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When Good Policy Meets Bad Politics

PROPERTY RIGHTS, LAND
AMALGAMATION, AND
URBANIZATION IN INDIA

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THE FUTURE OF DEVELOPMENT

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Indian cities are sprawling, low-built, and filled with slums. India needs to transition from this sprawl (a pancake) toward an emphasis on building upward with greater density (a pyramid) to cope with impending urban population growth and to reap the benefits of agglomeration externalities. The conventional solution, highlighted in recent studies by the World Bank, is to “strengthen property rights.” In India, however, population density, multiple inheritance, and multiple and overlapping property rights have fragmented land ownership. The use of eminent domain by the Indian state to acquire and amalgamate this land for industrial or infrastructural usage generated massive political opposition in the 2000s. In response, the national government passed the 2013 Land Acquisition Act, which narrowed the circumstances under which land could be acquired, increased compensation payments, and spread those payments to non-owners relying on the acquired land for their livelihoods. This political reality—ensuring political acquiescence among most rural and slum dwellers—has created an economic problem. There is now a huge time and cost burden on private business in acquiring land for property or industrial development. What is good policy in intensely politicized and democratic India is bad economics and makes it more likely that India will slide into dysfunctional, Africa-style urbanization.

1 INTRODUCTION

Contemporary urbanization in India is like a pancake: sprawling outward, crowded with people and traffic, and low-built (Lall et al. 2021). Poor transport and shortages of formal, affordable housing mean that much of the population squeezes into informal housing (slums) to be near jobs. More than 40

percent of the population of Mumbai, for example, lives in slums. These crowded neighborhoods contribute to an acute shortage of space for new construction within 10–15 kilometers (7–10 miles) of the center of Indian cities (Panagariya 2020, Ch7). In 2021, only about 35 percent of the population in India lived in urban areas—compared to 42 percent in sub-Saharan Africa and as high as 63 percent in China (World Bank 2023). Between 2018 and 2050, the number of urban dwellers in India is forecast to increase by 416 million people. Taken together, India, Nigeria, and China will account for almost 40 percent of global urbanization in these three decades (UN 2019, 43). To absorb this rapid influx and growth, cities in India need to transition into pyramids.

Pyramid urbanization occurs when horizontal expansion becomes increasingly accompanied by infill development and building upward, especially in the urban core. This is not a call for building iconic skyscrapers, but for 5–10 story buildings that would allow a growing population to live more comfortably and nurture productive economic activity that benefits from urban scale and agglomeration potential (Lall et al. 2021, i). Building pyramids also requires large-scale investment in infrastructure. In November 2022, a World Bank report (widely discussed in India) found that to cope with this rising tide of urbanization and transition from a pancake into a pyramid, India will need to invest \$840 billion over the next 15 years (\$55 billion per year) into urban infrastructure. Without this investment, the remorseless urbanization of India will create intolerable pressure on affordable housing, clean drinking water, reliable power supply, and free-flowing road transport (Athar, White, and Goyal 2022). This paper shows that India, unlike contemporary Africa, primarily needs to find an efficient means to amalgamate land, bringing small plots into larger parcels to build housing or infrastructure.

India is still a country of farmers and rural dwellers, but its cities have so far been associated with striking economic dynamism. Although India’s cities occupy 3 percent of the country’s land area, they contribute 60 percent of the nation’s gross domestic product (GDP). Urban growth has been responsible for 80 percent of recent declines in national poverty (UN [n.d.]). By comparison, the tight historical link between urbanization and economic growth across Africa broke down in the 1970s (Gollin, Jedwab, and Vollrath 2016). In Africa, the “outcome of low income, low investment urbanization includes extensive

informal employment, sprawling shack settlements, overloaded services, environmental degradation, social unrest, violent crime and chronic traffic congestion” (Turok 2016).

Could the same thing happen in India?

This paper discusses how good institutions, in particular stronger property rights for urban dwellers, are highlighted by many as a key policy priority for India. Stronger property rights could help Indian cities transition from pancakes into pyramids by better enabling developers to amalgamate small plots of land into sufficient space to build upward, by encouraging banks to finance such development, and by giving existing slum dwellers collateral to redevelop their own informal housing.

This paper concludes that what makes for good economics in India (strong property rights) runs up against a profound market failure. The standard means to deal with that market failure (the use of eminent domain by the state) has generated a strong political reaction in India. In subsequently managing the fallout from the politics of land acquisition, the state has hindered the ability of households and property developers to acquire land. Good policy is undermined by bad politics, and there are real concerns that India may slip into Africa-style dysfunctional urbanism in the coming decades.

Section 2 focuses on the orthodox solution (good institutions); Section 3 focuses on how to turn economic theory into good policy; Section 4 shows how good institutions are associated with market failures in the case of contemporary India; and Section 5 concludes.

2 THE TRADITIONAL SOLUTION: GOOD INSTITUTIONS

The prevailing orthodoxy in economics is that “good institutions” are crucial to promote investment-led, sustainable, and rapid economic growth. As Daron Acemoglu and others put it, “Institutions are the fundamental cause of long-run growth” (Acemoglu, Johnson, and Robinson 2004). Institutions were the focus of an influential 2012 book by Daron Acemoglu and James Robinson claiming that institutions explain *Why Nations Fail* and *The Origins of Power, Prosperity*

and Poverty” (Acemoglu and Robinson 2012).

There is a helpful ambiguity in the precise definition of “institutions” and a consequent flexibility in its interpretation. “Institutions” can encompass corporate and state governance, the functioning of the civil service, as well as organizations such as banks and manufacturing firms. This ambiguity partly explains the popularity of the hypothesis that institutions are key by allowing a smorgasbord of political and ideological persuasions to find support for their own beliefs in the claim. This paper uses the more rigorous definition by Douglass North, winner of the Nobel Memorial Prize in Economic Sciences, who described institutions as “the humanly devised constraints that structure human interaction. They are made up of formal constraints (rules, laws, constitutions), informal constraints (norms of behavior, conventions, self-imposed codes of conduct), and their enforcement characteristics. Together, they define the incentive structure of societies and specifically economies” (1994, 360). Institutions are distinct from organizations, which bring individuals together for a common purpose, as a political party or a trade union or a bank does. Rather, institutions are about rules.

Theory and empirical work on institutions have often focused on property rights. Property rights can exist over land or buildings (a title deed), over a business (share certificates), over images and trademarks (copyrights), or even over ideas and production processes (patents). The literature has identified three mechanisms through which well-protected property rights can promote long-run economic growth.

First, to invest in physical capital (such as machines in a factory or irrigation on a farm), an investor needs long-term secure ownership of their factory or farm. Property rights could be violated, for example by a well-connected politician using coercion to take over formal ownership, confiscating higher profits legally through increased profit taxes or illegally through demanding higher bribes. To develop a modern drug or medical treatment—which might cost hundreds of millions of dollars—a pharmaceutical company needs a guarantee that copyright protections will prevent other firms from duplicating its technology before it undertakes the necessary research and development. Without well-protected property rights, resources may be allocated to short-term, more liquid investments like moneylending or sent overseas in a form of capital flight.

Second, defining and then registering property

rights makes it easier to buy and sell them in the market—and, over time, to reallocate them to the most productive user. An official registry of land and building ownership makes it easier to locate owners, engage in a purchase, and re-register the new owner.

Third, when inputs (raw cotton for a textile factory or fertilizer for a farm) and outputs (textiles and wheat) are sold through the market, it is easier to calculate the profitability of any particular piece of property (the textile factory or the farm). If a factory or farm is not as productive and not making equivalent profits to rival producers, there will be an incentive for a more efficient entrepreneur to purchase those assets at prevailing market prices.

Together, these three mechanisms—investment, reallocation, and productivity gains—inform the view of North and others that institutions, and specifically property rights, are the “underlying determinant of the long-run performance of economies” (North 1990, 107). Consequently, “the heart of development policy must be the creation of policies that will create and enforce efficient property rights” (North 1995, 25).

There is a lot of evidence linking institutions to economic growth. Econometric studies have constructed quantitative measures of institutions and related them to economic growth while accounting for other growth-relevant factors. Using a data set of 127 countries, Hall and Jones (1999) find a significant and strong association between output per worker and a measure of institutions that seeks to quantify the extent to which individuals can capture the returns on their actions—rather than those returns being lost to crime, confiscatory taxation, or corruption. Historians have found examples of comparative “laboratory-like” experiments to test the impact of institutions. Until 1945, South and North Korea had similar histories, resources, culture, and geography but ended up with very different institutions, a crucial one being the abolition of private property rights in North Korea (Acemoglu 2002). Estimated per capita incomes at the end of the 1990s were less than \$2,000 in North Korea and over \$12,000 in South Korea (Maddison 2006, 130, 149). Other “laboratory” examples include the 1940s divisions between East and West Germany and between China and Taiwan. In every case, abrupt institutional change—notably the abolition of private property rights in the communist laboratory—led to an “immediate divergence in the way they behaved” (Ferguson 2012, 11).

Outside of the economic laboratory are the grand

sweep of institutional-economic historical case studies. The United Kingdom, France, and the Netherlands had well-developed systems of private property rights from the sixteenth century onward that facilitated their rise to global economic dominance. Meanwhile, in most of sub-Saharan Africa, property rights were held tribally or communally. The real historical failures were those entities that had enormous wealth from conquest and taxes but failed to channel this into long-term investment; property rights in the Ottoman and Mughal Empires, for example, were not private but granted and removed at the whim of the monarch (North and Thomas 1973). China remains a puzzle: It had well-protected private property rights in the fifteenth century but did not experience investment-driven long-run economic growth. This indicates that good institutions are not always enough.

The World Bank is clear that good institutions are key to the transition from a pancake to a pyramid:

The other piece of the answer is found in laws, institutions, and capacity. Pyramids are more likely to evolve in countries and municipalities where property rights are clear, land values are transparent, land use and zoning are compatible with local preferences, and the enabling environment encourages durable investment in infrastructure – especially early investment, informed by forward-thinking urban plans. (Lall et al. 2021, 4)

In the case of India more specifically, the World Bank also focuses on the importance of institutions. The potential benefits of good institutions lie in “Leveraging Urbanization in South Asia” and “Managing Spatial Transformation for Prosperity and Livability” (Ellis and Roberts 2016). The poor existing state of land tenure and records of land ownership prevent residential development in India—and South Asia more generally—from building upward at a scale sufficient to accommodate urbanization. Private developers are reluctant and unable to acquire and assemble multiple parcels of land for residential development because they are unsure of the security of title. Financial institutions are reluctant to finance land development or to accept land as collateral. Overall, India needs “efficient land tenure and ownership record systems” (Ellis and Roberts 2016, 8).

3 FROM “GOOD” INSTITUTIONS TO PRACTICAL POLICY MAKING

Using historical literature to inform practical policy making requires a focus on how to create or properly enforce property rights.

Hernando De Soto (2001) has famously and influentially placed the creation of property rights at the center of his thinking on development. He accepts the standard advantages of property rights but finds that creating property rights is currently prohibitively expensive for the poorest communities. Famously, De Soto and his research team opened a small garment factory workshop on the outskirts of Lima, Peru with the goal of creating a new, legal business. They spent six hours a day at the process and registered the business 289 days later. The workshop employed only one worker, but the cost of the legal registration was \$1,231, or 31 times the monthly minimum wage (18). Without property rights, such assets are “dead capital.” In the Philippines, De Soto estimates that the value of untitled real-estate “dead capital” was \$133 billion in 2001—four times the capitalization of the 216 domestic companies listed on the Philippines Stock Exchange, seven times the deposits in the country’s commercial banks, and fourteen times the value of all foreign direct investment (31). While the developing world is full of entrepreneurs, he argues they are constrained to small-scale production and trade “because the rights to these possessions are not adequately documented, these assets cannot readily be turned into capital, cannot be traded outside of narrow local circles where people known and trust each other, cannot be used as collateral for a loan and cannot be used as a share against an investment” (6).

A lot of practical policy has followed this bottom-up approach. The World Bank, De Soto, and others advise developing country governments to focus on the compilation, registration, and maintenance of land property rights using modern technology such as the Global Positioning System (GPS) and the internet. There are some before-and-after case studies of efforts to formally recognize existing private property by registering land records. In India, the central government, through the Ministry of Rural Development, launched a major initiative to register and computerize land records in 1991. The centrally funded digitalization effort ran through 2004 and

was conducted in 582 (out of about 600) districts in the country. The program had three main benefits. First, it enabled small owners to access land records easily and without the petty corruption previously involved. Second, the records of land ownership made it easier for the government to target the delivery of public services, for example of subsidized fertilizer. Third, computerization made it easier for landowners to acquire and banks to verify documents of legal ownership. Unlocking land as collateral also helped landowners access bank credit (World Bank 2007).

In the state of Karnataka, the Department of Revenue computerized 20 million land records held by 6.7 million farmers in ten years. Previously, it had taken a village accountant up to a month to provide land records, even then upon payment of a significant bribe. After computerization, landowners could acquire land records in less than half an hour at a designated kiosk for a small, fixed payment. A small-scale study of the state revealed a widespread awareness of the computerization process. Many of those surveyed had obtained a copy of ownership information, nearly 70 percent had obtained their records in less than 5 minutes, 44 percent had paid no bribe, and 63 percent said that access to land records made it easier to obtain a bank loan (Ahuja and Singh 2006).

In China, comparable bottom-up efforts focused on the creation rather than formal recognition of property rights. Between the 1950s and 1978, agriculture in China had been organized into large, state-owned collectives, many employing tens of thousands of people. The collectives were successful in mobilizing resources to transfer to the central government. Problems with the management of—and lack of incentives for—workers in the collectives were responsible for negligible increases in productivity. Between 1978 and 1993, China broke up the collectives and contracted land management to households, generally on a locally equal per capita basis. It was a very orderly process that affected around 800 million people. This was not private property: The government wished to prevent the emergence of a landlord class, so it prohibited buying and selling land. Instead, it was about decentralizing the management of land by contract. The contracted period lengthened over time, and those rights could be inherited (Nolan 1995). This reform restored incentives by linking effort and reward. As a result, between 1978 and 1984 grain output grew by more than 30 percent, production of oil seeds and cotton by 15 percent per year, and meat production 10 percent per year. Rural per capita income more than doubled over this period (Kroeber

2016, 28). However, the initial burst of growth in agriculture was not sustainable because it was due to a one-off institutional change.

Yet in some parts of China, notably Shenzhen province, the decentralization of control over land did lead to the peasantry becoming urbanization entrepreneurs. In the 1970s, the present-day city of Shenzhen was a network of 300 villages. The area was established as a special economic zone (SEZ) in 1980, and a few years later its new Caiwuwei Grand Hotel opened. It was built on village collective land that had been designated for commercial and industrial use, using compensation paid by the government for loss of agricultural land. It was the villages' first major collective investment and China's first peasant-built star-rated hotel (Du 2020, 216). Over the next few years, more than 30 factories were built in the SEZ, producing electronics, furniture, toys, and other consumer goods. Grain storage warehouses and the village ancestral hall were adapted as small factory spaces. The peasants all became factory workers. The Shenzhen SEZ was not a matter of relocating the villagers to construct the zone's infrastructure. Rather, the peasants pooled land and government compensation to build housing and factories. The initial inhabitants were the key entrepreneurs (314).

Similarly, Shenzhen's Jilong Industrial Zone, established in 1988, attracted tens of thousands of workers from all over China. Elsewhere in the province, 24 production teams collectively formed Huanggang Industry Ltd, which also used compensation from the government for village land requisition to set up the Shapuwei Industrial Zone. This included 10,800 square meters (2.7 acres) of manufacturing space, which attracted enterprises such as Weihuang Knitting Factory and Lilai Electronics Factory. Huanggang villagers become landlords collecting rents rather than workers in the factories, and they rebuilt houses into ever taller rental blocks. The urban village of Baishizhou saw the construction of 2,500 self-built peasant accommodations housing 150,000 renters (Du 2020, 268).

Without property rights, the informal dwellings and market stalls of poor urban residents are "dead capital." With property rights, poor people can use their newly created formal assets as collateral to borrow money to invest. Property rights (or at least control over land, as in China) give them an incentive to do so—why turn a shack into a house if it could be bulldozed without compensation to build a road? Slum dwellers in India crowd into unsanitary informal housing to access urban jobs and schooling. With

the creation, registration, and protection of property rights, these people will have more capital to build better housing for themselves. By contributing their labor to India's urban development, these slum dwellers will also earn higher wages in the longer term, allowing them to become the market for purchasing or renting in the 5–10 story buildings they help construct. This is the modest pyramid urban development that India needs.

4 GOOD INSTITUTIONS AND MARKET FAILURES

In Africa, planning regulations often favor low-density housing where each dwelling has a large floor area and is well-made. These regulations, typically inherited from the colonial era, initially aimed to replicate housing standards in Britain or France for settlers and expatriates in Africa. For example, Kenya imported an English building code when a civil servant in Nairobi's administration copied the existing bylaws of his hometown of Blackburn. In Nairobi, the minimum legal size for a plot is 250 square meters (2691 square feet), about the size of a tennis or basketball court, and each house should have at least two bedrooms of at least 7 square meters (75 square feet), a separate kitchen, and flue ventilation. As a result, the cheapest formal housing units in Africa can cost between \$10,000 and \$40,000, well beyond what most people can pay. Another result has been the growth of informal slums, spontaneous clusters of single-story shacks built in violation of the planning codes (Visagie and Turok 2020). Outdated regulations can prevent higher density and mixed land uses in prized locations. (Turok 2016). The colonial-era legislation was untouched until the mid-1970s and is still being gradually amended. The problem in much of Africa is not amalgamating small plots but allowing affordable, small, formal-sector dwellings to be built in the first place.

By contrast, India's main problem is fragmented property ownership. Its 1.4 billion people are squeezed into a relatively small landmass, giving the country a population density of 434 people per square kilometer, compared to 36 in the United States or 27.3 in Zambia. However, only 35 percent of India's population resides in urban areas (compared to 45 percent in Zambia), with the remainder living and working in rural areas across entire country (World Bank 2023). The twin pressures of population growth and multiple

inheritance—India does not practice primogeniture—have fragmented property ownership. Between the 1990/1991 and 2000/2001 fiscal years, the number of operational farm holdings increased from 106.64 million to 119.93 million and the average operational farm size declined from 1.57 hectares (4.20 acres) to 1.33 hectares (3.29 acres) (Manjunatha et al. 2013). Between 1984 and 2010, the average floor space per person in Mumbai remained stuck at 4.5 square meters (48 square feet). By comparison, in Shanghai, China it increased from 3.65 to 34 square meters (39.3 to 366 square feet) (Tandel et al. 2016). The extreme demand for land in Indian cities leads to high property prices. In 2014, rents per square foot were \$127 in New York, \$103 in Singapore, and \$102 in Paris, but \$115 in Delhi and \$82 in Mumbai's Central Business District (Awasthi and Nagarajan 2020, 5).

There have been some efforts by provincial governments to implement innovative schemes for pooling this fragmented land to build housing and infrastructure. In Delhi, landowners are permitted to pool land to have the land developed, or become the developer themselves. In Gujarat, once pooled land is developed it is returned to the owner in smaller—but more valuable—plots. When Andhra Pradesh built its new capital, Amaravati, the ownership rights over pooled land was transferred to the Andhra Pradesh Capital Development Region Authority (APCRDA), and farmers got back 30 percent of their land in the newly built city (Mohanty 2019, 174–79).

Land is subject to overlapping claims in both Africa and India. When a property owner dies, India's traditional customs and legal system give legal rights of inheritance to an unclear and expansive roster of (grieving) relatives. There are also laws protecting the rights of tenants who are renting land or buildings. In Mumbai, for example, strict rent regulations originating a century ago have since evolved into a system with low and tightly controlled rents, tenants who can only be removed on highly specific grounds, and inherited tenancy. West Bengal's 1978 Operation Bagra, which registered 1.3 million sharecroppers and gave them permanent, inheritable occupancy rights, provides a similar example from rural India. These overlapping rights give multiple veto rights over sale and so add to the associated transaction costs by necessitating negotiated agreements among multiple sellers (Khan 2009). Likewise, there are overlapping statutory and customary land-tenure systems on the periphery of many African cities. The result can be confusion over rights to land that lead to long-running and damaging legal and political disputes (Turok 2016).

In India, the combination of fragmented property ownership and overlapping rights to property exacerbate a market failure associated with any efforts to pool land. Once a buyer commits to buying certain plots, the value of subsequent plots nearby will increase. The owner of a single tiny plot could potentially have veto power over the entire project by holding out for a higher price. The fragmented nature of ownership means that there are potentially thousands of such veto points. In May 2006, the Chief Minister of West Bengal (a state of 90 million people in eastern India) announced that the state was the favored destination for the Tata Nano project, which aimed to produce a \$2000 car for the Indian mass market. The factory was due to be built on 1,000 acres identified by the state-run West Bengal Industrial Development Corporation (WBIDC). However, fragmentation of ownership meant this would affect the land rights of an estimated 12,000 owners (Mohanty 2007). In the presence of these problems, strengthening the property rights of existing small-scale landowners may actually hinder the reallocation of that land to more productive uses and thereby slow economic growth.

This market failure is exacerbated by a related institutional failing. The extreme shortage of urban land and the multiple and overlapping claims to property in India have created conflict and overwhelmed the legal system with property-related cases. Disputes over rent control in Mumbai are the largest source of litigation in the city. In 2004, rent-control matters were the exclusive jurisdiction of all but two of the 36 Small Causes Courts in Mumbai; there were 38 judges dealing exclusively with rent-control matters and only 18 judges in the city's Civil Courts to hear other matters. Overall, it is not unusual for conflict over property issues in Mumbai to remain in court for more than 25 years (Mendelsohn 2005). Similarly, by late 2000 there were an estimated 1.4 million land cases pending in the state of West Bengal, taking an average of nearly eight years each to resolve (Khan 2009).

5 THE SOLUTION: WEAKER INSTITUTIONS?

The typical mechanism to deal with this market failure in India and elsewhere is the use of eminent domain, whereby the state can establish a purchase price by

referring to existing market prices and then subject the land to a compulsory, state-backed purchase order. This underlies the argument that building new, pyramid-style urban infrastructure requires weaker property rights.

There are many examples of eminent domain being utilized to transfer land to more productive uses—though often just better politically connected ones. Between the sixteenth and nineteenth centuries, the Enclosure Movement in England saw around 50,000 peasants (out of a British population of 4 million) forcibly disposed of access to common land. Backed by parliamentary laws, authorities literally fenced off and transformed common land into private land. This property was more intensively utilized, often for the sheep farming that supplied the wool for the emerging woolen textile industry (Sarkar 2007). In Singapore, the 1966 Land Acquisition Act allowed the state to acquire land using compulsory purchase orders that set compensation lower than market prices. The property was subsequently leased to industrialists for long-term periods at low rents, representing a significant subsidy and incentive for export-oriented industrialization (Ermisch and Huff 1999). In China between 1996 and 2005, an estimated 5 percent of agricultural land was transferred to non-agricultural uses. The land was already owned by the state, but an estimated 20 million farmers received compensation for loss of access to it. This was crucial to supporting the rapid export-led industrialization and urbanization of China (Sarkar 2007).

In India, formal powers of eminent domain were established by the Land Acquisition Act of 1894. This act enabled the state to make compulsory purchases of land and other assets for public purposes, with compensation linked to market prices. This law was reincarnated as the 2005 Special Economic Zone (SEZ) Act, which set new a framework for state governments to acquire land to build SEZs. However, the implementation of the SEZ Act stalled in the face of massive political opposition. This delayed large investment projects such as the Salim Group's petrochemical SEZ in Nandigram, West Bengal; the Reliance Group's multi-purpose SEZ outside Mumbai; and POSCO's \$12 billion steel-mill SEZ in Odisha. The Sardar Sarovar dam, a public-sector infrastructure project along the Narmada River in Gujarat, experienced the same backlash and delays. A 2021 government press release issued by the Ministry of Commerce and Industry indicated that only 265 of the 425 approved SEZs were operational, with many of the remainder moribund in the face of protests (Ministry of Commerce and Industry 2021).

A key political hook on which the nation-wide protest hung was the price being paid for land. Across India, there are typically no transparent, widely acknowledged land prices; land sales are infrequent; the purchase price is usually not declared so buyers can avoid having to pay stamp duties; and the process is often not officially documented. In addition, once agricultural land is sold and its official designation converted to industrial usage, it can soar in value (Ghatak and Ghosh 2011). The lack of transparency and the crucial importance of formal land-use designation gives government officials enormous discretionary power, which they often use to make private gains in collusion with the land developer. In the case of the Mahindra World City SEZ in Jaipur, Rajasthan, the Mahindra Group paid the state government \$22,679 per acre, the land cost about \$66,000 per acre to develop, and long-term leases for the developed land were sold for \$223,000 per industrial acre and \$554,000 per residential acre (Levien 2011).

An (in)famous case study is that of the Tata Nano project in West Bengal. On the surface, the project seemed ideal for India: Tata Motors wished to open a factory in West Bengal to produce a small, cheap car targeted to the Indian market. The compensation for land purchase, based on the number of crops produced per year—resulting in an average price of \$20,000 per acre—seemed reasonable. Registered sharecroppers, a designation previously used by Operation Bagra, would be compensated at 25 percent of this level even though they did not own the land. A back-of-the-envelope calculation worked out that this compensation, at prevailing interest rates in India, would earn farmers more income from interest than they had earned from working the same land.

Yet there was considerable opposition to the project because unregistered sharecroppers and landless laborers were not included in the compensation package. An emerging opposition party, the Trinamool Congress, had gained mobilization experience during an earlier confrontation in Nadigram against the petrochemical SEZ and were well-prepared in 2006 to block the highway to the construction site at Singur by noisy protest. Later in 2006, the state government began resorting to violent efforts to clear protesters. Despite the seemingly generous compensation, this opposition was rational. Even if everyone were compensated, those losing land would clearly not participate in the benefits of the Tata Nano project (Mohanty 2007; Sarkar 2007). At the Mahindra World City SEZ in Jaipur, Rajasthan, for example, the only jobs in the SEZ that local people could hope to get were low-paid, insecure positions as gardeners,

drivers, guards, or cleaners. The firms entering the SEZ—Infosys and Deutsche Bank—required skilled, English-speaking labor, but only 56 percent of the local inhabitants were literate (Levien 2011). And though the compensation package was reasonable, it was dwarfed by benefits extended to Tata Motors, which chose the location in Singur after comparing competitive offers by various state governments. In West Bengal, Tata Motors was offered subsidized land rent, low-interest loans, and tax refunds, with the local government agreeing to finance the entirety of the compensation to farmers.

Across India, a vicious cycle emerged in which peasants in a land-scarce, subsistence agricultural economy refused to sell land without the promise of significant gains. Only formal-sector factory employment could offer equivalent certainty to subsistence farming. But without access to cheap land, industry was unwilling to invest and build factories. In response, the central government adopted the Resettlement and Rehabilitation Act in 2004, amended in 2007 in response to ongoing protests and further revised as the Land Acquisition Bill in 2013 (Sampat 2008). The “public purpose” required for justifying compulsory purchases was defined more tightly to engage with the question of wider social justice. For instance, the use of eminent domain was allowed for building public hospitals, water conservation projects, or affordable housing but not (as previously) luxury housing, golf courses, or swimming pools. The act only allowed for the acquisition of multi-cropped land—i.e., harvested several times a year—under “exceptional circumstances,” and only up to 5 percent of such land in any district. This represented a significant constraint on land acquisition since a large proportion of land area in India is multi-cropped. In addition, when land was acquired for construction by private companies, at least 80 percent—or 70 percent in the case of a public-private partnership—of affected families now had to consent to sell (Ghatak and Ghosh 2011). Under the act, the sale price of land also had to be fixed in reference to the average price of similar types of land situated in the nearest village. To avoid problems related to the divergence between official and actual purchase prices, the purchase price was fixed at twice the recorded price for urban land and four times the recorded price for rural land. Also included were generous resettlement and transportation allowances for both landowners and non-landowners who lost access to property and/or livelihoods. These compensation provisions applied even when land was acquired by project developers through a voluntary sale (Ahluwalia 2020, Ch13).

The 2013 Act created enormous transaction costs for developers. The Tata Nano project had aimed to compensate 12,000 landowners and registered sharecroppers to build a 1,000-acre factory. The new legislation then necessitated an arduous process of consultation with even more groups, first to acquire permission and then to compensate not just landowners, but also tenants, sharecroppers, and agricultural laborers who worked on the acquired property. The process invited legal litigation by land sellers, who were likely to win increased compensation if they did so—for example, a study of 525 judgements found that 86 percent of land-related court cases in Delhi resulted in increased payments (Singh 2012).

The impact of the 2013 Act was striking. At a meeting of the Cabinet Committee on Investment in June 2013, the minister of finance presented a list of 215 investment projects that had stalled due to compensation requirements. The committee could do little to accelerate their completion. After coming to power in 2014, the new government led by Narendra Modi initially promised to amend the bill to remove some of the more onerous provisions but failed because of resistance within the ruling Bharatiya Janata Party (Ahluwalia 2020, Ch13). For the past decade, there have been ongoing protests from property developers and industrialists related to the difficulty, time, and cost of acquiring land for development (Chiriyankandath et al. 2020). By 2015, some commentators were estimating that it would take five years to acquire land if all the necessary steps from the 2013 SEZ Act were followed (Sharma 2015).

6 CONCLUSION

To deal with India’s rapid urban population growth—with low-built cities sprawling and filled with slums—and to reap the benefits of density, such as agglomeration externalities, the country needs to transition from a pancake to a pyramid model of urban development. The conventional solution, highlighted in recent studies by the World Bank, is to build “better institutions,” particularly to strengthen property rights. Doing so, they argue, would empower slum dwellers to borrow and develop their own homes and businesses, allow property developers and industrialists to acquire multiple small parcels of land to build residential accommodation and factories, and enable the

government to build much-needed social housing and transportation infrastructure. Better property rights would also allow local governments to tax property and generate the revenue needed to pay for urban infrastructure.

In India, population density and multiple inheritance have fragmented property ownership, which—combined with a system of multiple and overlapping property rights—generates a profound market failure. The vast number of small owners with whom buyers need to negotiate create a significant “hold-out” effect that hinders land amalgamation. This is compounded by a legal system that is overwhelmed by court cases related to renting and land ownership. The historical solution to this market failure has been the use of eminent domain, in which the state establishes a “fair” purchase price for property and subjects it to a compulsory purchase order. Yet the use of eminent domain in India has generated massive political opposition in the past two decades. Controversy centers around what constitutes a “fair” purchase price, the failure to compensate many who depend on (but do not own) the land in question, and the excessive benefits that states are granting private developers. This opposition stalled much land acquisition, including for the national SEZ program—and has even led to the high-profile ousting of some state-level governments. In response, the national government passed the 2013 Land Acquisition Act, which narrowed the circumstances under which land could be acquired, increased compensation payments, and distributed those payments to non-owners of acquired land. This political reality—by which developers ensure political acquiescence among most rural and slum dwellers—has created an economic problem. There is now a huge time and cost burden on private business in acquiring land for property or industrial development. What is good policy in intensely politicized and democratic India is bad economics and makes it more likely that India will slide into dysfunctional Africa-style urbanization.

Policy suggestions for India should instead reflect both “good politics” and “good economics.” Which policy reforms can pay suitable compensation to those losing their land (good politics) to avoid widespread political opposition? And which reforms can simultaneously allow firms, households, and local governments to acquire land at reasonable time and cost? Ongoing research can help navigate these twin constraints so Indian cities can build the factories, 5–10 story accommodations, and transport infrastructure to help them transition from pancake to pyramid urbanization.

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