

MEGA PROJECTS AND RESHAPING OF URBAN FUTURES

GOVERNANCE AND EQUITY IN DELHI MUMBAI INDUSTRIAL CORRIDOR

TOWN PLANNING SCHEMES: AN INTRODUCTION

Town Planning Scheme (TPS) is one of the nation's oldest land pooling and readjustment tools (Ballaney, 2013). It works with a development plan (DP). The TPS is the second level of physical planning provided under the Gujarat Town Planning and Urban Development (GTPUD) Act, 1976. It has been applied in many cities in Gujarat, such as Ahmedabad, Rajkot, Vadodara, and Surat. Rather than acquiring parcels of land, the GTPUD Act, provides for a certain portion of the owners' land to be appropriated for roads (up to 15 per cent), amenities & infrastructure (up to 5 per cent), open spaces, parks & playgrounds (up to 5 per cent), housing for socially and economically weaker sections (SEWS) (up to 10 per cent) and for creating a land bank for future use or raising finance (up to 15 per cent) (Mahadevia et al 2018). These provisions in the GTPUD Act state that the lands up to the stated purposes can be acquired. Term 'up to' suggest that the maximum limits are set but not necessarily these have to be met if the ground circumstances do not allow for appropriations. Mahadevia et al (2018) have shown that in conditions of informal developments or even developments prior to the finalizing of the TPS of an area, the appropriations do not happen. About 32 per cent of lands were acquired for the purposes stated above as per Ballaney (2013: 117) and 10 per cent (excluding the area under roads) as per Mahadevia et al (2018: 10).

The rest of the land (about 50-60 per cent of the original) is handed back to the land owners as adjusted and re-blocked plots with connections to infrastructure such as roads, water supply, and sewerage and drainage lines. The cost incurred by the urban local body for providing these infrastructure improvements is recovered through 'betterment charge' and is often adjusted against the compensation to be made to the owner for divesting his/ her/ their land. In addition, the lands set aside for social amenities such as education, health, fire station and green and open spaces, enable development of these. This model is seen to enable an equitable land allocation system. The GTPUD Act has been amended many times, the first major amendment introduced in 1999, which, Ballaney (2013) and Mahadevia et al (2018) is the main explanation for its success in Ahmedabad city (the success of the mechanism in Ahmedabad city has been discussed in the next section)¹. In cities where this has been followed, one can see lands even in densely developed areas being made available for public

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**LAND ACQUISITION FOR
MEGA INDUSTRIALISATION:
IS TOWN PLANNING
SCHEME A SOLUTION?**

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The project aims to understand how the Delhi Mumbai Industrial corridor is changing patterns of urban and regional governance in two case study sites, in Gujarat and Uttar Pradesh. It focuses on how the DMIC is shaping interaction between state and non-state actors at different scales, and how it is affecting existing processes of urban development and planning.

The CUE research has examined the genesis of the DMIC project, with a focus on how the state of Gujarat has developed an enabling environment for such mega clustering of industries and massive urban development projects over the years.

This policy brief elaborates on this theme with two projects in the state, namely the Dholera Special Investment Region and the Gujarat Petrochemical and Petroleum Investment Region, Bharuch highlighting the land based issues which are strongly positioned as bottlenecks for their implementation.

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purpose and social housing, increased road density and land sales that can be used for funding the infrastructure as well (Mahadevia et al 2018). In Gujarat, the TPS mechanism is used for planning within both municipal areas and Urban Development Authority (UDA) areas, that is, in urban extension areas which are outside the municipal government boundary, and have already experienced urban sprawl. The UDA jurisdiction includes both, the urban sprawl and greenfield sites that are potential future urban development areas.

Considering its merits, the TPS mechanism has also been applied to Special Investment Regions (SIRs), under a SIR development authority. The TPS mechanism has replaced the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013, a national act that is applicable to both rural and urban areas. The RFCTLARR Act was framed after wide consultations with the farmers' and human rights organisations. Its main content is social and environmental impact assessment as well as public hearings as a part of the process of land acquisition. For the private sector industries, which have been used to the state acquiring lands cheaply from the farmers and assembling fragmented land parcels for industrial use, this new legislation, RFCTLARR, Act 2013, is expensive and cumbersome. State governments desirous of rapid industrialization also consider this legislation time consuming. For farmers, this legislation provides for a fairer and transparent process developed with farmers' participation, a framework that did not previously exist. The RFCTLARR Act, 2013, is a national legislation and the State governments have to frame rules for its implementation. Gujarat State has framed the rules but dropped the requirements of public hearing as well as social and environmental impacts of land acquisition. In addition, to bypass the RFCTLARR itself, in case of SIRs, the State government has embedded the TPS mechanism within the SIR Act so that lands can be appropriated cheaply for the purpose of planned investments regions.

This brief explores if the TPS is a viable mechanism, taking the case of urban Ahmedabad. It then contextualizes this legislation in case of the Gujarat Petro Chemical and Petroleum Investment Region (GPCPIR), Dahej. The brief ends by discussing the challenges of land governance in Dahej SIR due to ground level opposition to the TPS mechanism's adoption in Dahej SIR. The paper raises questions related to land governance in the context of high dependency on land for livelihood for a large section of population and subversion of the progressive legislation

the RFCTLARR, 2013 by the State government in the quest for rapid industrialization, however, illusive it might turn out to be.

TPS AS A TOOL FOR TRANSFORMING URBAN DEVELOPMENT

In Ahmedabad, 154 sq. km of land has been reconstituted using the TPS mechanism so far (Ballaney, 2013). There are some key changes to the GTPUD Act which have made the application of TPS easier. The first one is the 1999 amendment which permitted immediate possession of areas demarcated for roads in the draft TPS. This enabled planned development and speedy appropriation of land for sale to be used to finance infrastructure. On the launch of Jawaharlal Nehru National Urban Renewal Mission (JnNURM), there was also funding available for social housing projects. Ahmedabad has used its SEWS reservations in the TPS for certain Basic services for Urban Poor (BSUP) projects under JnNURM. Apart from this legal and financial support, successful negotiations have also been an important factor for implementation of the TPS. Testimony to this is the 76 Km long SP Ring Road, which was built within four years, 2002-2006.

The TPS also accommodates pre-existing development. In Ahmedabad, there have been special cases to accommodate informality in the TPS area. An example is Bombay hotel, which is a large informal settlement in Danilimda TPS (Desai et al 2019; Mahadevia et al, 2018). The other reservations in this TPS were reduced to cause minimum changes to the existing fabric. The Ahmedabad Municipal Corporation also bought land from the other city level authorities for infrastructure provisioning.

Hence the TPS has been a flexible and accommodative tool in Ahmedabad, since it has permitted land for public and equity purposes. This is evident from the fact that a significant number of people who have been evicted have been resettled. All this can also be attributed to the philanthropic capitalism which is prevalent in the city (Mahadevia et al, 2018).

The TPS mechanism is a partial success story. While it has been successful in urban extension areas, it should be noted that the TPS has not worked as well in fully Greenfield or brownfield sites (Mahadevia et al, 2018). Its limitations in the urban setting are given uncertainties with respect to planning, management and governance. In many cases, obtaining large areas even of public land can be challenging due to prevailing informality. Other challenges, which vary from case to case, include lack of financing, intense list of

centralised approvals, involvement of multiple agencies, lack of participation across the spectrum of stakeholders and farmers' resistance.

Farmers have resisted because as soon as a draft TPS is prepared, the planning authority appropriates 15 per cent of the lands earmarked for roads, divesting farmers of these lands. Further, no development is permitted on other lands earmarked for other purposes. However, after earmarking such lands, development on these may come after a long time lag, which may extend to a decade or more, as investments in roads and other infrastructure would depend on the availability of funds with the planning authority. If these investments do not occur, the land prices do not escalate and hence even after surrendering half of their lands farmers do not reap any benefit from land price increase. In the meanwhile, the farmers have to continue to depend on farming and with the half their lands not being usable, they lose their livelihood. They therefore consider the TPS as a large potential threat to their survival strategies, or as one farmers' leader said: "TPS is the biggest villain in Gujarat." Given this situation, use of TPS as a planning mechanism within the SIRs has turned out to be problematic, as we discuss below.

TPS AS A TOOL FOR PROMOTING INDUSTRIAL DEVELOPMENT ²

The GPCPIR is the only activated SIR of its kind in the country. Since it is a brownfield development, it has seen more progress than the other SIRs in Gujarat. Developments in this region commenced with the setting up of Dahej I Special Economic Zone (SEZ) in 1992. In 1998, Dahej II was proposed, simultaneously with Vilayat Gujarat Industrial Development Corporation (GIDC) estate. With increasing demand, this area was notified as an SIR in 2007 by the Ministry of Chemicals and Fertilizers under the PCPIR Policy. Currently, there are five estates in the SIR, which include Dahej I & II SEZs, Villayat, the developing Sayakha estate and the proposed Dahej III SEZ. By 2040, PCPIR is expected to be completely developed.

The Planners in GPCPSIRDA currently estimate that the PCPIR is providing 36,000 direct jobs and triple the amount of indirect jobs. As per observations on site, the labourers live behind the villages and not on the access roads closer to the industries. Mainly Dahej and Jolva (seen in Figure 1) village have many residents. Those employed in Class I and Class II jobs, that is in managerial, other skilled administrative work and clerical jobs, currently live mostly in Bharuch and are expected to move within the GPCPIR when the proposed townships come up. The township 'Saraswati',

near Vadala, owned by Reliance Industries Limited, has already been developed. Estimating from the current pace of development, the expected population in the GPCPIR by 2040 is 1.6 million.

The GPCPIR and the Delhi Mumbai Industrial Corridor (DMIC) are simultaneous mega projects which have had their impacts on each other. While land in the five estates in GPCPIR have been acquired, predominantly by the GIDC, the acquisition in other parts of the SIR are still in progress.

TOOL TO ACQUIRE LAND IN GPCPIR: THE DP-TP ROUTE

In Gujarat, a discrete institutional structure has been devised to speed up the process of acquiring the land to establish the SIRs. A regional development area is delineated under an exclusive development authority, which is the GPCPSIRDA in this case. The apex authority, Gujarat Infrastructure Development Board (GIDB), is designated to provide the approvals for the projects. According to the GTPUD Act, the designated regional development authority prepares a regional development plan, which encompasses rural as well as urban areas. Thus, as per the GTPUD Act, the village settlements would be covered under a regional development plan. However, if another development authority is constituted (in this case the GPCPSIRDA), the former plan (in this case the regional development plan) stands dissolved (Ballaney, 2013). This had led to disagreements between the stakeholders. GIDC is the project development agency of GPCPSIRDA, handling the environmental clearance and infrastructure development. Apart from this, the Bharuch Ankleshwar Urban Development Authority (BAUDA) borders the GPCPIR and hence coordinates with it for the provision of infrastructure. There are multiple authorities with overlapping jurisdictions.

Though the GIDC estates are autonomous, they are to follow the Gujarat Development Control Regulation (GDCR) of the GPCPSIRDA for development. 50 per cent of the land use in the development area is designated for industrial purposes. In the development plan (Figure 1), GIDC estates are indicated in light purple. The dark purple areas are dedicated for Gujarat Maritime Board's (GMB) demands. These are designated for port, ship building and aligned activities. Along the 0.09 mile escape routes, mixed use has been proposed. The stipulated FSI here is 2, with up to 0.09 mile from the road to have pure commercial based activities and the rest to have mixed use activities. Most of the land here has already been acquired by the GIDC.

Currently 14 TPS have been planned in this area, which are all for non-processing zones. Out of this, TPS 1 and 2 have been sanctioned. The design of the TPS are mostly outsourced to consultants. If a developer wants to develop land in a non-TPS area, 35 per cent of land is deducted to be readjusted in the future. It needs to be stated that in the case of Dahej SIR, some of the land owners negotiated only 35 per cent total lands to be deducted instead of 50 per cent owing to the small final plots and certain lands becoming unusable due to High Tension Lines and ONGC pipelines passing through their lands. The authority expects that many TPS will be in place by the time developers approach them. The farmers in the GPCPIR region stated that their land has been reported as infertile, which was quite contrary to the reality. Further, the original plot value of the land in the SIR was 3.86 million USD/Ha and as per the land acquisition legislation, the acquisition price should be the prevailing land rates or the prevailing Jantri rates³, whichever was higher. The farmers stated that they were interested in receiving cash compensation for the lands they surrender rather than giving up the lands through the TPS mechanism.

THE RISE OF CONTROVERSIES AMENDMENT OF LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (LARR) ACT 2014

To create a congenial environment for industrialists in Gujarat, the RFCTLARR Act was amended in the Gujarat Legislative Assembly, but this occurred in the absence of the official opposition, which Rabari and Ginwalla (2014) argue to be a negation of democratic principles. The reason given by the state was that the existing Act was very rigid and elongated the time for land acquisition. Research however showed that only 8 per cent of the projects were delayed due to the stated reason (Rabari and Ginwalla, 2014). The amendments consequently led to the expansion of the list of projects exempted from consent of the land owner before acquisition. The new projects added in the exemption list included industrial corridors and projects to do with national security, the typology of which can be flexibly interpreted when private players are involved. The DMIC covers 60 per cent of the land of the state which is now under this exemption (Rabari and Ginwalla, 2014).

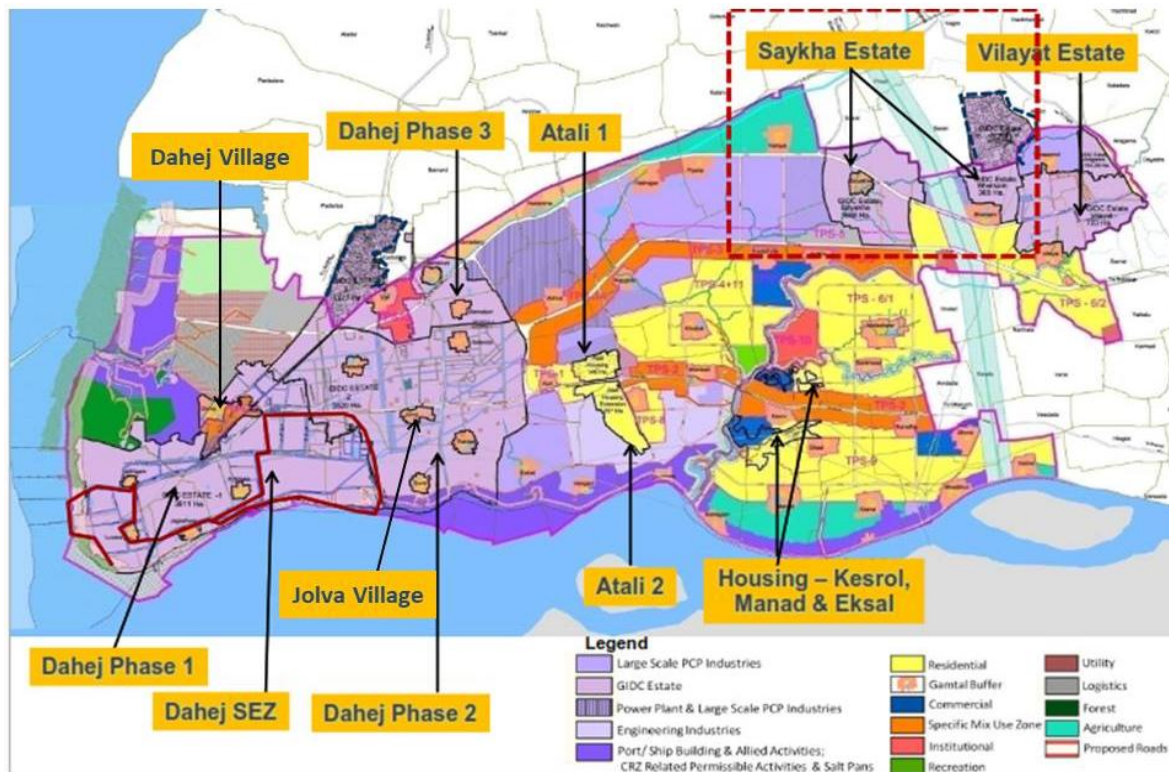


Figure 1: DP 2032, GPCPIR
Source: Gujaratpcpir.org (accessed on May 15, 2017).

Amending some State policies, the District Collector was now designated as the authority to decide about land acquisition and compensation. The registrar of properties, an authority under the revenue department, and is considered to be a corrupt office, was removed completely out of the picture. This authority oversees land sales and charge stamp-duty, but, does not have power to decide the stamp duty rates. The District Collector is an authority above the registrar of properties and also has legal powers unlike the latter, and hence can take decisions related to law in consultation with the state government. The appointment of the District Collector as designated authority indicates the importance of facilitating land appropriation/ acquisition for industrial purposes. Also when the GoG required more than 100 acres of land for its own use, 50 per cent of compensation was to be paid as a lump sum to families as a one-time payment, which proved to be a disadvantage to the land losers. In an urgency situation, the Collector was given the powers to acquire land autonomously. Considering the questionable provisions of the land acquisition/ appropriation acts, many agitations emerged in the state among the farmers, who have been subjected to surrendering their lands to these mega projects.

JUDICIAL CONTESTATIONS TO SIRs IN GUJARAT

In the Town Planning Scheme mechanism, it is assumed that once the plan is prepared, the development authority will invest in infrastructure which would lead to land values escalation and hence even if the land owner is left with a depleted amount of their original land, their land wealth in monetary terms would increase. However, the escalated land values can be realised only when the land sales happen, that is, lands are purchased by a private developer. In such partially Greenfield sites (which are part of a larger brownfield development), sales may not ever happen or may only take place in the long-run. Until then, the farmer has to be content with owning reduced farm lands that would adversely impact their livelihood given that their main occupation is agriculture. The farmers are arguing that illusory future increments in land values are being promised against land that is essential for their current survival in the SIRs.

Hence, the farmers' agitation in GPCPIR has taken a legal route. The farmers, along with their organisation, Gujarat Khedut Samaj (Gujarat Farmers' Movement), have filed a Public Interest Litigation (PIL⁴) in 2016 in the High Court of Gujarat (PIL number 166) questioning the validity of and provisions within the Gujarat SIR Act of 2009. The PIL has challenged certain provisions of the SIR Act, 2009⁵ as ultra vires to articles 14 (Right to

equality before law); 19 (Right to freedom to practice any profession, trade or business); 21 (Right to life and livelihood); 48A (the state to protect and improve the environment), and some other provisions of the Constitution of India.

The main contentions of the farmers' losing their land are: (i) that setting up of a development authority (here the Gujarat Petroleum, Chemicals and Petrochemicals SIR Development Authority) to delineate the geographical boundary of the SIR and then prepare a development plan for it is inconsistent with democratic principal of self-government enshrined in the Constitution of India as per the 73rd Amendment; (ii) the change in land use from agriculture to other deprives the farmers of their right to livelihood and hence it conflicts with the fundamental rights of the citizens enshrined in the articles 14, 19 and 21; (iii) taking away land from the village by restricting rights of the local government to only area of habitation and a buffer of 300 meters around it violates not just the 73rd Constitutional Amendment but also article 243 G⁶ of the Constitution; (iv) the article 243ZD of the Constitution of India suggests the setting of a District Planning Committee under the Gujarat District Planning Committee Act of 2008, which has also been violated; and many other issues. The petitioners' important demands are scrapping of the SIR Act, de-notifying their villages from the Dahej PCPIR, and rejecting the development plan of the region.

A similar PIL was filed against the Dholera SIR in 2014 (petition 227 of 2014). The petition against the Dahej PCPIR (166 of 2016) was combined with that against Dholera SIR by the Gujarat High Court, vide an interim order dated December 10, 2015 related to the PIL 227. The hearings on the two PILs are ongoing in the High Court of Gujarat. Meanwhile, the farmers are demanding market rate compensation for lands to be acquired.

CONCLUSION

In the context of Ahmedabad, where land is subjected to development pressure, the TPS mechanism has been used to enable equitable distribution of land. Firstly, the land owners are assured of the fact that they would reap the benefits of the upgraded infrastructure soon. Their land and property value can be fully realised in a finite horizon. Secondly, the change is most often not forceful and is well within similar urban characteristics. Thirdly, the authority which is implementing this TPS has an elected wing, who are representatives of the people themselves.

In case of the GPCPIR at Dahej, the declaration of the development region and the change from a rural to urban setting fully detached from the context of incremental urban growth, and is rather forceful. Beyond the declaration of the SIR in 2007, physical development of the land has been very limited so far and hence leaves the land owners with uncertainties about reaping the benefits of a TPS development. In the interim, they cannot even continue farming in the remaining land parcels. Additionally, they do not get jobs in tune with their skill set within the SIR. On the whole, it leads to a loss of livelihood. This is also evident from the prevailing agitations in the SIR which have decelerated the momentum of the project. Hence the adoption of TPS mechanism in this case is not fruitful. Further, the TPS mechanism mandated to be used for planning in the SIRs is also subversion of the RFLARR Act of 2013, which is a national legislation. While we see from the cases discussed above, that see that applicability of any tool for land development is not universal and has its own shortcomings, but we also see that pushing for industrialization in violation of national legislation that the farmers fought hard for, is undemocratic.

NOTES

1. The details of the different relevant amendments are found in Mahadevia et al (2018).
2. This section is largely based on discussions with the planners in the GPCPSIRDA, Gandhinagar in May 2017, unless and otherwise stated.
3. Jantri rates are the minimum price of land / building in a particular area. It is the government document which specifies the market price of the land and buildings.
4. Public Interest Litigation (PIL) is a legal tool available to Indian citizens to challenge the state action in case of violation of Fundamental Rights enshrined in Indian Constitution. For State-level matters, a PIL is filed in the State High Court and in multi-State issues in the Supreme Court of India.
5. Sections 3,4,5,6,10,17, 28 and 29.
6. This article says that it is necessary for the state to share powers with the *panchayat* to plan for local economic development and social justice. *Panchayat* is an institution of rural governance and is considered as third tier of government as per the 72nd Constitutional Amendment.

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