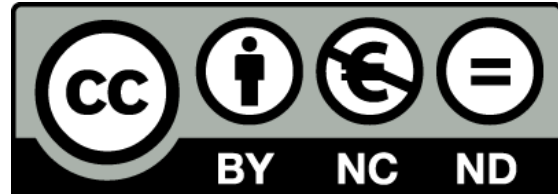


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### Introduction

Sud's (2014) recent intervention in *Geoforum* is a successful attempt in providing a detailed case study of the role of sub-national states to stimulate investment in deregulated institutional environments. The article analyses the contribution of the government of Gujarat to create a stimulus for economic and urban development by using creatively its land resources. Her paper focuses on several important institutional changes and "concludes that land deregulation is an apt example of Gujarat's mix of market-friendly liberalization, onto which practices, both legal and extra-legal, that are friendly to specific businesses are layered on a case-by-case basis" (Sud 2014, 234).

While I generally agree with such conclusion and welcome opening the government black-box by providing a practical account of the activities of state officials, I want to use this critical review to revisit and interrogate some arguments. This is done by firstly enlarging the temporal horizon to 2014, using my own fieldwork research and secondly by extending the political economy argument to include reforms that did not take place. Lastly, land is a complex and multi-dimensional object of study (McAuslan 2003), representing great challenges to academic discussions. In order to avoid selective representation, I use the land administration literature (for an overview Bennett et al. 2013), as a guiding systematic framework. This helps to better situate change within a policy context, which consists of four operational components: land tenure, -value, -use and -development (Enemark et.al. 2005). As a first step, the system before the major reform period is described to illustrate how the state government has passed reforms from 1999 onwards, albeit in each dimension with different intensity and success.

## Land Administration in Gujarat

Gujarat has a parallel system of administering rural and urban land with roots in the British Raj. Still nowadays, we may distinguish planning/urban and revenue/rural regulations with considerable overlap and redundancies (Patel et al. 2009).

### - Tenure

Tenure is used in common law systems to describe the relationship between a tenant and a landowning power. In India, land is owned by the state government, and, what is commonly referred to as 'owners', are principal occupants who have been granted specific rights.

Gujarat recognizes one urban and three rural tenure forms; the latter consist of old tenure (OT; alienated or free-hold rights) and restricted and new tenure (un-alienated or restricted rights). The purchase of agricultural land is restricted to so-called 'agriculturalists', while tenure changes require the approval of the revenue department and the payment of 'premiums'. Restricted tenures have to be transformed into OT in order to be sold or subdivided, and government clearance was only lifted for industrial developments. Only land of OT can be developed after securing approval by the government, i.e. what is known as non-agricultural use permission. Within this process, clearances from fourteen (!) departments have to be obtained (Ballaney 2012), which also applies to agricultural land within urban administrative bodies even if zoned for development.

### - Land-use

Land-use is regulated through spatial planning and land-use controls, which in Gujarat is defined by the Town Planning and Urban Development Act (GTPUDA) 1976. The act recognizes municipalities and municipal corporations for larger cities as urban local planning authorities. In addition, where development needs to be regulated, the state can declare an area development authority (ADA; mostly for the periphery of municipalities and for industrial estates) or an urban development authority (UDA; periphery of municipal corporations). These development authorities consist of state appointed officials and local representatives.

Any area within an urban authority can be put under urban development by extending a so-called Town Planning Scheme (TPS) over it. This multi-stage planning mechanism makes use of land pooling and readjustment techniques (see Annez et al. 2012, Ballaney 2012). In the process, property boundaries are erased, the infrastructure needs for the area established and new land holdings redrawn. In the end, original landowners, receive smaller, but rectified parcels. Betterment charges and plots reserved for re-sale assure financial feasibility of planning and infrastructure implementation. Any development in a TPS area requires a construction permit issued by the respective urban authority, which levies scrutiny fees and organizes regular site visits (for an analysis of its political economy, see Boanada-Fuchs forthcoming a).

#### - Land development

The state of Gujarat has been active in developing land through infrastructure provision. In Ahmedabad alone, the urban authority managed to realize over 1.000 km of road and 100 km<sup>2</sup> of piped water and sewerage networks (for numbers, see Annez et al. 2012, 27). As a consequence, urban growth patterns were better accommodated in planned and serviced environments. Also, public-private partnerships have been tested for redeveloping (C.G. Road) and constructing roads (S.P. Ring-road, see Mittal 2013).

Additionally, the government has more actively promoted urban development by establishing industrial estates through the Gujarat Industrial Development Corporation (GIDC) and by granting tax exemptions. With the abolition of license-based industrial policy the different Indian states sought for competitive advantages to attract businesses. This was mainly done via financial concessions. It is estimated that the state government lost yearly Euro 30 million in the beginning of the 1990s, which increased almost ten-fold until the end of the decade (Dholakia 2006, 4). Gujarat came to realize, similar to other glocalizing states, that there are other ways to stimulate urban investment and development (Brenner 1999, 440). Private companies sought “favorable” institutional frameworks, as Sud (2014) explores through the case of Tata, and well-serviced tracks of land. Gujarat set out to pass several reforms to create the pro-business environment for which it is known.

### - Land value

Information on land values is needed for any property transfer to calculate transfer taxes, and/or premiums, the public purchase of land - by consent or forced with the Land Acquisition Act; LAA – and within the town planning process through betterment and land-multiplier compensation charges. The government passed resolutions in 1998 and in 2002 to define the way land values are established. Values were clumsily calculated, case-by-case, by considering similar land transactions within a certain distance and under consideration of various factors.

### Selective Land Reforms in Gujarat

From 1999 onwards, the government reformed its land administration system with great intensity. The first generation of these changes adjusted crucial aspects of urban planning and concentrated on abolishing the largest regulatory market constraints. The second generation extended planning to extra-urban developments, both geographically and legally. Nevertheless, the most telling examples are the ones that did not take place: in Gujarat, as in the rest of India, no fundamental reform in land registration - and the permit approval system has yet to be passed.

### - Land-use and development reforms

A few, but essential reforms of the main town planning act passed between 1999 and 2001 are at the root of the leapfrogging of planned urbanization in the first fifteen years of the 21<sup>st</sup> century (Annez et al. 2012). It only required adjusting the details of basic policy tools: Planning authorities were enabled to appropriate lands earlier and start implementing infrastructure, such as roads, as soon as the draft has been sanctioned by the state department; in addition, considerably increasing land reservations for re-sale boosted financial possibilities. Furthermore, accounting for the deregulation initiated by the central government, the Metropolitan and District Planning Commissions (MPC and DPC) have received legal provision in the planning act.

In parallel to amending the GTPUDA 1976, the government removed the largest restrictions to land markets. The rural and urban land ceiling acts have been abolished in 1999, after their adverse effects - exploitation of legal loopholes, land price escalations, spatial displacement of development - could no longer be ignored. In order to extend

urban planning and stimulate investment, three major policy texts have been issued in the 2000s: the Special Economic Zone Act, the Residential Township Policy and the Regularization of Unauthorized Developments Act. The first has been already discussed by Sud (2014), the latter two are good examples to show the policy lobbying of real estate stakeholders as their conditions became more beneficial for developers over time (for more information, see Boanada-Fuchs forthcoming b).

#### - Land value reforms

The past valuation process has been lengthy, cumbersome and non-transparent. The parcel-based calculation of land values has been abandoned in 2006 with the introduction of *jantri* rates (official property prices). The first rates were established in 1984 and came into force in 1992 (EPC 2007, 127). Value was directly connected to land-use and, where applicable, the value of the building. Due to large-scale resistance and the involvement of the High Court, no transfer taxes were collected until 1992. A new and more successful attempt was launched in 1998. In 2008-2009 a new methodology and rates (area-based: developed by CEPT University) were introduced and then updated again in 2011. Even with these changes, *jantri* rates reflect a fraction of real prices, with the largest discrepancy in affluent areas paralleled by an over-evaluation of poor and/or Muslim areas (Boanada-Fuchs forthcoming b). As *jantri* rates formed the value basis of land acquisition, the state government passed, in perspective of ambitious GIDC plans, a new LAA that uses partial land compensation and market- instead of *jantri* rates.

#### - The missing reforms

Despite broad public discussions and the obvious advantages of reducing title insecurity, the land management-, the building permit system, as well as the Power of Attorney Act (POA) 1882 have not been amended. The POA enables the transfer of all rights associated with ownership to a third party, which can take decisions instead of the owner. Given this provision, the act has been largely used to circumvent ceiling acts, the disturbed areas act, as well as the restriction to buy agricultural land.

The need for up-to-date land management system has been acknowledged since the 7<sup>th</sup> Five Year Plan - progress in this regard has been extremely slow. First digitalization efforts were launched in the ending 1980s but only achieved broad coverage in Gujarat

by 2007, when an intranet started connecting most of its villages. Records are nowadays digitalized and modifications communicated between the different governmental instances via intranet. However, past records remain as scans of manual maps, with great discrepancy from geographic reality. While a resurvey of properties has been launched in 2012, it still needs to be seen if it will indeed be completed until 2017.

### The Political Economy of Land Reforms

We can see that while regulations and policies dealing with land-use, development and value have been amended, the tenure system in Gujarat stagnated despite its fundamental contribution to urban development. The current property title system can be characterized as anachronistic, complex, and inept to provide tenure security (see Patel et al. 2009, Annez et al. 2012). How can we explain that many reforms have been passed with a clear neo-liberal agenda, while some obvious restrictions remained in place, despite their apparent disadvantage for liberating lands for development?

My argument is not that it is primarily neo-liberalism that has been the driving force of change, but the nested interest of real estate stakeholders - to this group falls developers, landowners, state bureaucracy (particularly planning departments), and politicians (who are often major property owners). The result is selective reforms accommodating idiosyncratic political and economic interests within the changing institutional conditions of a sub-national state. The government of Gujarat has creatively mediated the inside-out and outside-in pressure of globalization (Brenner 1999, see also Sud 2014, 234), and resisted the re-territorialization of its decision-making. The ways this has been achieved might be best described with the concept of the 'cunning state' (Randeria and Grunder 2011, Boanada-Fuchs 2015). A cunning state uses its formal and informal institutional capacity to selectively comply, emphasizing occasionally its own incapacities, with top-down policy requirements (outside-in) and changing institutional environments (inside-out) in order to maximize its benefits. The resulting position is then used to advance idiosyncratic goals, such as political influence and informal payments for extra-legal services.

### - Strengthening the position of the state

In Gujarat, the government has been particularly successful in hollowing-out central deregulation reforms by conserving the decision-making in all relevant fields. When it came to land, the approval of the revenue department still is required for tenure changes, as well as the sanction by the urban development department for every single urban plan. By selectively implementing the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments, which set out the functions to be devolved to the local level, the state remained of vital importance: ward committees have only been reluctantly implemented and still do not function as prescribed. The MPC and DPC, which should balance and harmonize planning efforts and move the decision-making from state away are completely dysfunctional; the abolishment of the *octroi* (the most important local tax) went in pair with the introduction of *octroi* grants (the monetary compensation for the revenue loss) and the Value Added Tax. Technically, this reform only transferred a local to a state tax, while the *octroi* grants have been used to strong-arm local authorities; my insight differs here from that of Sud, where she discusses the *octroi* abolition as liberal reform across political party differences (Sud 2014). A similar creative institutional adaptation for the pursuit of own benefits can be retraced in the non-compliance to the central reform by extending the Rent Control Act, which appeased the vote bank of trader lobbies (Padmanabhan 1998). The decision to keep the Gujarat Disturbed Areas Act, the POA (1882), and a non-transparent property title system can easily be explained by political motives that secure the benevolence and support of well-established real estate stakeholders (Boanada-Fuchs 2015). The high level of tenure insecurity and entry barriers to the market ultimately benefits well-established developers and landowners who manage to increase their profit margins by internalizing the created property transaction risks. In addition, the obscurity of actual land values and permit approvals assist government officials in hiding informal practices.

### - Collecting individual benefits

Policy changes and non-changes also have a very clear economic motive, which can be illustrated by scrutinizing every-day real estate practices. The amendments of the planning laws have multiplied and accelerated the possibilities to access informal payments from developers: whether through adjusting allocation decisions for TPS plots, speed money for permits, tolerance fees for building code transgressions, or the subletting of TPS reservations (Mahadevia et.al. 2010, Boanada-Fuchs 2015).

The changes in the township policy ultimately doubled the maximum built-up density thus the saleable area. The institutionalization of the environmental clearance for such projects guaranteed in exchange that a small part of these benefits are given to officials. Fees and rates, such as *jantris*, are kept artificially low to enable the financial leeway for informal payments.

## Concluding Remarks

There is clear evidence that the government of Gujarat has promoted institutional land liberalization – however, a systematic overview illustrates the selectiveness of change. The underlying reasoning cannot be explained by the consequent pursuit of benevolent state-induced land liberalization, as outlined by Sud, where government officials also use extra-legal mechanisms to support market actors in maneuvering around institutional imperfections (Sud 2014, 239). Instead I argue, that the state is the very creator of these imperfections as these enable advancing idiosyncratic, economic-political goals, such as the wish for conserving institutional decision-making with financially benefiting from the stimulated growth. Such perspective casts a fundamentally different light on the role of the state (and its officials) in liberalizing land and the possibilities for further reforms.

In the end not all is black or white - undoubtedly, reforms have successfully triggered economic development and investments that also benefited society at large. In Gujarat, as in others state of the world, policy changes have to be analyzed in their political economy and everyday practices, as these define the political feasibility of reforms: each modification of the existing institutional environment benefits some and disadvantage others. As shown by this critical review, there is a need for analyzing institutional reality in countries of the Global South and especially how planning and policy making interacts with real estate actors.

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