the state. A local activist in Kochi who was involved in a case concerning ecological violations resulting from the construction of a maintenance yard for the MRTS project and the ‘Kochi Metro Village’ (refer to Chapter 5 for case details) explained:

‘If you say anything against these projects [metro projects]. You are labeled anti-development. There is no point in approaching the courts either. They are reluctant to pass a judgment against the metro as it has got wide acceptance. Moreover, even the courts are aware of the high financial implications [that the state government may have to deal with] if these projects are not completed in time.’⁸²

A lawyer in Bangalore who had dealt with a case in which the land loser had resisted the acquisition of his land and later also fought for higher compensation, substantiated the above claim and recounted his experience as follows:

‘See courts do not like to get in the way of the metro. The project has got wide acceptance. [Moreover,] if in the court they [the state authorities] say that what they are doing is for modernisation and better management of the city traffic then courts also view these cases as minor issues coming in the way of development of Bangalore and public interest at large.’⁸³

⁸² Interview, Kochi, 06 April 2015.

⁸³ Interview, Bangalore, 30 October 2014.

Even in the *CMH Shops and Establishment* case, the evicted local traders were asked to ‘forego their lands in the larger public interest.’⁸⁴ This ‘public interest’ was perceptibly the development of Bangalore that was to be achieved through the construction of the MRTS project. Such downplaying of the inconveniences faced by the members of local communities as ‘minor issues’ in the way of project implementation is reflective of the general attitude of state officials towards agitations by the locally displaced groups, and has resonated with the Indian courts who, in general, are skeptical of any socio-economic movement aimed at challenging the status quo (Parthasarthy, 2015). Consequently, the recent years have witnessed a range of court cases including those dealing with Tehri Hydropower Power project, Narmada Bachao Andolan, and Kundankulam Nuclear Power Plant project, where the courts themselves have spoken the language of ‘developmentalist rationale state’ (Menon, 2014); often overlooking flagrant violations of ecology or the rights of the people. In fact as Upadhyay (2012) notes in the river interlinking project, the court in fact overstepped its institutional boundaries and actually directed the central government to execute the project. This is in direct contradiction to the otherwise employed judicial restraint policy of the courts when dealing with issues that tend to go against developmental projects. Suresh & Narain (2014) argue that such interventions reflect the ideological directions that the courts have taken in the post liberalisation phase, away from the rights of the people and towards free market led development.

Menon (2014) in her analysis of court cases mainly in the context of post liberalisation India discerns a pattern in these judgments, and calls it ‘Environment trumps people...But Development trumps environment’ (pp. 63, 66). According to this formula, when environmental issues are pitted against rights of the people, it is environmental concerns that are given priority over the concerns of people, and when ecological considerations are pitted against development, development becomes priority. In the first instance, Menon’s primary reference while talking about environmental issues is to the court cases set in urban India where gentrification drives in cities have been equated with better environment for urban middle class citizens and slums are seen as ‘nuisance’ in the city sphere (also see, Ghertner, 2011; Bhan, 2009). Menon’s typology was clearly evident in both the *CMH Shops and*

⁸⁴ Interview, a member of the CMH road traders’ association, Bangalore, 17 November 2014.

Establishment case and *N. Sudhakaran Pillai v. The Local Level Monitoring* case (Kochi Metro Village case). In each of the two cases, socio- economic rights and ecological considerations were subjugated to the cause of development. In *N. Sudhakaran Pillai v. The Local Level Monitoring* case, the High Court of Kerala explicitly laid down its preference to prioritise infrastructure development by overruling environmental concerns raised against an allied developmental activity that was being carried out as part of the Kochi MRTS project:

‘[Kochi Metro] is also a project for importance to the State as it is intended for increasing the infrastructural facilities in the city of Kochi and the State as well and therefore the project cannot be stalled by raising unnecessary controversies. True that there might be some infirmities in the decision making process. But such infirmities or even to certain extent illegalities should not be a reason to forget or discard the public interest or public purpose involved in the matter. Personal opinions, private interest, trivial issues, minimal damages to the environment should always give way to larger public interest’ (*N. Sudhakaran Pillai v. The Local Level Monitoring*, 2014).

In delivering its judgment in *N. Sudhakaran Pillai v. The Local Level Monitoring* case, the High Court of Kerala referred back to *G. Sundarrajan v. Union of India and others* judgment. In *G. Sundarrajan v. Union of India and others* (2013), the Supreme Court had taken the view that infrastructure development projects (in this case Kundankulam nuclear power plant) bring with them economic benefits that not only create economic growth but also alleviate poverty and generate employment. So as long as the government body has taken into account all relevant ecological aspects related to the project, and weighed it against the economic benefits, it was in the national interest to develop such projects (*ibid*). Hence, in the larger public interest individual apprehensions of human rights violations must be sidelined to give way to the project (*ibid*). The court had further emphasised that large amounts of public money had been spent on the Kundankulam NPP, and so ‘minor inconveniences’ engendered out of the project must be overlooked (*ibid*). All these considerations raised by the Supreme Court have repeatedly been applied by the High Courts of Karnataka and Kerala when dealing with cases against the two MRTS projects. Thus, seemingly, through a subtle interweaving of state’s policy preferences into court judgments, the courts have ideologically and politically aligned themselves with the development idioms of the state government and the project implementing agencies, the SPVs.

7.2.3 Rights of the land losers

Before I delve into the details of how the rights of the evictees are dealt with within the judicial domain, it would be pertinent to recall that I had conducted my fieldwork at a time when there was uncertainty over the land acquisition process in the country. A new law with respect to processes of land acquisition, rehabilitation and resettlement had been enacted at the central government but the rules and procedures for the same had not been formulated at the state government level. In consequence, there were conflicts between the evictees and the state actors acquiring the land over various facets of the law. While the state agencies were mainly following the state laws in conjunction with the old LAA, 1894 or were acquiring the land under special orders from the government, the land losers at various instances demanded for their rights as per the new law. The new law mandates for a variety of provisions in favour of evictees including higher compensation, right to rehabilitation and resettlement, and even prior consent to land acquisition from 70 per cent land losers in case of public projects (or 80 per cent in case of private projects). Thus, considering that the new law, the RFCTLARR, was in force litigants argued that these procedures should have been followed. Ideally the courts should have upheld the law since it had been enacted by the parliament. But even from the perspective of the courts there was considerable ambiguity in enforcement of the law. It appeared at some instances the courts did take into account the new law while at other instances it was just overlooked. I elaborate on this with some examples. When it came to compensation issues, this is what a land acquisition officer in Bangalore had to say:

‘See now in front of us we have many cases where the land was acquired under the previous law [LAA, 1894], but now the land losers are claiming compensation under new law. [My question: Has anyone been successful?] Many [cases] are still pending...But in this one case, land was acquired in 2007, compensation was granted in 2010, and again challenged in 2014. He was successful. Now the court will ask us to pay higher compensation...the case was old, we could not even locate the indemnity bond paper in the file. It is a messy situation.’⁸⁵

Beyond this when it came to either consent or rehabilitation and resettlement, perceptibly the

⁸⁵ Interview, 07 November 2014.

courts were not holding the state accountable. As far as taking consent from the landowners prior to acquisition is concerned, the officials in both the states denied carrying out any such exercise. In fact, if we go back to Chapter 6 and recall the forcible takeover of land in Kochi it is clear that land was taken over by the district administration against the will of the landowners. If we take into account rehabilitation measures, it seems (as also shown in cases discussed in Chapter 6) that the neither the government nor the courts are strictly complying with the new RFCTLARR Act. In instances of land acquisition cases in Pachalam (Kochi), petitioners did challenge the authority of the state to take away their lands without fulfilling the mandates provided in the newly enacted law (*Riya Suraj and others v. State of Kerala and others*, 2015). But then as evident from the case, their properties were later forcefully demolished. When I ended my fieldwork in June 2015, some of these cases were still pending in the court, and given the uncertainty over the rules and procedures of the law it is yet to be seen to what extent the new law finds place in the actual cases of land acquisition. The following paragraphs further delve into this aspect in detail.

In the Kochi MRTS project, when the matter of forcible eviction of residents of Pachalam area of Kochi was brought to the court, the High Court of Kerala did not take any punitive action against the district administration. This was despite the fact that the eviction process would stand as illegal if weighed in the context of the newly enacted RFCTLARR Act. An evictee told me that the court in its orders, issued after the eviction process, directed the government to adequately compensate the evictees, but nothing much was said about the procedures followed by the district administration. As per a newspaper report, the High Court appointed a Commissioner to assess the damages incurred by the evicted families (Unnikrishnan, 2015). But beyond this no further action was taken by the court in the matter. Similarly in Bangalore, while dismissing the petition in *CMH Shops and Establishment* case the High Court of Karnataka in its order stated:

‘They were all compensated [the evictees of CMH road] in terms of the Award by paying market value of their properties under the provisions of amended Section 23 of the Land Acquisition Act, 1961 as per Section 72 of the K.T.& C.P. Act. Therefore, absolutely there are no bona fides on part of the petitioners to get their private rights redresses as it would affect public interest at large’ (*The CMH shops and Establishment and Ors v. State of Karnataka and Ors.*, 2010).

The High Court also took a sterner view of the PIL stating that in the guise of public interest litigation the petitioners, particularly, the members of the ‘CMH Shops and Establishments’ had filed a private interest litigation. A lawyer, who had fought a case of eviction on behalf of 20 residents of Jai Bheema Nagar slum of Bangalore, reported a similar experience. In that case, the slum dwellers resisted their eviction on grounds that the eviction will cause them great hardship and inconvenience by affecting their right to livelihood by adversely impacting their earning capacities (Sri K Mohan and others v. Bruhat Bangalore Mahanagare Palike and others, 2011). The case was ultimately dismissed by the court. The court only ensured that the evictees were given accommodation at new locations but did not invalidate the acquisition *per se*. Even while considering the resettlement of the evictees, the court did not hold any consultation on whether the new locations were suitable for rehabilitation of the evicted residents or not. Both these cases were filed before 2014 so the provisions of the new RFCTLARR Act did not apply to these cases. However, what is clear from all these cases that as long as the evictees are given basic minimum compensation, the courts have not questioned the validity of acquisition of the land. It would be worthwhile to contextualise these court orders within the larger body of judicial decisions where the courts have dealt with the cause of the weaker sections in the country.

Legal scholars have in general argued that over the years, particularly in transitioning from the pre liberalisation to post liberalisation phase, there has been a somewhat decline in the sensitivity of the courts to the concerns of the marginalised (Bhan, 2009; Bhuwania, 2016; Bhushan, 2009; Dupont & Ramanathan, 2008). This has also been reflected in the way the courts have read the Constitution and the law while dealing with the concerns of the poor. As outlined before, the right to property ceased to be a fundamental right in 1978 and since then cannot be used to argue against acquisition of property. Nonetheless, it would be relevant to note that the property guarantee as fundamental right in the 1950s was read broadly by the Supreme Court to the extent that it was even used to protect the right of livelihood of small business owners and their employees as well as the right of industrial workers to minimum wage (Wahi, 2015b). However, even the departure of a right to property did not prevent the court from upholding basic minimal guarantees of the most deprived sections. As Ruparelia (2013) argues, that even during late 1970s and 1980s, the court progressively interpreted the basic socio-economic needs of the most marginalised groups as integral to right to life under

Article 21 of the Constitution. An often cited case in the context is of *Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors.* Delivered in 1985, in this judgement the court recognised that ‘evicting a pavement dweller from his habitat amounts to depriving him of his right to livelihood’ (*Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors.*, 1985). The court further responded to the Bombay Municipal Corporation’s claim that slum dwellers had no legal right to encroach public street or foot paths by stating that:

‘In the instant case, it is clear from the various expert studies that one of the main reasons of the emergence and growth of squatter-settlements in big Metropolitan cities like Bombay, is the availability of job opportunities which are lacking in the rural sector. The undisputed fact that even after eviction, the squatters return to the cities affords proof of that position. These facts constitute empirical evidence to justify the conclusion that persons in the position of petitioners live in slums and on pavements because they have small jobs to nurse in the city and there is no where else to live. Evidently, they choose a pavement or a slum in the vicinity of their place of work, the time otherwise taken in commuting and its cost being forbidding for their slender means. To lose the pavement or the slum is to lose the job. The conclusion, therefore, in terms of the constitutional phraseology is that the eviction of the petitioners will lead to deprivation of their livelihood and consequently to the deprivation of life.’(*Olga Tellis & Ors.v. Bombay Municipal Corporation & Ors.*, 1985).

However, such cognisance of the hardships faced by evictees of state demolition drives in urban areas is missing from subsequent court cases including those related to the Bangalore and the Kochi MRTS projects. As evident from studies of Bhuwania (2016) and Dupont & Ramanathan (2008), in the context of globalising India the courts have endorsed a paradigm of urban governance that represents a site of aesthetic sensibilities of the urban middle class and where the state is in charge of cleaning up the city from encroachments. In the case of the two MRTS projects, this has usually meant giving sanction (or tacit consensus by withholding from punitive actions) to state actions that drive away the establishments ranging from small businesses to slum dwellers to the margins of the city to make way for high end infrastructure projects. Thus, on the whole courts in either Karnataka or Kerala have been less receptive to the claims against the two projects or any objection that directly impedes the progress of the two MRTS projects, and this to an extent has adversely influenced the opportunities of judicial respite for those seeking claims against development induced

displacement.

7.3 Conclusion

This chapter contextualises the role of courts as an extended arm of the regulatory state that seeks to influence the dissolution of land conflicts using its own legal and political powers. While the judiciary has been analysed from the perspective of legal scholars or scholarly literature that has tried to push forward the agenda of the activist court by demanding active intervention of courts in policy, it is little surprising that political economy literature of land acquisition in India only cursorily addresses the role of the courts in addressing the development agendas formulated by the state. In such a conceptualisation, embedded in political economy perspective, the courts themselves become part of the multilevel governance structure that interact with other state and non state actors to negotiate conflicts surrounding land deals. Therefore, the role played by the courts becomes important in determining the outcomes of land conflicts.

In the context of our case studies, the High Courts of the two states while adjudicating the cases of land conflicts pertaining to the two MRTS projects have not challenged the position of the state governments on issues of development and land rights. As the evidence presented in this chapter suggests that the High Courts of Karnataka and Kerala, have in most cases ruled in favour of the state government and dismissed contentions against the two MRTS projects. The courts have conspicuously abstained from intervening in any issue that directly concerns the policy-making powers of the government. Or for that matter, any contention that impedes the timely execution and progress of the project has been put aside by the courts. However, the courts do intervene in matters of compensation and rehabilitation, but only to the extent that the rhetoric of rights of the land losers does not undermine the supposed public interest served by the project. In other words, the courts have strategically avoided questions that may lead to framing of situations where the project development is seen to be occurring at the cost of certain communities. In this scenario, the courts to a degree have mitigated and diffused conflicts around land acquisition for the two projects. At the same time, the political and ideological language of the courts reinforces the legitimacy of the projects.

Furthermore, in the context of the two MRTS projects, the courts by upholding the land acquisition procedures, even in cases where there were apparent instances of misconduct by

the state authorities and breach of legal procedures, fail to hold the SPVs accountable. The courts have sidelined any breach of procedures in the implementation of the two projects as minor inconsistencies falling in the way of larger goals of development. Such normative pronouncements by the courts reaffirm the ideological agendas promoted by the SPVs themselves to institutionalise the MRTS projects. In sum, by refraining to review any policies related to the MRTS project and by shelving them as ‘technical aspects’ that can only be considered by domain of the state, the courts have exempted the SPVs and the MRTS projects from the scope of judicial accountability.

Chapter 8

CONCLUSION: THE URBAN POLITICAL ECONOMY OF INDIA'S LAND USE POLICIES

My investigation into processes of land acquisition for urban development projects shows linkages between patterns of urban governance and land use management policies within cities. At the heart of the research project is a form of special authority, the SPV, which as the project implementing agency is in charge of implementing the two UDPs, the Bangalore MRTS project and the Kochi MRTS project. The research project explores the processes underlying changing land use patterns within the cities of Bangalore and Kochi by locating the SPVs as central to both structural changes occurring within the urban governance sphere, and by in turn, linking these changes in urban governance sphere to the changes in land use and management policies. The conceptual framework employed to understand the structural changes and shifts in authority occurring within the urban governance sphere is of state spatial rescaling. Furthermore, to uncover the intricacies underlying the land acquisition processes for the two MRTS projects, that are located in two distinct geographical state locations of Karnataka and Kerala, the research project merges state spatial rescaling with subnational research design. What we have is a hybrid analytical framework that intends to explain how it is that despite regional differences in political and economic histories of Karnataka and Kerala and the divergent land use patterns extant across the two states, the land acquisition processes for both the Bangalore MRTS project and the Kochi MRTS project look similar. To this end, the thesis illustrates that similar strategies of state spatial rescaling administered across the two states of Karnataka and Kerala through the agency of the SPVs iron out the local variations in land management practices; and hence, the outcomes for land acquisition processes look the same across the two states of Karnataka and Kerala.

I began by systematically exploring the key defining aspects underlying the design of the SPVs that make it a distinctive urban development model, which I described as quasi-state and quasi-corporate entity. I simultaneously illustrated how the defining factors – particularly, the financial, the political and the administrative strategies –underlying the design of the SPVs allow the SPVs to wield influence within the local urban governance sphere, with the ultimate effect of alteration of local land management practices. The subsequent chapters use empirical case studies to substantiate the broad claim of the thesis, that is, the entrenchment of the SPVs

within the urban governance sphere is leading to convergence in patterns of land acquisition across the two sites of Karnataka and Kerala. The chapters simultaneously addresses the sub themes raised in the thesis such as: differences in local patterns of urban land regulation and planning, politics surrounding claims to land in urban areas, conflicts surrounding land deals, and ultimately how do the SPVs negotiate these challenges surrounding land acquisition as they facilitate the process of implementation of the two UDPs. Subsequently, in the course of analysis the thesis outlined the various instruments and tactics, including normative grounds, used by the SPVs to mitigate the challenges of land acquisition in highly congested cities of Bangalore and Kochi.

In mapping the patterns of interaction between the SPVs and other state and local urban level political/administrative authorities, the thesis addresses the questions surrounding the accountability of the SPVs. My findings illustrate that the SPVs in practice are insulated from most of the local political and administrative measures of accountability, merely being bound by a memorandum of understanding with the Ministry of Urban Development of the state, and some answerability at the level of Chief Minister of the state through the secretaries of the urban development department of the state. At the same time, the SPVs themselves can exercise substantial influence over the local planning authorities through the agency of state government level orders, and can also command the services of state and urban level authorities, including the land acquisition agencies of the state. In sum, the thesis argues that the SPVs are promoting top-down schemes of city planning that are both exclusionary and increasingly centred around the needs of specific projects, particularly the MRTS projects. This is in contrast to the comprehensive city planning programmes, which would include consultations from a wide variety of local level planning authorities, with a stress on decentralised forms of urban governance that are inclusive as well.

The remainder of this chapter reviews the key findings of this thesis and situates them against the broader theoretical currents that have been used to contextualise changes in urban development and also processes of land transfers. I begin by summarising the theoretical strands describing diverse set of processes (subnational competition for land, processes of state rescaling and changes in urban governance sphere, politics surrounding land governance etc.) that I have used to locate the case studies of this research. I then go on to situate how the findings of this research inform as well as add to these set of theoretically described processes.

The second and third sections explain how the SPV model of urban development enriches our understanding of institutional changes occurring both in urban governance spheres as well as the broader changes that underlie the processes of land governance in India. The two sections further take into account the challenges that arise within the urban governance sphere with the entrenchment of these new forms of institutional models of governance, the SPVs. The fourth section raises some questions about the implementation and future of the newly implemented land law, the RFCTLARR Act, 2013 by referring to the findings of this research project. The last section delves on some of the methodological issues that are usually encountered when exploring contentious areas such as land acquisition, and how I have tried to address these in this research project by combining the use of judicial documents with oral interview methods.

8.1 Subnational Competition, State Spatial Rescaling and Politics of Land Governance

In my review of literature in Chapter 3, I outlined that post liberalisation there was a change in character of federal politics in India. The rise of the regional parties, along with administrative measures of decentralisation and devolution of financial powers to the states led to the rise of subnational competition for investments in India. Furthermore, I highlighted that the scholarly literature has distinctively recognised the play of state level political economic dynamics in understanding both the aspects related to land governance and nature of resistance to land acquisition at the local level. As land administration is primarily a subject of state government jurisdiction in India, the state governments in their attempt to woo capital have variously strategised to assemble land parcels for industrial and allied infrastructural development activities. Drawing on large body of subnational level studies, I provided empirical evidence of regional specificities in measures to facilitate land acquisition such as easing conversion of agricultural land to non-agricultural land in Gujarat, creation of land banks to attract private investors in Haryana, or the empowerment of district level committees to acquire land through private negotiation in Tamil Nadu.

In alignment with other subnational studies on land acquisition in India, I provided illustrations of varied patterns of state level land regulation policies across the two states of Karnataka and Kerala. While Karnataka's business friendly regimes have put in place extensive measures to facilitate land acquisition and conversion for industrial development, Kerala's left wing dominated political trajectory has ensured for significant protective

measures, particularly to agrarian land in the state. However the data from this research indicates that several state level or regional laws specific to the states of Karnataka and Kerala were bypassed or actually flouted by the project implementing agencies; thus, rendering them ineffective. To note, this subversion of regional land regulation laws occurred through the agency of state government level orders that were issued on behalf of the SPVs. Therefore, this study accounts for the presence of varied land management practices across the two sites of Karnataka and Kerala, and also observes that the role of the subnational governments remains crucial in land acquisition and allocation processes. However, the thesis also takes us beyond the subnational level political and economic variations and brings into focus processes that are actually leading to the similarities in outcomes of land acquisition across the state specific sites of Karnataka and Kerala. The thesis illustrates that the SPVs are seeking for radical changes in local land use policies of the cities of Bangalore and Kochi, rather than resorting to systematic institutional reforms in land acquisition procedures. Thus, the land acquisition for the two projects occurs in an *ad hoc* manner primarily geared to meet the demands of the two MRTS projects (Chapter 5).

Furthermore, the ongoing urban rejuvenation programmes signify a new level of competition between the states. In this competition for investments, the cities have become the engines of growth, where investments are sought in the name of UDPs on competitive basis by the state governments. As much as the UDPs are governed by the externally institutionalised special authorities that work in coordination with local urban governance bodies to implement the project, they constantly need the support and intervention of state level political and bureaucratic intermediaries to eliminate bureaucratic bottlenecks to land transactions. Moreover, the SPVs entail investments from international donor agencies and even incorporate the prescription of donor agencies regarding practices of participatory development. Therefore, the SPVs are enmeshed in spatial networks of power and influence of various organisations placed at levels ranging from supra-national, national, subnational and local urban governance sphere. The institutional structure of the SPVs, thus, signifies newer forms of state spatial restructuring in the sphere of urban development and patterns of resource accumulation. As illustrated, the SPV model of urban development subtly merges financial benefits of a kind of public-private partnership, wherein the public sector assumes the role of risk taking for attracting private investments, with a political-administrative model

of governance, which can easily meet the challenges of eliminating bureaucratic bottlenecks that hinder faster delivery of large infrastructure projects.

Beyond changes within the formal state institutional sphere, the interaction between the SPV actors and locally displaced populations defending their claims to land, demonstrate the techno-managerial approach employed by the SPVs to manage as well as contain the informal politics surrounding land conflicts. Also the decision making processes of the SPVs is largely opaque and insulated from local practices of democratic accountability. Also as witnessed in Chapter 6, not in all instances of conflict, the SPV actors are themselves present to directly negotiate with the agitating locally displaced populations. Rather they do so through the agency of state level or local urban level officials. To recall from Chapter 6, in both Bangalore and Kochi, in order to negotiate with local level informal and political leaders who had on various instances obstructed the project implementation process, it was local administrative officials who actually negotiated with the land losers on behalf of the SPVs. Thus, without actually taking part in the local practices of bargaining with the land losers, the SPVs are still able to exercise their influence over the outcomes of conflict surrounding land deals.

On the whole, the SPV model of urban development gives us a new window for understanding processes such as: the subnational and city level competition for land acquisition, patterns of state rescaling that are unfolding at the urban governance level and lastly, how politics surrounding claims to land in urban areas is being restructured through the instrument of the SPVs. In the context, while the role of the regional subnational units as the principle locus of land administration will remain salient, the upward scaling of authority to metropolitan level agencies such as the SPVs is likely to influence the ways in which state level and local level agencies exercise their power of land administration and governance. Similarly, while the definitive influence of local political regimes and social institutions in both framing and negotiation of conflicts will remain relevant to the politics of land, the entrenchment of the SPVs in the urban governance spheres will interpose with state and urban level political economy factors to produce patterns of convergence or divergence between different state units. For instance, in both Bangalore and Kochi the nature of resistance to land acquisition was determined by factors of regional political economy. In Bangalore, the apathy of political parties to the grievances of the displaced populations led the local populations to

necessitate their demands on the state through non-political networks formed with local middle men brokers. In contrast, in Kerala the opposition political party, the BJP, played an active role in mobilising the local populations against the state attempts of land acquisition. However, the end outcomes in both cases of conflicts was the same, with the project implementing agencies, the SPVs, ultimately gaining hold of the land for the purpose of project construction.

8.2 Institutional Changes and India's Land Problem

The SPV can be viewed both as an investment promotion vehicle and also as a lean administrative structure, which to an extent facilitates the process of land acquisition for large-scale infrastructure projects. The SPVs, thus, are a response to the longstanding demands of private investors that have time and again clamoured about unwieldiness of Indian land markets. The SPVs have in general provided for streamlined policies for land acquisition, single window system for obtaining environmental and other regulatory clearances, and easing stringent zoning and land use conversion laws. Furthermore, the numerous formal and informal alliances operating across the SPV actors, the state political and administrative officials and private capital, then, are suggestive of the attempts the state governments to further deregulate land markets as well as to remove local level hindrances to processes of land acquisition in their bid to secure private investments within their states. In support of evidence of these trends, Chapter 3 interrogated the institutional design of the SPVs to reveal that the underlying principle behind the creation of the SPVs is to introduce a self sustaining model of urban development that is both financially and administratively independent in its functioning. The autonomous style of functioning of the SPVs, made possible by its unique quasi-state and quasi-corporate structure of design, along with little accountability to any of the local planning and regulations authorities has meant that the SPVs have been able to bypass local hindrances to land acquisition and evade the complex regulatory regime of local bureaucracies without being subject to democratic pressures of accountability by local populations.

Furthermore, the SPVs come across as unique models of governance that are neither private entities nor completely public in their functioning. Instead through subtle inter- weaving of

private sector ethos of work with the state sector authority, they uniquely represent a state entrepreneurship model that aims to bolster private financial contribution for otherwise financially unviable UDPs. The consequent emergence of private sector actors as the key stakeholders in the projects ushers in greater participation of private actors not just as financial contributors in the infrastructure projects, but also as influential actors in the urban governance sphere of land management and planning processes. In both Bangalore and Kochi, the radical changes sought by the SPVs in land use and conversion processes for the two real estate projects, the Mantri Square Sampige Metro station integrated development project and the Kochi Metro village project, substantiate for the growing participation of private sector actors in land regulation and planning processes in urban areas.

However, as evident from the accounts of the land use rules and regulations from the cities of Bangalore and Kochi, the institutionalisation of the SPVs does not address the inefficiencies of the land markets in India through systematically undertaken reforms. Rather, the SPVs facilitate land transfers through *ad hoc* procedures of special orders by the state government or exemptions granted to the project through state government level notifications. The result is that there are a set of parallel processes or rules and regulations functioning for the acquisition of land within the same area of jurisdiction. In case of these two MRTS projects, while the local planning authorities continue to have their own framework for defining processes of land regulation and planning, the SPVs have imposed their own criteria or demands for land acquisition through a set of government orders issued at the state level. The *ad hoc* nature of land transfers also promote forging of illicit collusive alliances between private developers and the SPV actors, as land is now demanded based on the requirement of the project - either defined by the SPVs or other stakeholders in the projects – rather than through systematic processes of allocation based on city planning laws and regulations (Chapter4). Even in cases of land acquisition where the eviction of certain populations was involved, land acquisition ultimately involved intervention of local state actors who had to bargain with the land losers or even coerce for forceful evictions (Chapter 6). Land transfer, thus, continues to be a case of involuntary purchase or a case of expropriation that very much relies on the force of the state. Therefore, the conflicts surrounding land deals, at best have been contained or subdued, but are far from being adequately addressed.

Parallels can also be seen between the SPVs and other institutional models of attracting investments and capital accumulation, such as the SEZs. These economic zones again were established through legal frameworks that sanctioned the creation of many geographically dispersed territories that would be governed by distinct regulatory regimes, and were granted several exemptions from local democratic rules and procedures. The underlying conundrum behind the creation of the SEZs was the same as that surrounding the SPVs, that is, to build fast-track mechanisms to allocate resources to private capital investors without actually undertaking systematic sector wise reform measures. In both cases, the UDPs and SEZs, land acquisition for the projects is ensured through intervention of the state governments. However, basic problems of land markets such as defective system of land titling or high stamp duties continue to persist, and investors have reiterated now and then that these problems make it difficult to acquire land for industrial or infrastructure projects. Consequently, the role of the state governments will continue to remain salient in processes of land acquisition and settlement of disputes surrounding land conflicts.

In effect, the adopted SPV model of urban development hardly solves the longstanding problems of inefficiencies of land markets in India. If we recall from Chapter 3, I argued that the reform processes India in general have been piecemeal and incomplete, introduced at junctures in steps without actually completely overhauling the structural constraints that lay in way of liberal market forces. The consequence is that economic reforms in India, unlike developed countries, have been business friendly and not market friendly (Kohli, 2009). In consequence, the resource allocation is not determined by pure competition driven by market forces, but often requires the state to intervene in the market to secure resources for business groups. Such reform measures have often resulted in crony capitalism. The land market reforms in India continue to bear the imprint of the gradual measures of reform processes in India. A majority of land deals for infrastructure investment projects are materialised through intervention of state officials on behalf of the investors often through illegal means. This has led to uneven development across and within regions, with sections of populations securing disproportionate gains over others. A good example in the context is of public-private partnership deal between the BMRC and Mantri Developers in Bangalore that was materialised as part of the Bangalore MRTS project (Chapter 4). In that case, parcels of state owned land were allegedly transferred to a private developer at minimal price by the BMRC

and that too through alleged violation of the local planning laws. Even in the case of Kochi Metro Village case, orders for land use conversion changes were issued arbitrarily and without the consensus of the authorised local level village council (Chapter4).

Furthermore, such land transfers in urban and peri-urban areas are also indicative of the emergence of regional interest group alliances between the state actors and business groups. The perceived inequalities in such land deals also result in conflict between the local middle class groups and local developers. However, since it is the state which is the main authority for acquiring the land and for sanctioning its designated use, the ire of the local groups is consequently directed against the state. Moreover, land is acquired through the agencies of parastatal bodies (KIADB in Bangalore) or specially designated teams for the purpose (Kochi), with local municipal councils having little say in the matter; thus, rendering the process highly undemocratic. This further causes discontent amongst the local citizen bodies. The other issue with forcible land takeover using the decree of the state is the inadequacy of compensation paid to land losers. The current institutional regime for land transactions in the country, as also the case in the context of this research project, largely relies on the eminent domain powers of the state to acquire land. Most of the time the compensation awards are pre-decided by the administration and there is little scope for the land losers to negotiate the same. Even where the provisions for negotiation of awards persist, it usually involves cumbersome processes, often involving legal battles. These are usually beyond the means of many displaced land owners. Notwithstanding these, informal protests outside administrative domains are not rare, and are often the main reasons for prolonging the land acquisition procedure for development projects.

In sum, as Dhananka (2017) argues, while land expropriation occurs through fast tracked mechanisms (usually through the use of force exercised by the state) in the process of urban development, the state is slow to respond claims of the land losers who have to deal with tardy or sometimes unresponsive bureaucracy to assert their rights. The recent attempts at the central government level to amend the 2014 enacted land law, the RFCTLARR, by means of ordinance further reveal the practices of the state that are undertaken to appease the corporate sector. On the whole, there has been little attempt by the governments to actually address the issues pervading land markets in India. The emergence of new institutional modes be it parastatals, SEZs, and now the SPVs are only instruments to bypass extant problems to land

acquisition. In fact, as evident from the study, they have further exacerbated the extant inequalities between the land acquirers and the land losers. The sporadic yet repeated incidents of agitations in Bangalore and Kochi against land acquisition for the two MRTS projects substantiate for the persistent inefficiencies of the Indian land markets.

8.2 The Challenge of Metropolitan Governance

In unfolding the governance structure underlying the design of the SPVs, I argued and subsequently illustrated through evidence that at the core of UDPs is the process of rescaling of state authority structure or more specifically the upward scaling of authority to a metropolitan scale of governance. This implies an increasing prominence of special purpose authorities, parastatals and real estate lobbies in urban governance sphere. As outlined in Chapter 3, metropoliticisation is further accompanied by shifts in the structural boundaries of city planning process by promoting project centric planning or the city as an investment zone over comprehensive city planning programmes. As the city becomes a zone of investment, and the private developers in association with state officials begin to occupy the role of transforming these zones, city development is driven by profit motivated goals.

The SPV model of urban development is in direct conflict with principles of decentralisation that intend to empower the local municipal and other city level bodies. This is further exacerbated because of the weak implementation of the decentralisation measures in India in general; as a result of which despite existence of legislative enactments for empowering local level state bodies, in practice most of the local bodies are devoid of any real financial and political powers. As it stands, the local urban authorities in India are dependent in many ways on state governments due to the incomplete implementation of decentralisation reforms. From the perspective of private investors and SPV actors, the local elected councils are seen as hurdles in the way of desired developmental outcomes, rather than as legitimate forums of citizen representation. Metropolitan scalar transformations, then, are designed to supersede local land management practices to impose their own set of agendas of development and gentrification of city. This more often than not has occurred at the cost of depriving the weaker sections of the city's population of their claims to urban land resources. As preceding chapters exemplify, a challenging issue faced by local democratic bodies when confronting the SPVs is the absence of any concrete provision through which the local citizen groups can

hold project implementing agencies accountable. The undemocratic nature of the functioning of the SPVs, then, must alert us to the questions of rights of the citizens to the city's resources, the future course of city planning governance processes, and most importantly how resource allocation is going to be determined in the future. These questions become particularly relevant as the central government has announced further planned expansion of high end transport projects for cities in India and has even proposed for new schemes of planning Indian cities such as 'smart city projects' (Budget Speech, Minister of Finance, 2017). These projects will perceptibly accelerate the process of metropoliticisation of Indian cities, with ever increasing input from the private sector.

To begin with, the SPVs themselves are bureaucratic structures that have absolutely no representation from local level urban bodies. Governed by a board of members consisting of select few retired civil servants, there is no democratic platform of interaction between the members of the SPVs and members of the local urban bodies. As mentioned before, the SPVs report directly to the Urban Development Ministry of the State. The High Power Committee meetings, where heads of the civic agencies are included, is itself convened at instances when a serious issue concerning the project has to be dealt with, and perceptibly, has little impact on the day to day functioning of the organisation. Hence, the SPVs are impervious to influence from local levels or even state government bodies. Moreover, the SPVs are free to strike deals with private developers or levy surcharges to augment the revenue for the project. Any deal struck by the SPVs or plan proposals sanctioned by them to finance the projects are not scrutinised by members or officials of any of the local level urban planning authorities. In implication, the projects are not treated as public goods meant to benefit the public at large, but rather the projects are viewed as commodities for which profits must be recovered. The citizen then becomes not an active stakeholder in planning the project, but a consumer that must pay for the deliverables.

The profit oriented approach, endorsed by private investors or stakeholders in UDPs and supported by state governments, to the city planning process further creates demand for the allied revenue generation activities such as land based financing methods, which ultimately transform into high end real estate projects. To recall from Chapters 3 and 4, real estate development remains a key instrument for cross-subsidising the MRTS projects. Moreover,

these allied real estate development projects are not designed keeping in mind the population of the city at large, but rather are targeted at the upper middle class citizens from whom maximum profit can be generated. The poor citizens of the city are rather pushed to the margins of the city. This leads to the phenomenon of ‘spatial mismatch’ (Chakravorty, 2013), wherein those whose lands are taken away for land based development projects are not the ones who benefit from the projects, but they pay the additional price for such development incurred through poor compensation and rehabilitation practices. Additionally, the populations that actually derive benefits from the development projects are the ones whose lands have not been taken away, but they enjoy the benefits of such development at a subsidised price which includes the cost they would have otherwise paid if the land losers had been properly compensated and rehabilitated. Thus, as Chakravorty argues, these projects create a system of ‘regressive redistribution’ of resources, from the poor to the non-poor (ibid).

There is little that the displaced local populations can do to press their demands on the state authorities. When it comes to formal state spaces such as public hearings, they are least effective in holding the state officials accountable. The fact that public hearings or consultations are not legally binding on the officials further renders them as a futile exercise. The other informal modes of contests such as protests and agitations have been by and large suppressed by the state authorities. Even in the instant case cited in Chapter 5, where to an extent the displaced slum dwellers in Bangalore were able to press for their demands on the state authorities, they were only able to secure for rehabilitation measures, but were not able to prevent the land takeover. The channel for negotiation was again of informal networks built through a local broker. In fact, in any of the cases covered in the study there has not been an instance where local level state authorities have been successfully able to channelise the grievances of the local citizens or were able to hold the SPVs accountable for the illegalities committed during the course of implementation of the project. In Bangalore, the BBMP was forced to backtrack from its case against the BMRC and Mantri Developers as it was let down by the state government itself. Similarly, in Kochi the case of village council against Kochi Metro Village was subverted by an order passed at the behest of the state government. Lastly, in most of the cases against the two MRTS projects, the courts have refrained from questioning the state government or even the SPVs, and have instead justified their steps on grounds of technical competence or larger public interest. Thus, there is a conspicuous

absence of any adequate mechanisms of accountability regarding these projects.

8.3 Reflections on RFCTLARR and federal politics of land in India

As I mentioned at the outset, the legal and policy environment governing land acquisition in the country is currently under transition, as a new land law, the RFCLARR, seeks to replace the old but widely prevalent 1894 enacted LAA. The RFCTLARR is a central government enacted law that falls under the Concurrent list of the Constitution of India. This implies that the federal government has an upper hand in formulating the guidelines of the law. However, land itself is a state subject in India, and it remains to be seen to what extent state governments abide to the guidelines prescribed in the RFCTLARR Act, and how the new legal regime impacts the land acquisition procedures in the country. The state governments through presidential assent can also amend the centrally enacted bill when adopting the same at the state level. So far states like Tamil Nadu, Rajasthan, Gujarat and Maharashtra have sought amendments to the provisions of the central bill while enacting its state level versions. Tamil Nadu has virtually done away with the consent provision of the central bill through amendments (Kohli & Gupta, 2016). Thus, the compliance to the central bill can be highly varied depending on state level motivations for industrial development and commitment to the welfare of its citizens. In the context, based on findings of this research project, in this section, I reflect on some of the implications of the new law on processes of land acquisition as observed in cases of the Bangalore MRTS project and the Kochi MRTS project, and how the respective state governments of Karnataka and Kerala have responded to the new policy environment of land governance.

As far as the metro projects are concerned, they were initially exempted from the purview of the RFCTLARR Act. However, the central government later issued an executive order to extend the benefits of compensation and rehabilitation outlined in RFCTLARR even to the victims of land acquisition undertaken under the earlier exempted 13 Acts. Moreover, as I detailed before beyond policy documents, at the ground level no rules and regulations have been formulated pursuant to the guidelines of the new law by either the state government of Karnataka or Kerala. This implied a situation of legal uncertainty around land acquisition at the state level. The *ad hoc* measures taken by the state governments to resolve the situation provided scope for immense discretion by the state level officials. As evident from the study,

the situations of conflicts posed by the land acquisition for the projects were dealt by the officials on case by case basis. While in some cases the state authorities did not adequately work out the provisions for better compensation and rehabilitation for oustees, at other instances they did provide rehabilitation in the face of immense pressure from the project affected people. Thus, the compensation benefits derived by the evictees was not solely an outcome of statutory provisions or initiatives of the state authorities, but was largely dependent on their own ability to press for their demands on the state authorities through informal channels of resistance.

When it comes to aspects such as environmental impact assessments, so far in case of the two MRTS projects no comprehensive study of the social and environmental impact of the two projects seems to have been undertaken by either the project implementing agencies or any other state level body. During my fieldwork some of the state officials told me that the metro projects did not require any EIA as they were implemented to promote public transport in the city and bring down vehicular pollution. However, to what extent these projects are actually successful in bringing down the use of private vehicles is yet not clear. Perceptibly, there are still dissensions among urban planners about the adoption of such capital intensive projects over other modes of public transport in Indian cities. Even if the argument of the state officials regarding the projects as viable options of efficient public transport is accepted, it still remains unclear why the allied revenue generation real estate development projects have been exempted from impact assessment studies. Most of the land used for real estate development was initially acquired in the name of the MRTS project, and only later transferred to private developers through land use conversion. Such loopholes have so far escaped legal scrutiny. Similar to the breach of impact assessment studies clause, the consent clause provided in RFCTLARR Act has not been taken into account by the state officials with the excuse of absence of guidelines for the same at the state level. Moreover, in the case of the real estate project in Kochi, the extant state level laws that did provide for incorporating the consent of local municipal bodies or *Gram Sabhas* (village councils) were overridden by state level executive orders.

Therefore, any further legal enactment pertaining to land at the state government level must address the issue of unhindered land use conversion for private purpose projects, while at the same time ensuring the accountability of the project to already in place local level planning

laws.

8.5 A note on methodology: Addressing challenges of data collection and authentication when studying contentious issues as land conflicts

When researching contentious issues such as land acquisition and related conflicts, due to the very nature of the sensitivity of the topic, the data collection can particularly be challenging for reasons of accessibility, authenticity and lastly, the credibility of the source itself. In this last section, I outline some of the challenges that were incurred specifically during the fieldwork stage of the research and how I tried to address these issues using a combination of data collection methods that extensively combined the use judicial documentary sources, along with other sources of secondary data and interview methods.

The first and foremost issue encountered when approaching cases of land conflicts is the accessibility of the data itself. This becomes particularly relevant when trying to gather information from state officials or access information held by the state authorities. The state officials, especially those belonging to the SPVs or even some of the local urban level state bodies, are usually terse in their replies when it comes to issues of conflicts. They can even evade certain questions when it pertains to highly controversial issues. For instance, when I tried to gain information on the Mantri Square Sampige metro station case from a BBMP official in Bangalore (Chapter 5), most of my queries were answered in a manner by the BBMP official that either indicated of no knowledge on the matter on his part, or in response to certain questions with reference to the case he negated that there was any issue at all in land transfer. In such cases that usually involve conflicts between actors of different state authorities, there are often little chances of finding credible sources outside the state machinery that can fill up for the details of the case. The journalist or activist informants to a degree are able to provide an overview of certain events or episodes of such cases. However, a detailed account of facts and figures can often be missing from such interviews. They may even have hold of some documentary sources pertaining to the case matter, but that is a likely situation and not a necessary one. Other documentary sources such as journalistic reports by their very nature are often not comprehensive in nature. Although the Right to Information, Act 2005 does give an opportunity to access certain public records, the state agencies are careful to hold back information on contentious issues from forms of written records available for public scrutiny.

In such a scenario, if cases of conflict have been subject to courtroom scrutiny, judicial records, particularly the writ petitions can be a source of vast pool of information that is otherwise not accessible. The writ petitions may sometimes also have details of various notifications issued as part of land use changes submitted by the concerned state authorities for the purpose of courtroom proceedings. They can also provide information on how events pertaining to land conflict cases occurred in a chronological order. The details with respect to the extent of land acquired, specificities of contentions raised by the involved parties, and amounts related to monetary compensation and other price evaluations are accurately quoted in the documents as well. The judicial records also contain within them description of any other inquiry reports that may have been commissioned with regard to the cases under consideration. Based on judicial records the researcher can, thus, further enhance his/her search for other public records, the names or description of which s/he would not have earlier been aware of.

Also, it is to be noted that it is not just in the cases of land conflicts involving the state authorities that judicial records are useful. Even in cases of land acquisition that involve eviction of populations, the judicial records can usefully be employed both to understand the contentions raised by the land losers and also to gather information on responsiveness of the state authorities to these contentions, which are recorded in detail in these documents. The interview sessions with state officials are usually constrained by time and often the interview sessions are frequently interrupted. This was particularly the case with my fieldwork in Kochi. The information detailed in the judicial records, then, can become a useful source of information for complementing data gathered through interview techniques.

Lastly, the information outlined in state official documentary sources such as judicial records is likely to be more authentic and accurate than perhaps data gathered through other primary sources as oral interview methods. Oral interview can be a useful way for knowing about the perceptions that various set of informants hold about a particular issue or case, but they also limit the researcher's ability of gain access to detailed contents with regard to a certain case matter. It is also difficult for the researcher to vouch for the credibility of the interviewees in most of the oral interview sessions. In such a scenario, the official documentary sources as judicial records along with other set of secondary sources can be employed to verify the data gathered through oral interview techniques. In sum, a methodological strategy that combines forms of

documentary sources as court materials with other set of primary data sources can significantly add to the richness of information on cases of land acquisition and related conflicts.

8.6 Concluding Remarks

On balance, this research project through an investigation of land use policies in the context of large scale urban development projects brings forth the multiple issues surrounding land conflicts in urban areas. The dissertation by merging subnational political economic dynamics with state restructuring processes illustrates the changing paradigms within urban governance in our cities. Using the employed hybrid framework, the study illustrates how the instruments of the SPVs are causing convergence across otherwise regionally different sites of Karnataka and Kerala. To this end, the study highlights how subnational variations may not have any impact in cases of land management practices that are influenced by metropolitan levels of governance. The study further exposes the influence of external actors, both government and non-government, in determining resource allocation with urban areas in India. As I have argued in the thesis, that current patterns of land use management and allocation within Indian cities can inextricably be linked to changing paradigms of urban governance. My findings from the study are reflective of both a top-down pattern of city governance as well as an urban planning process that is geared towards a project centric planning rather than focused on comprehensive city planning. In unfolding this process, I throw light on the peculiar design that underlies the financial and administrative core of the SPV, which enables the SPV to enjoy several prerogatives belonging to the state institutions of governance despite the SPV inherently being a company. The thesis finally alerts us to the progressive dilution of several political and democratic procedures in processes of resource allocation within Indian cities. Although the focus of this study was transit system projects, the findings of the study are certainly not confined to these project specific types, but can be drawn upon to unfold the emergent governance and resource distribution patterns within urban areas at large.

APPENDIX

A1 Summary of Interviews

CATEGORY	NUMBER OF INTERVIEWEES				DATA COLLECTION METHOD
	Karnataka (with details of organisation/affiliation/or key localities covered, wherever relevant)		Kerala (with details of organisation/affiliation/or key localities covered, wherever relevant)		
State officials	8	•BMRC (3) •KIADB(3) •BBMP (1) •A retired land acquisition official (1)	8	• KMRL(4) • District Collectorate (4)	Personal Interview
Lawyers	4		4		Personal Interview
Projected Affected People	17	Old Bangalore Slum; CMH Road; Magadi Road Slum; and few other individuals from other areas	8	Mainly Pachalam	Personal Interview and Group Discussions
Local informal/ political leaders	1	Old Bangalore Slum	4	• BJP(2) • CPM(1) • Congress (1)	Personal Interview
Local MLAs	2	•BJP(1) •Congress (1)	-		Personal Interview
Local NGO Members	3	Alternative Law Forum; Environment Support Group	-		Personal Interview
Journalist/ Activists	3		3		Personal Interview
Total	38		27		

A2 Categorisation of some of the key documentary sources used in the thesis

	Type of Document	Name of the Document(s)	Source
1	Concession Agreement	Development of Swastik Station on PPP basis	Obtained from an informant
2	Judicial Record (Writ petition)	Jossey v. State of Kerala and Ors., W. P. (C) No. 7860 (The High Court of Kerala March 17, 2014)	Obtained from an informant
3	Judicial Record (Judgment order)	M/S Hamara Shelters Private Limited v. The Commisioners & Ors, In Writ Petition No. 3303/2012 (High Court of Karnataka June 26, 2014)	High Court of Karnataka website
4	Judicial Record (Writ petition)	M/S Hamara Shelters Private Limited v. The Commisioners & Ors, Writ Petition No. 3303/2012 (High Court of Karnataka)	Obtained through third party application in the High Court of Karnataka filed with the help of an informant
5	Judicial Record (Writ petition)	N. P. Verghese and others v. The District Collector and others, WP (c) No. 23433 of 2014 (High Court of Kerala at Ernakulam 2014)	Obtained from an informant
6	Judicial Record (Writ petition)	Riya Suraj and others v. State of Kerala and others, WP I No. 74461/2015 (High Court of Kerala at Ernakulam 2015)	Obtained from an informant
8	Judicial Record (Writ petition)	Sri K Mohan and others v. Bruhat Bangalore Mahanagare Palike and others, W.P No 25188 (High Court of Karnataka 2011)	Obtained through third party application in the High Court of Karnataka filed with the help of an informant
9	Judicial Record	The CMH shops and Establishment and Ors v. State of Karnataka and Ors. , W.P No. 3345/2008(GMPIL)c/w W.P No. 2932/2007(LA-	Obtained from an informant

	(Judgment order)	KIADB), W.P No. 846/2008(LA-KIADB), W.P. No. 15224/2008 (GMPIL) (High Court of Karnataka, Bangalore March 19, 2010)	
10	Judicial Record (Writ petition)	Counter Affidavit Filed by Kochi Metro Rail Limited, W.P. (C). No. 11609 of 2014 (High Court of Kerala, Ernakulam 2014)	Obtained from an informant
11	Judicial Record (Judgment order)	N. Sudhakaran Pillai and another v. The Local Level Monitoring Committee and others, W.P. (c). No.11609 of 2014 (High Court of Kerala at Ernakulam 2014);	India Kanoon website/ Also available on High Court of Kerala website
12	Judicial Record (Writ petition)	Writ petition filed under Section 5 of the Kerala High Court Act against the judgment dated 26.6.2014 in W.P. (C) No. 11609 of 2014 in the High Court of Kerala, Ernakulam	Obtained from an informant

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