

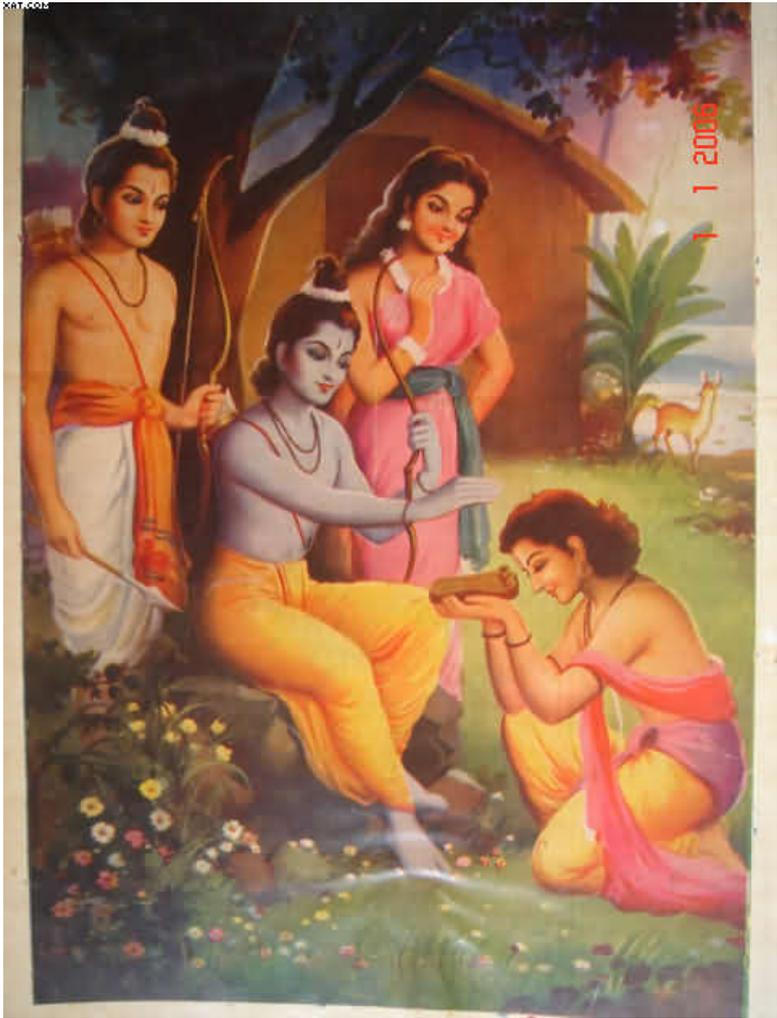
Land Rights: A step towards property rights

Barun Mitra

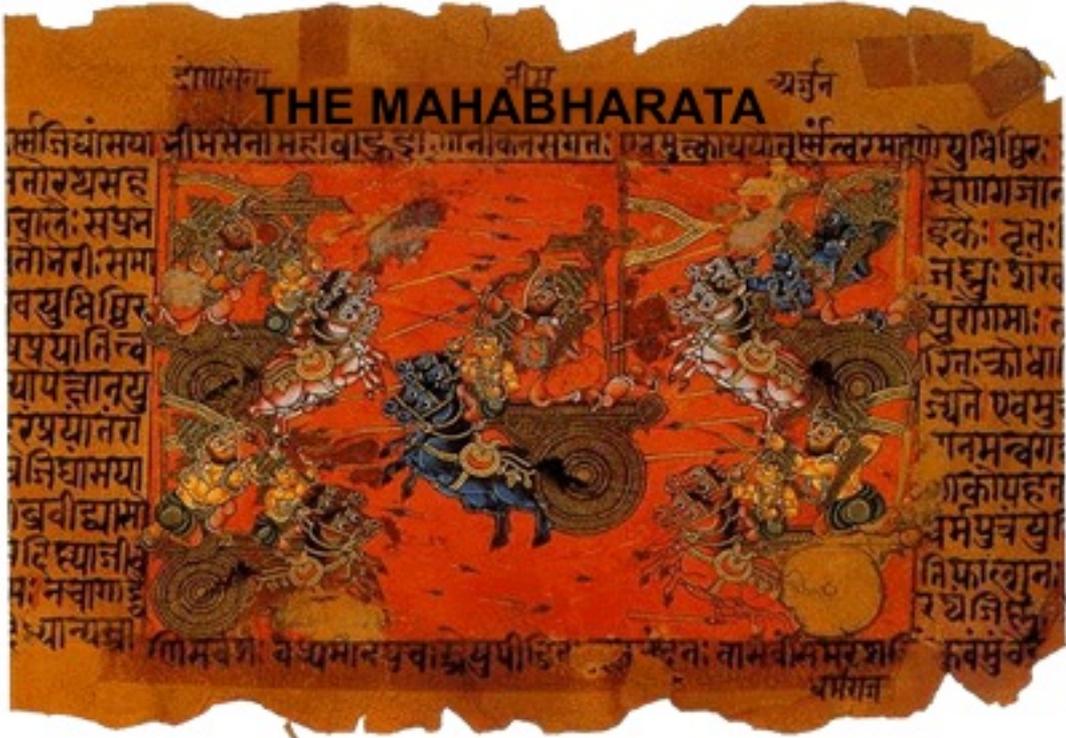
Liberty Institute, New Delhi

Aug 10, 2016

Politics of Property

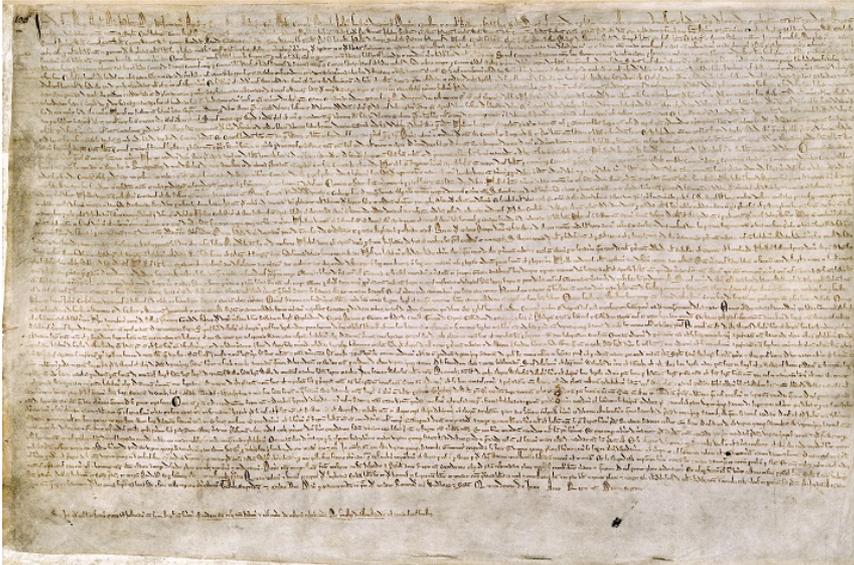


The Epics



Magna Carta: 800 years

Runnymede, England,
June 15, 1215



Property to Citizenship

- Democracy in ancient Greek cities
- Republicanism in ancient Rome
- Magna Carta in England in 1215
- American Revolution in 1776
- UK, voting rights for those with property, rental value of 10 pounds per year, in 19th century
- Chinese revolution in 1948 – Mao offered land to the peasants to attract them to support and join the Red Army
- Indian Constitution in 1950 – recognised property as a fundamental right. Deleted in 1978, and now seen as a legal right

The mystery of poverty

- The three factors of production – Land, Labour and Capital

Poverty is not lack of capital but inability to capitalise

Whatever Assets, Skills, Opportunities one has

Simply and legally, with minimum transaction costs

The Context

- About 40% of farmers want to move out of agriculture
- Over 75% of farmers would not like their children to be engaged in agriculture
- About 7.2 million cases pending in lower judiciary, and a recent survey found that 66% of court cases in the lower judiciary are land and property related
- Almost 10% of murders committed are linked to property disputes
- A survey in Telangana found that on average 30,000 to 1,00,000 acres of land have been transacted in each district of the state, without registration of title and where the records have not been updated
- Estimated 900 million parcels of land may need to be mapped, matched with their owners, and status updated in the records
- Over \$100 billion dollars of investments are stuck due to land and related problems
- Land and real estate transactions are the single biggest source of corruption in India, generating 1-2% of GDP

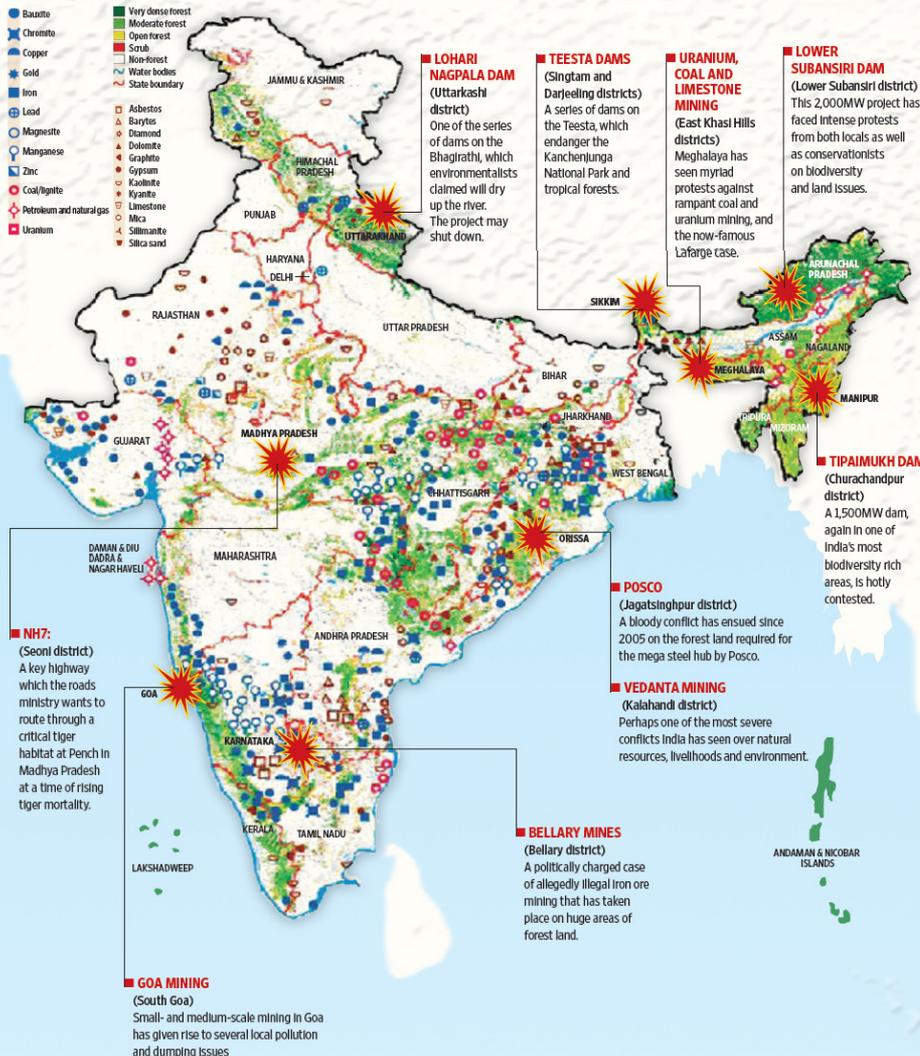
ZONES OF CONFLICT



The map of India's green conflict zones clearly shows development pitted against the environment. These hotspots include hydroelectric projects, mining projects, factories and infrastructure development as the intensifying search for resources consistently squares off against supporters of the environmental cause. Critically, most of India's recoverable mineral reserves are in heavily forested land, which is located in the poorest, most backward districts. The battle then takes on political overtones as in the swathe of land encompassing the Maoist insurgency-affected states of Jharkhand and Chhattisgarh, manifesting itself as a constant struggle involving land for resources, subsistence livelihoods and environmental conservation. The list of long-running conflicts such as the ones over the Narmada dam, uranium mining in the North-East, mining in Kudremukh or the Tadoba tiger reserve are set to get worse as the dash intensifies for what lies beneath.

By Padmaparna Ghosh
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India's mineral deposits are largely beneath its remaining forests



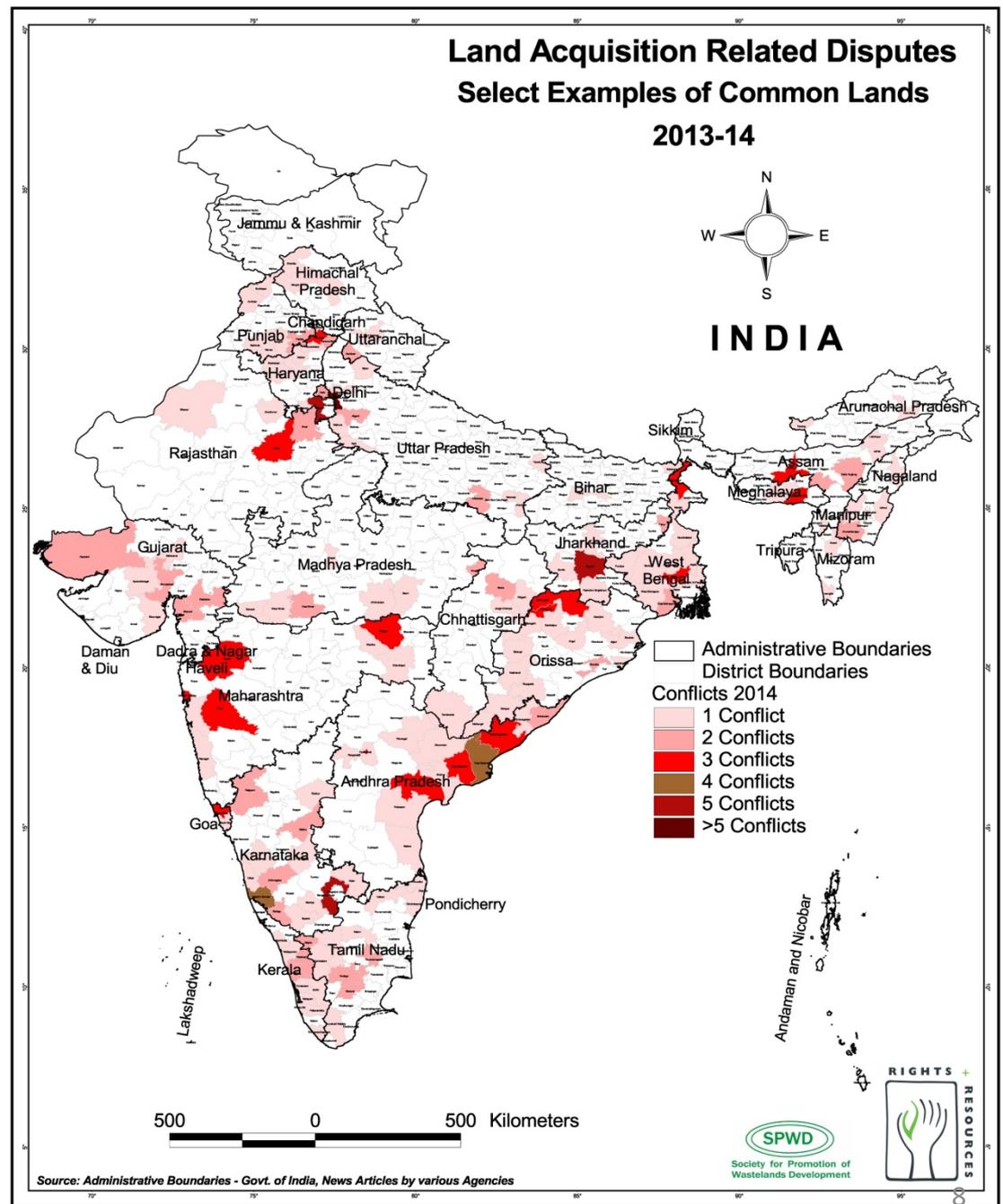
Graphics by Ahmed Raza Khan/Mint

Source: "Rich lands poor people: is 'sustainable' mining possible?", Centre for Science and Environment

- The map of India's green conflict zones clearly shows development pitted against the environment.
- Hotspots include hydroelectric projects, mining projects, factories and infrastructure development.
- Most of India's recoverable mineral reserves are in heavily forested land, which is located in the poorest, most backward districts.
- Political overtones as in the swathe of land encompassing the Maoist insurgency-affected states of Orissa, Jharkhand and Chhattisgarh, manifesting itself as a constant struggle involving land for resources, subsistence livelihoods and environmental conservation.

Source: Mint, June 4, 2010

Abuse of Eminent Domain



The Way Forward

- Clearly articulate the need to create a functioning land market which will significantly reduce the need to invoke eminent domain.
- Partner with private, community and public-sector stakeholders to build a modern land recordkeeping infrastructure based on GIS and other imaging technologies.
- Abolish land ceiling laws, particularly in agriculture to facilitate consolidation such fragmented land into viable farm units.
- Eliminate capital gains tax. In a poor country, taxing capital is self-defeating.

Land governance

- Drastically reduce or eliminate fees and taxes that impede land transactions and increase the potential for corruption, replacing them with a nominal fee to cover only the administrative costs of keeping up-to-date land records.
- Transfer authority over land-related regulation such as zoning, land use and environmental concerns, to local governments and councils.
- The scope of eminent domain needs to be severely restricted to truly public purposes, and with the consent of those affected, not to facilitate private projects and profits.

Market for Land

- Recognise the land owners rights over forest and other environmental resources, including minerals, whether above or below the ground.
- A new mines and mineral law, which recognises the rights of land owners and communities, and allow them to directly negotiate access and royalty with investors, is much awaited.
- A land titling law to grant conclusive title guarantee to land owners is imperative.
- Property transfers must legally validate transfer of titles rather than merely enabling registration of the deed.
- 🎬 Restoration of Right to Property as a fundamental right in the Constitution.



RighttoProperty.org

Mapped image of a village

righttoproperty.org/site/search

Region Details

State: Gujarat	District: Narmada
Tehsil: Dediapada	Resident Village: Dabka
Plot No: 91A	Plot Village: Dabka
Claim No: 91	Claim Village: Dabka
Claimant ID: 242003208091	GPS Area in Hectares: 0.79
Claimant Name: વસાવ ખેતીયાભાઈ ભંડારભાઈ	Spouse Name: વસાવ જાબીબેન ખેતીયાભાઈ
Clicked Location: 21.704542939955004,73.80075216118712	

Map data ©2014 Google Imagery ©2014 CNES / Astrium, Cnes/Spot Image, DigitalGlobe | Terr



Building capacities



Politics of Property

Indian Constitution

- Right to Property as Fundamental Right (1950)
- Ninth Schedule protection to land laws from judicial review – (1951)
- Land ceiling and land distribution
- Land acquisition – abuse of eminent domain
- Deletion of Right to Property from fundamental rights (Art. 19(1)(f)) (1978)

Politics of Property

The ground is shifting

- Social and political protests, demand for better resettlement and rehabilitation (Narmada dam)
- Recognition of Forest Rights Act (2006)
- Demanding respect for land rights (Singur)
- Supreme Court ruled that laws protected under the Ninth Schedule may be reviewed (2011)
- LARR 2013, replacing the Land Acquisition Act 1894

Property, Prosperity, Politics

- Spread of property ownership led to economic development
- Increase in wealth led to demand for political accountability and participation
- Democratisation of politics

**Property rights empower people,
nurture democracy, pave the road to
prosperity, and help improve the
environment!**

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