THE FEDERAL POLITICS OF RESPONDING TO LARRA:

State-Level Adaptation to, and National Efforts to Amend, India's Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARRA)

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I. Introduction

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (LARRA) was among the last major laws passed by the Congress-led United Progressive Alliance (UPA) government of Prime Minister Manmohan Singh, which lasted from 2004-2014. LARRA was passed just months prior to India's 2014 general election, in which the Hindu nationalist Bharatiya Janata Party (BJP) won enough seats to form a parliamentary majority, but as the leading party in the National Democratic Alliance (NDA), ended up heading a government that was at least nominally a coalition. Along with the National Food Security Act 2013 (NFSA), which was also passed in the waning months of the UPA government, LARRA could be counted among the array of rights-based laws – including the Right to Information Act 2005 and Right to Education Act 2010 – that were passed in India during Manmohan Singh's decade in power.[2]

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[2] Rob Jenkins, "Land, Rights, and Reform", *Pacific Affairs,* vol. 86, no. 3 (September 2013), pp. 591-612.

LARRA defines a set of rules, procedures, and oversight structures to govern the state's use of its power of 'eminent domain', as well as the responsibilities of states and private actors to people adversely affected by the exercise of this power. This encompasses a wide range of issues, including compensation, the reorientation of local economies, and the rehabilitation and resettlement of communities. The politics surrounding LARRA's passage in late 2013 were complex and revealing about the character of the Indian state and the dynamics of India's policymaking processes, and are discussed at greater length, by way of background, in the next section of this paper.[3] But even as LARRA came officially into force – as of 1 January 2014 – the Act, and the model for extending rights that it represented – continued to be a point of contentious debate in many circles, including among activist groups that one might have expected to embrace LARRA. The continued controversy surrounding LARRA was partly the result of timing: the Act became law just as the country was gearing up for a general election – one in which the effectiveness of the UPA government's approach to rights-based legislation was being called seriously into question.[4] While the political debate unfolded, governmental actors at both the central and state levels of India's federal system were faced with the need to respond to this new legislation.

This paper addresses two sets of issues concerning the *response* to LARRA's passage. The first concerns the positions adopted and actions taken by the central government to reform LARRA – both through legislative amendment and regulatory decision-making. The second set of issues concerns how state governments have attempted to adapt to the existence of LARRA. Almost immediately upon taking office, the BJP-led government of Prime Minister Narendra Modi in New Delhi began acting on its promise to revise LARRA. This had been a major complaint among business groups during LARRA's passage as well as afterward. There was particular animus among members of the new government, as well as many economic commentators, with the procedural requirements contained within the Act. How has this particular policy-reform agenda unfolded? To what extent has the process been shaped by the *specific nature* of this reform – that is, a substantial overhaul of a very recently enacted law, which was itself a major reform initiative in that it overturned a law enacted in the late 19th century? To what extent,

[3] See R Jenkins, "India's SEZ Policy: The Political Implications of 'Permanent Reform'," in R Jenkins, L Kennedy and P Mukhopadhyay (eds), *Power, Policy and Protest: The Politics of Special Economic Zones in India* (Oxford University Press, 2014), pp. 39-71.

[4] The contours of this debate of rights-based approaches (as one element of "inclusive growth") are perhaps best reflected in two dueling assessments of the UPA's economic record: for the prosecution, Jagdish Bhagwati and Arvind Panagariya, *Why Growth Matters: How Economic Growth in India Reduced Poverty and the Lessons for Other Developing Countries* (New York: PublicAffairs. 2013); and for the defense, Jean Dreze and Amartya Sen, *An Uncertain Glory: India and Its Contradictions* (Princeton, NJ: Princeton University Press. 2013). Needless to say, rights and entitlements are just one part of a larger story that includes measures of industrialization, inequality, fiscal stability, and much else.

and through which mechanisms, has India's federal structure played a role in shaping the process of nationally inspired reform efforts?

This paper will examine these questions alongside a second, related, set of issues, which concern the process by which state governments in India have responded to LARRA as decision-making and rule-formulating actors within their jurisdictions (as opposed to their role as partners of the central government in LARRA reform). The pattern of action and inaction across state governments is subjected to a preliminary investigation. The focus is whether, and in what ways, states engage in evasive action to avoid some of LARRA's more challenging elements. Such actions include revising state-level policies, reinterpreting existing rules, and reframing industrial-promotion strategies. Among the questions the paper will address is why some states pursue certain adaptive strategies when confronted with the dilemmas imposed by LARRA, while others do not. The nature of the central government's LARRA reform process provides at least a partial explanation, but state-level political factors (and consideration of the negotiating dynamics from a state perspective) are important as well.

While seeking to address these and other, subsidiary questions, this paper advances four main arguments: (1) that understanding policy approaches adopted at both the central and state levels of India's federal system requires an appreciation of the underlying political dynamics; (2) that the processes unfolding at the two levels have become inextricably intertwined; (3) that state-level policy inclinations (regarding reform of, as well as operating amidst, LARRA) may have less to do with the party affiliations of government leaders than with state-level policy legacies; and (4) that civil society's ability to influence LARRA's future direction is likely be greater at the state level than at the Centre, thus reversing the prevailing pattern during most of the UPA government, when activist energies successfully targeted policymaking bodies in New Delhi.

II. Background: The Politics of Passing LARRA 2013

Elsewhere, I have argued that the UPA government's commitment to introducing (and then steering through the parliamentary minefield of) the LARR Bill 2011 (LARRB), which eventually became LARRA, could not be understood without also appreciating the complex and long-lasting effects of another law passed by the same government, eight years earlier – the Special Economic Zones Act (SEZA), 2005. The politically inflammatory process of implementing SEZA had a huge impact on the perceived need to develop a new legal framework for addressing the longstanding problem of development-induced displacement. SEZA, and the way it was implemented by state and central

governments, created a political and institutional environment conducive to the framing of an integrated policy addressing both the compulsory acquisition of land for industrial or urbanization purposes and the needs of people affected by such actions. In the six and a half decades between India's independence and the passage of LARRA in 2013, efforts to bring the colonial-era Land Acquisition Act 1894 (LAA) – the instrument through which the state exercised its power of "eminent domain" – into conformity with India's democratic ethos had been markedly unsuccessful. Amendments to the LAA introduced in the early 1960s were piecemeal, at best. It was only in the wake of the UPA Government's SEZ policy that a comprehensive overhaul of land legislation was sponsored by a sitting government in New Delhi. The idea was to combine in one legislative package provisions concerning the acquisition of land for industrial or infrastructural purposes and the obligations of both the state and private developers to people displaced by such development interventions. The process for developing such legislation did not pick up momentum until 2007, by which time the land controversies produced by SEZ development started to assume significant proportions – and clear political overtones.

LARRA itself it a complex piece of legislation, which it is beyond the scope of this paper to describe and analyse in depth. But four features are worth briefly noting. First, the Act takes the unusual step of recognizing that state-facilitated development initiatives can deeply disrupt the basis of social and political life. This is more than just the 'normal' dislocations that accompany economic activity in a market-based society. Large infrastructure and industrial projects affect not only individuals and households, but entire communities. This principle is at LARRA's core, which also fundamentally changes the frame of reference used when considering effects: compensation was to be awarded not just to individual land-owners, but to stakeholders in the local economy more broadly, including those reliant for their well-being on the economic activities associated with existing land-use patterns.

Second, LARRA acknowledged that "public purpose" – the justification for the state's forcible acquisition of privately held land – must be defined more narrowly than it has over the past several decades, and that any purported social benefits must be carefully weighed against a much more comprehensive accounting of social costs. Even when a proposed project is found to "serve the stated public purpose" and to be "in the larger public interest," government officials must attest that the amount "of land proposed to be acquired is the absolute bare-minimum extent needed" and that "there are no other less displacing options available."

Third, LARRA spells out in detail a set of citizen-initiated procedural mechanisms through which the state, in theory, ensures the fulfillment of specified rights. Under the earlier 1894 LAA, ordinary

people had little capacity to affect outcomes, with the exception of those who could induce a political patron to intervene on their behalf with a bureaucracy that systematically abuses whatever thin safeguards existed under the LAA. Under LARRA, however, the very first step of the acquisition process – "preliminary notification" of intent to acquire land – could not occur until local people are consulted through *gram sabhas*. The "views of the affected families" expressed in this and other mandated public hearings must be included in the Social Impact Assessment (SIA) report that state governments must produce. The involvement of non-governmental actors is also specified in the process for appraising the SIA report. Crucially, LARRA provided citizens the right to determine when acquisition of land for private companies or public-private partnerships was sufficiently "in the public interest". This would be accomplished through local democracy, with each type of project having its own percentage threshold. In general, the more private-sector-oriented the project, the higher the percentage of people who had to support it. Citizens would also take part in Rehabilitation and Resettlement Committees formed to monitor compliance with the short- and long-term obligations to displaced people that LARRA imposes on both state and private actors. Social audits, incorporated into the rehabilitation and resettlement part of the Act, would permit enterprising people and associations to get further involved.

Fourth, LARRA created a variety of dedicated institutions to carry out specific functions identified in the Act: an "expert group" to conduct (and another to evaluate) the SIA report; local Rehabilitation and Resettlement Committees; a National Monitoring Committee for Rehabilitation and Resettlement; a Land Acquisition, Rehabilitation, and Resettlement Authority for each state. These and other structural provisions in LARRA reflected the lack of faith that the law's architects had in the capacity of India's civil service, working within standard operating procedures, to carry out the highly prescribed procedures and actions that had been included in LARRA in an effort to protect the rights of local communities.

These four features of LARRA are found, in one form or another, in almost every other piece of rights-related legislation enacted by the UPA government: the Right to Information Act 2005 (RTIA), the National Rural Employment Guarantee Act 2005 (NREGA), the Forest Rights Act 2006 (FRA),[5] the Right to Education Act 2010 (RTEA),[6] and the National Food Security Act 2013. They were designed to not only recognize, but also actively uphold, the rights of all citizens to have their basic human development needs met. These Acts, as well as a number of Bills that never became law, represent a

[5] The official title is the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.
[6] The official title is the Right of Children to Free and Compulsory Education Act 2010.

particular model of rights-based legislation. Its hallmark is a combination of specific entitlements with precise procedural mechanisms to ensure their fulfillment – a form of hybridity that qualifies them to be labeled as "governance rights".[7]

SEZA helped to create conditions conducive to the formulation of the original LARR Bill through two key mechanisms. The first was the political controversy generated by state governments' clumsy, and at times brutal, efforts to compulsorily acquire land for SEZ projects. Protests against land acquisition had occurred in different parts of India for decades. But the SEZ Act provided a common – national – focus for complaint. Protests against its provisions, its underlying rationale, and the methods used to implement it brought together a wide range of constituencies dissatisfied with India's existing legal regime surrounding land acquisition and displacement. This, combined with ideological opposition to the nature of the public purpose being invoked – that is, resistance by local community organizations to the compulsory acquisition of land for several SEZs – was driven by a powerful sense of injustice: a widespread feeling that it was morally unacceptable that property would be transferred to private-sector, profit-making entities. This was a major change from the days in which the main purposes were roads, dams, and government installations – almost entirely in the public sector. This ideological basis for resistance allowed local movements to draw in political actors and organizations that opposed SEZs on doctrinal grounds.

The second means by which SEZA (and its implementation) influenced the emergence of LARRA was through the creation of institutional structures whose operation catalyzed additional pressure for a comprehensive overhaul of the existing policy regime. These structures included the Board of Approvals (an inter-ministerial committee of senior civil servants that formulates rules for and gives certain clearances to SEZ projects) and (at the political level) the Empowered Group of Ministers on SEZs – one of many semi-executive cabinet subcommittees that both Congress- and BJP-led coalition governments have employed. The continuous deliberations and decisions of both the BoA and the EGoM attracted sustained media and political attention. This provided opportunities for opponents of specific SEZ projects to voice their complaints. It also reinforced the need for a more thoroughgoing overhaul of land regulation.

In 2007, the UPA-I government introduced the Land Acquisition (Amendment) Bill 2007, which called for, among other things, a Social Impact Assessment to be conducted for any land-acquisition that

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[7] This idea is elaborated at greater length in Rob Jenkins and James Manor, *Politics and the Right to Work: Understanding India's Mahatma Gandhi National Rural Employment Guarantee Act* (forthcoming).

would result in large-scale displacement. A similarly specialized administrative structure was also to be established under a distinct piece of legislation, the Rehabilitation and Resettlement Bill 2007, tabled in parliament around the same time. As the Bills made their way through parliament, the likelihood of a more radical approach to reform being adopted was aided by other consequences of the SEZ Act and its implementation. The combination of constant media scrutiny and the failure of minor regulatory changes to dampen public discontent created strong incentives for a wider range of political actors to enter into debates concerning the merits of various reform proposals. The Parliamentary Standing Committee (PSC) on Commerce – chaired by a leading opposition Member of Parliament – became an active participant in land-policy and displacement discussions. The centrality of land issues to the SEZ implementation process provided the committee the justification for doing so; the existence of continued controversy furnished the incentive. The engagement of the PSC on Commerce helped to maintain media and political attention on land-related issues and the need for reform, while providing a highly visible platform for policy advocates. In February 2009, the Land Acquisition (Amendment) Bill 2007 and the Rehabilitation and Resettlement Bill 2007 were passed by the lower house of parliament. They remained pending in the upper house, and lapsed when parliament was dissolved ahead of the 2009 general election.

Two years later, in May 2011, while a nationwide anti-corruption movement was in full swing, the NAC proposed to repeal and replace, rather than simply amend, the LAA 1894. The Land Acquisition Amendment Bill and the Rehabilitation and Resettlement Bill were merged into one piece of legislation: the LARRB 2011.[8] The bill's passage as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 required much compromise on all sides and a lengthy process of building consensus within both the civil service and among leading political parties, including the BJP. This policy history has influenced the current NDA government's efforts to "reform the reform".

III. Federal Policymaking and National Reform

After taking power in May 2014, the BJP-led NDA government immediately began the process of making good on its promise to undo what it saw as LARRA's anti-business/anti-development bias. The options available included outright repeal of LARRA, legislative amendment of provisions within the Act, and/or the framing of regulations to counter the Act's effects. That LARRA continued to be a key target for much of India's business community, as well as many political leaders from within and beyond the

[8] "Sonia Council Seeks Land Bills Merger," *Telegraph*, 19 May 2011; and "Panel Suggests Changes to Land Acquisition and Rehabilitation Bills," *Business Today*, 27 May 2011.

BJP, was evident from the routinely harsh condemnation of the Act's structure, concept, and provisions. In November 2014, as the government's plans for reform began to solidify, a *Bloomberg News* article dubbed LARRA "The Law from Hell".[9]

Having won a seemingly decisive electoral mandate, the Modi government felt no need to respond to those among LARRA's defenders who claimed that the BJP was morally obliged to at least acknowledge its partial ownership of the Act. The Modi government has not, however, been willing to do so. That LARRA, and its precursor Bills, went through two Parliamentary Standing Committees, one chaired by BJP leader Kalyan Singh (which reported in 2007) and another headed by Sumitra Mahajan (from 2009), was considered insufficient to constrain the new BJP government. Even so, the government has tread warily while pursuing reform to LARRA, despite the urgings of business groups that helped get it elected. This caution is to some degree a reflection of the government's lack of a majority in parliament's upper chamber, the Rajya Sabha. Without such a majority, passage of a LARRA Amendment Bill would be difficult, but not impossible given the array of independent MPs, representatives from small parties, and Congress defectors who could be induced to support the government's proposals. Just as importantly, however, BJP leaders were wary about getting saddled with an anti-farmer image so early in the government's tenure. Such labels can be difficult to shake, and sometimes generate protests and forms of public activism that constrain government autonomy on other issues of importance to a ruling party. The NDA government has shown itself to be sensitive to its popular image in other ways as well – notably by beginning, and then reversing, a scaling back of NREGA to just the poorest 200 districts, which is what it was confined to for the first two years of its existence before going national.[10]

The NDA government's approach to navigating these political obstacles to rapidly repealing LARRA was to, in effect, turn the tables on Congress. If Congress had implicated the BJP in LARRA's passage – by addressing enough BJP concerns during the Bill's mark-up stage that the party's parliamentary leadership feared voting against an ostensibly pro-farmer policy in the run up to a general election – then the BJP could do the same. To implicate Congress in its *reform* of LARRA, however, the BJP chose not to play on the feeling of political vulnerability among Congress MPs; the size of the BJP's electoral victory meant that the next general election would likely be far in the future. So whatever

[9] Dhiraj Nayyar, "India's Law from Hell", *BloombergView.com*, 7 November 2014, www.bloombergview.com/articles/2014-11-07/indias-law-from-hell

[10] "Centre Hints at Continuing MGNREGS in All Districts", *LiveMint*/*WSJ*, 12 November 2014, http://www.livemint.com/Politics/BRzf85s3CxQ91doSxw1S2L/Centre-hints-at-continuing-MGNREGS-in-all-districts.html.

adverse political consequences Congress MPs might imagine might arise from opposing LARRA reform, these would likely be insufficient to cause them to side with the BJP on any Amendment bill that significantly diluted the procedural protections afforded to land-owners and other local stakeholders (and which had been closely associated with the Gandhi family). Instead, the NDA government began targeting a potentially more pliable component of the Congress hierarchy: the state governments under the party's control. Congress chief ministers do not always see eye to eye with the party's national leadership, particularly when it comes to how state governments can best balance the political demands of agricultural and industrial interests. Perhaps most importantly, leading members of Congress-ruled state governments view the process of land acquisition for industrial purposes as a key means of generating the illicit funds that allow them to operate a thriving political machine, which puts them at odds with the party's national policy platform.

Recognizing the divergent incentives between national Congress leaders and their counterparts in the states, the NDA government has found it convenient to draw the resultant policy differences into the open. It has done this by engaging in "cooperative federalism", a practice the BJP claimed during the election campaign would characterize its approach to governance. Cooperative federalism has a specific meaning in the context of literature on federal institutional relations, implying a shared legal responsibility between central and state-level governments as well as a capacity to engage in joint activities in pursuit of their respective mandates. The term emerged in the United States during the New Deal, when collaborative ventures between the federal and state governments were undertaken to counter the ravaging effects of the Great Depression (the Tennessee Valley Authority being a prime example). The BJP has used the term to denote any mechanism for pre-reform consultation between the central and state governments. The intention is to provide a platform from which the concerns of state governments, ruled by a range of parties, can be aired (and amplified). Many state governments are ruled by regional parties, whose leaders have no hierarchy in Delhi to which they must answer. As for Congress, its state-level cabinet ministers are far more likely than the party's MPs to speak out publicly on what they perceive as LARRA's deficiencies. A further advantage of this type of cooperative federalism, from the perspective of the NDA government's political strategists, was that a first round of federal administrative consultations on the regulations that would be framed to operationalize LARRA had already taken place in the final months of the UPA government.

The perspectives of state-level governments offered in public statements, and the policy inputs they provided via the consultative process orchestrated by the central government's Ministry of Rural Development, reveal a range of positions concerning LARRA. Some state governments emphasized

idiosyncratic features of their environments. This was most evident in the claims advanced by small states (and union territories) that the context in which they operated had not been taken into account in the framing of the original law. These included the Andaman and Nicobar Islands, Daman and Diu, Lakshwadeep, and certain northeastern and other states located in mountainous terrain.[11] This position among small states was consistently held, regardless of which party held state-level power at the time the consultations were held in mid 2014.

The most consistent pattern could be seen in the responses from BJP-run state governments. They uniformly sought outright repeal of LARRA. This was the view held by state governments in Chhattisgarh,[12] Goa,[13] Gujarat,[14] Madhya Pradesh, and Rajasthan.[15] Some of these states were more full-throated in their principled opposition to LARRA, hedging slightly by drawing attention to the flawed process by which the law was enacted, thereby conceding implicitly that legislation of some sort may have been needed. The BJP-ruled governments in Goa and Madhya Pradesh, for instance, indicated that the law was passed too hastily.[16] The recommendation in both cases was the same, however: repeal LARRA. That even the BJP-run municipal authority in Chandigarh voiced its opposition to the law – something that would likely not have occurred without the blessing, or outright instigation, of the party's national executive – is an indication of how thoroughly the BJP sought to ensure the appearance of unanimity on the need to, at the very least, drastically scale-back LARRA.

As for state governments ruled by third-front or regional parties (that is, parties other than the BJP or Congress), a similarly consistent pattern could be discerned: the voicing of complaints about particular aspects of the law. These concerns were articulated with a greater degree of specificity by some states than they were by others. For instance, the government of West Bengal expressed its serious reservations about the compensation norms (for urban and rural areas) specified in LARRA. The West Bengal government claimed that the law's provisions do not reflect the reality of landholding patterns in West Bengal. Apart from this worry, however, West Bengal's chief minister claimed to be supportive of LARRA. This is not surprising. Her ascent to the chief ministership in 2011 was in large part the result of her ability to capitalize politically on the widespread and violent protests that took place against two high-

[11] "UPA's land acquisition law likely to be overhauled with many states seeking recast," *Times of India* (2014, June 28), http://timesofindia.indiatimes.com/india/UPAs-land-acquisition-law-likely-to-be-overhauled-with-many-states-seeking-recast/articleshow/37346439.cms
[12] Ibid.
[13] Ibid.
[14] Ibid.
[15] Ibid.
[16] Ibid.

profile large-scale land acquisition cases during 2007-2010. (These were the Tata Motors project in Singur and the chemical-sector SEZ slated for Nandigram.) In Uttar Pradesh, on the other hand, where the Samajwadi Party has been in power since 2012, and where, during the preceding BSP government, another set of politically charged protests against land acquisition took place, the government of Chief Minister Akhilesh Yadav announced that it had objections to only very specific elements of LARRA. In particular, the state government wanted more authority devolved to states to determine the conditions under which the "urgency" clause could be invoked.[17] The ruling party took pains to emphasise, however, that it was not rejecting LARRA "lock, stock and barrel". To do so was seen to be politically unpopular.

It is instructive to compare these measured responses from third-force-led state governments to the positions staked out by Congress-ruled states. Because of the centralization associated with the Congress Party, one might expect the mirror image of the fairly uniform rejectionist stance adopted by most BJP-run state governments. Yet, Congress governments in almost every state failed to follow the party line by embracing LARRA wholeheartedly. Every Congress-ruled state government submitted proposals to rectify one or more of what it regarded as particularly problematic aspects of LARRA. Doing so was considered within the bounds of acceptable party behaviour by the Congress high command – mainly because the party's disastrous electoral performance put its national leadership, and especially the Gandhi family, in a poor position from which to impose loyalty tests. It was this degree of relative autonomy from party hierarchy, combined with state-level politicians' desire to operate relatively free of regulatory restrictions when acquiring land, that drove the positions taken by Congress-led state governments.

Even in Arunanchal Pradesh, a somewhat idiosyncratic state in India's far northeast, the Congress-ruled state government had several specific complaints that were consistent with the BJP position: that the SIA part of the process either had to be excised entirely or else seriously scaled-back, and that the requirements for retroactive compensation (and for returning land that the state has not yet taken possession of) should be scrapped. In addition to these complaints, Arunanchal Pradesh's government objected to the powers LARRA conferred on the central government to acquire land in cases of natural calamities.[18] One of these issues – the payment of retrospective compensation – was also the focus of a complaint voiced by the state government in Haryana, which at the time of the June 2014 centre-state consultations was still under Congress rule, but which would lose power to the BJP in state

[17] Ibid.
[18] "Appeal for amendment in Land rehabilitation bill," *Times of India* (2014, July 22), http://timesofindia.indiatimes.com/city/hyderabad/Appeal-for-amendment-in-Land-rehabilitation-bill/articleshow/38822777.cms.

assembly elections held in October 2014. The Maharashtra government, too, strongly opposed the provision in LARRA that required retroactive compensation. (It was also a state where, as in Haryana, the Congress would, in October 2014, cede power to a BJP-led government.) The state government in Kerala, ruled by the Congress-dominated United Democratic Front (UDF) coalition government, stressed another of the critical points raised by Arunchanal Pradesh: the "cumbersome" SIA process. The Kerala government also had issues with the limited scope for state governments to acquire land under an "urgency" clause. Himachal Pradesh, another Congress-ruled state, worried that the special circumstances surrounding mountainous states had not been properly accounted for. As another mountainous state, Congress-ruled Uttarakhand agreed with this position. But Uttarakhand also opposed a part of LARRA that BJP leaders in Delhi were particularly eager to see excised, or at least significantly qualified – the provisions that restricted the ability of state governments to acquire "cultivable, multi-cropped land".[19] Congress-ruled Karnataka and Meghalaya, too, opposed specific clauses in LARRA, though without fully specifying which ones.

IV. State-Level Adaptation to LARRA

Regardless of their differing positions on various substantive aspects of LARRA, state governments – whether headed by the BJP, Congress, or a regional party – shared the view that the legal framework needed to provide greater "flexibility" for state governments to make crucial decisions concerning land acquisition. State governments, as their representatives frequently pointed out, had the primary constitutional responsibility for land-related issues. But even more importantly, state governments – which in this conception included both the machinery of government as well as the far-flung networks of state-level political parties – were considered to be far more advantageously positioned to gauge the likelihood and potential severity of any land-related political discontent that might threaten to erupt in their respective jurisdictions. This was an argument about political efficiency, rather than administrative competency.

The demand for state-level autonomy was in one respect just a cloak for defusing the elements of LARRA that ruling-parties, whether in New Delhi or in state capitals, considered likely to reduce their capacity to accommodate business interests and to enrich themselves and their clients, within and outside their parties. It was to preserve this flexibility that, since LARRA passed in late 2013, state governments have sought ways around the Act. This process of provincial adaption to national legislative frameworks has become relatively familiar in India, as it has in many other federal systems, including the United

[19] Ibid.

States, where President Barack Obama's Affordable Care Act of 2010 became a fact that state governors could not simply ignore. In India, state-level ruling parties were confronted with the need to adapt to the prevailing reality – that LARRA was on the statute books and thus a feature of the institutional environment within which they would have to govern. States had to respond to the Act's provisions – integrating them into administrative routines, applying them to specific cases, and so forth. State governments deployed a variety of tactics in response to this context.

The Congress-run Andhra Pradesh government had remained surprisingly quiet on LARRA prior to the May 2014 state assembly elections that led to its replacement by the Telugu Desam Party (TDP) government of Chief Minister Chandrababu Naidu. Since taking office, Naidu's government has sought "work-arounds" for LARRA strictures. For instance, when asked how it would go about implementing LARRA, state officials indicated that the government was formulating amendments to the state's Municipal Act that would allow "land-pooling" to be used as a substitute for "acquisition". Chandrababu Naidu has been among the loudest voices denouncing LARRA's highly detailed procedures – the cornerstone of protections for landowners and other affected people – as far too costly and time-consuming for entrepreneurs seeking to respond to market signals.[20] Land pooling, on the other hand, allows a state government to evade some of LARRA's more onerous procedural obstacles – particularly the requirement that 70%-80% of affected communities consent to the acquisition of land for the purpose in question.[21] Andhra Pradesh officials have stated that "if landowners are reluctant to participate in the land pooling" process, which theoretically offers them a greater stake in the enhanced value of the land once developed, the state could then revert to using the LARRA process.[22]

In September 2014, the Andhra Pradesh government sent its draft rules regarding implementation of LARRA to the Ministry of Rural Development in New Delhi. The rules are said to comply with LARRA's rehabilitation and compensation mandates, which to some is not surprising as most of these would have to be borne by private-sector partners in the joint ventures that may well end up being the most widespread vehicle for promoting the large-scale infrastructure projects, including industrial estates

[20] "Andhra Pradesh May Amend Municipal Act," *Times of India*, (2014, September 7) http://timesofindia.indiatimes.com/City/Hyderabad/Andhra-Pradesh-may-amend-Municipal-Act/articleshow/41892155.cms.

[21] "Andhra Pradesh government looking for best model," *Times of India* Author not specified (2014, September 20), http://m.timesofindia.com/city/hyderabad/Andhra-Pradesh-government-looking-for-best-model/articleshow/42949613.cms.

[22] "Andhra CM outlines plan for capital," *The Indian Express* (2014, October 12), http://indianexpress.com/article/india/india-others/andhra-cm-outlines-plan-for-capital/.

and business parks, to which the Act will apply.[23] Arguably, however, the design of the governance structures to be used in Andhra Pradesh allows the senior-most political leaders (the Chief Minister and key members of his cabinet) to unduly influence the decision-making bodies further down the chain of command/accountability. It is through careful attention to the administrative details surrounding the Act's implementation – not the basic rules themselves – that other state governments have also sought to preserve their scope for discretionary decision-making. Such efforts, combined with the sort of state-specific legislative amendments proposed in Andhra Pradesh (to the state's Municipal Act), can significantly affect the capacity of state governments to push through infrastructure projects in the face of localized resistance.

Similar patterns can be seen in other states, almost regardless of which political party (or type of party) is in power. The Congress-ruled Haryana government, for instance, adopted a position resembling Andhra Pradesh's once LARRA came into force at the beginning of 2014 – and even more vigorously after the BJP came to power a few months later. It was actively seeking to use land pooling to take forward a number of projects in the pipeline, while announcing its intention to hold off on new "land acquisitions", as such, until the regulatory anomalies between central and state government rules were ironed out. This approach made sense in terms of path dependence: over the previous decade, Haryana had pioneered a form of land pooling in the compensation packages for landowners dislocated as a result of SEZs in the state. Variants of this so-called "land-for-land" approach was adopted, with varying degrees of success by other state governments, including Rajasthan during the earlier tenure (2003-2008) of BJP Chief Minister Vasundhara Raje.

Some Congress state governments, however, were far more compliant with LARRA's provisions. Karnataka's draft rules for LARRA implementation were seen as conforming not merely to the letter of the law, but to its spirit as well. Not only were the procedures specified, but competent authorities were identified for key functions, including the resolution of disputes, whether they concerned acquisition or R&R.[24] Other Congress-ruled governments, such as the UDF coalition in Kerala, have found it convenient to take no action in framing rules for the operation of LARRA in the state. In Kerala, the state government has been preoccupied with facilitating land acquisition for a major highway project in the state. There was a centre-state dimension to acquiring the land for the highway as well. The central

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[23] "Land Acquisition Act finalized in AP," *The Siasat Daily* (2014, September 9), http://www.siasat.com/english/news/land-acquisition-act-finalized-ap.

[24] See http://rlarrdc.org.in/images/LA_Draft_Gazette_Copy.pdf; and "Govt Notifies Rules for Land Acquisition", *The New Indian Express* (2014, June 23), http://www.newindianexpress.com/states/karnataka/Govt-Notifies-Rules-for-Land-Acquisition/2014/06/23/article2295215.ece

ministry of road transport, which was acquiring most of the land on Kerala's behalf, wanted the highway to be 60 meters wide, while the state government, to reduce the amount of displacement involved, wanted it to be only 30 meters wide. Ultimately, the two sides agreed to split the difference, and the road was designed to be 45 meters wide.[25] The dispute over this matter was said to have further convinced the Kerala government of the need to be free of *diktats* from Delhi.[26]

Moreover, both Bihar (ruled by the more or less regional Janata Dal-United) and Chhattisgarh (where the BJP was in power) were reported to have adopted state-specific rules on both acquisition and R&R that aligned closely with LARRA, while quietly continuing to use coercive tactics to evade these regulations in practice. This form of centre-state conflict-avoidance can be seen in other regions. In Odisha, the regional Biju Janata Dal adopted a quiet approach as well, circulating with little fanfare draft state-level rules for LARRA compliance.[27] While these rules do not appear to directly contradict LARRA, they are vague enough about the processes to be followed, and the oversight mechanisms to be used, that state government officials are right to be confident that they will possess substantial means of evading crucial procedural protections. The method for operationalizing the rules regarding consent were particularly lacking in precision.

In the newly created state of Telengana, whose voters elected the regional Telengana Rastriya Samithi (TRS) to power in May 2014, the state government is also seeking to promote rules that will provide it with the maximum feasible autonomy in navigating the constraints imposed by LARRA. In July 2014, the Telengana government announced that it had created a body to establish rules for land acquisition,[28] and indicated that, in the meantime, as per LARRA, the state government would "seek cooperation from local public representatives for getting consent from land owners".[29] Who exactly these intermediaries would be, and how they would perform these functions, was not specified, but the prospects for abuse are non-trivial. The additional rules the state produced in draft form also appeared

[25] "Kerala to speed up land acquisition for NH development," *Economic Times* (2014, October 23), http://economictimes.indiatimes.com/news/economy/infrastructure/kerala-to-speed-up-land-acquisition-for-nh-development/articleshow/44916512.cms.

[26] Personal communication from a Kerala-based development economist who has served on two state government advisory boards, 31 October 2014.

[27] Government of the State of Odisha. (2014). "Draft Odisha Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014", http://www.orissa.gov.in/revenue/R_R_Policies/draft_RR.pdf.

[28] Kurmanath, K.V., "Telangana ministers panel to frame rules for land acquisition," *The Hindu* (2014, July 3), http://www.thehindubusinessline.com/news/telangana-ministers-panel-to-frame-rules-for-land-acquisition/article6173658.ece.

[29] "Harish Rao keen on faster land acquisition," *Times of India* (2014, October 15), http://timesofindia.indiatimes.com/city/hyderabad/Harish-Rao-keen-on-faster-land-acquisition/articleshow/44819215.cms.

intended to evade parts of LARRA by according officials considerable latitude in granting exemptions and defining acceptable standards.

There is a similar lack of partisan predictability in the decisions of some state governments to take quasi-defiant action in the absence of duly enacted formal amendments to LARRA in New Delhi. The BJP government that assumed office in Rajasthan in late 2013, just as LARRA was being passed, has gone the furthest in this respect. Earlier this year, the BJP, which enjoys a large majority in Rajasthan's legislature, enacted legislation that "expands the category of projects exempt from the consent clause" found in LARRA.[30] The Rajasthan legislation also attempts to eliminate the SIA, remove the requirement for the state to resettle people close to their original homes, and increase penalties for obstructing land acquisition.[31] This agenda is consistent with the state government's other provocative actions, such as making more than twenty amendments to four labour laws, all designed to reduce restraints on management decision-making and rein in the effective power of unions.[32]

Using administrative rather than legislative means, the Government of West Bengal, ruled by the regional Trinamool Congress, has pursued an approach similar to the one adopted in BJP-ruled Rajasthan. The Government of Chief Minister Mamata Banerjee has sought to redefine the content of LARRA in the guise of merely elaborating a set of state-level rules under which LARRA would be operationalized. The Government of West Bengal holds that, contrary to the stipulations found in LARRA, the state government's policy will be to not pay four times the market rate for all "rural" land acquired by the state. Instead, regardless of how a parcel of land is officially classified, the state government will apply the compensation norms relating to rural land-holdings only if the site in question is located at least 120 kilometers from a town. Otherwise, the compensation rate applicable to urban land under LARRA – two times the market rate – would be paid.[33] Interestingly, in taking this position, the West Bengal government is touching on one of the main policy parameters that the Prime Minister's Office allegedly instructed the Ministry of Rural Development not to alter – the compensation rates. Perhaps because she

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[30] Aarti Dhar,"Rajasthan Cabinet clears Land Acquisition Bill," *The Hindu* ((2014, September 14), http://www.thehindu.com/news/national/other-states/rajasthan-cabinet-clears-land-acquisition-bill/article6410275.ece/

[31] "States take lead making India land acquisition easier," *Monitor Global Outlook* (2014, September), http://www.monitorglobaloutlook.com/Briefings/2014/09/States-take-lead-making-India-land-acquisition-easier.

[32] "After Rajasthan, Madhya Pradesh to tweak labor laws," *Centennial Asia Advisors* (2014, September 11), http://www.centennialasia.com/after-rajasthan-madhya-pradesh-to-tweak-labour-laws-11-september-2014/; "Indian states may lead way into labor reform," *Monitor Global Outlook* (2014, June), http://www.monitorglobaloutlook.com/Briefings/2014/06/indian-states-may-lead-way-in-labor-reform

[33] Probal Basak, "Mamata wants to pay less for land near cities," *Business Standard* (2014, August 8), http://www.business-standard.com/article/economy-policy/mamata-wants-to-pay-less-for-land-near-cities-114080800033_1.html.

claimed that land acquisition would only ever be undertaken as a last resort, and even then only for genuinely public-sector projects, the chief minister may have felt sufficiently immune to public criticism on this issue to risk adopting what others might see as a potentially unpopular stance. In Tamil Nadu, governed by another personality-driven regional party – the AIADMK – the state government passed a law exempting various categories of industrial and infrastructure projects from LARRA compensation norms. The purpose of the law was to facilitate "speedy land acquisition for many ongoing projects." These included projects aimed at promoting Dalit welfare and the construction of state highways.[34]

As party affiliation provides only so much insight into the directions taken by state-level governments, it is worth considering whether a state's earlier patterns of political conflict and conciliation on land-related issues might have shaped, at least to some limited degree, the approaches adopted by governments seeking to adapt to, and influence the reform of, LARRA. While the evidence is still thin, there does appear to be some reason to believe that path dependency of a sort may be playing a role. The clearest example is Haryana, which as we have seen adopted a form of land pooling well before anything like LARRA was seriously on the national legislative agenda, and thus is not only well positioned to navigate the regulatory environment bequeathed by LARRA, but also to argue for the legal legitimacy of "policy substitution" maneuvers of this type. Haryana's policy provided for not only land pooling, and comparatively liberal compensation norms, but also annuity payments to displaced people for 33 years.[35] While a more systematic examination of this matter is necessary before any firm conclusions can be reached, it is noteworthy that several states have exhibited a degree of policy continuity that suggests something like path dependency. For example, the Gujarat government, which until recently was run by Chief Minister Narendra Modi, has not only called for LARRA's repeal – clearly the preference of Prime Minister Narendra Modi – but also for instituting practices allegedly adopted in Gujarat to make acquisition fairer as well as more streamlined. Under this system, the market price for land is decided by a specified technical entity (a state educational institution), and the Gujarat Industrial Development Corporation only acquires land for private-sector enterprises with the consent of landowners.[36] While there have been serious criticisms of Gujarat's land-acquisition policies and practices, including for SEZs

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[34] Jayaraj Sivan, "In bid to push industry, Tamil Nadu breaks hearts of land-losers," *Times of India* (2014, February 21), http://timesofindia.indiatimes.com/city/chennai/In-bid-to-push-industry-Tamil-Nadu-breaks-hearts-of-land-losers/articleshow/30759970.cms.

[35] Government of the State of Haryana. (2012). "Haryana Government Industries and Commerce Department Notification, The 14th August, 2012." http://haryana.gov.in/misc/eng-final.pdf.

[36] Manas Dasgupta, "New land acquisition policy in Gujarat," *The Hindu* (2010, December 17), http://www.thehindu.com/news/national/other-states/new-land-acquisition-policy-in-gujarat/article956957.ece.

(which are exempted from the practices Gujarat has touted),[37] the mere existence of specified state-level procedures strengthens the state's claim (on behalf of all state governments) that prescriptions handed down from the central government are not effective (or appreciated). The pre-existing regulatory framework, in other words, influences how LARRA is implemented as well as the nature of public debate about amending the Act.

Another example is Himachal Pradesh. The state's 1979 land law grants wide discretion to the government to determine whether compulsory acquisition of land in any given instance would advance the "public good," and restraints on state action were particularly lax with respect to land acquisition for "housing schemes," libraries, railroad lines and other specified infrastructure projects.[38] A 2011 amendment to Himachal Pradesh's existing state land law made it easier for non-agriculturalists and other categories of persons to buy land.[39] These legislative legacies may have helped to predispose the Himachal Pradesh government to respond to LARRA with the adaptive strategies that it has. The state government has relied primarily on existing state-level legislation for implementation purposes, while calling for substantive amendments to LARRA that would permit the state greater latitude with respect to the land matters of most importance to its leadership.

The Congress-ruled government in Karnataka may also have been influenced in its response to LARRA by the character of existing state legislation – in this case the land-acquisition provisions in the Karnataka Industrial Areas Development Act (KIADA).[40] This Act has been used for decades to acquire land for a range of projects and purposes. Though it submitted superficially LARRA-compliant state-level operational rules, the Government of Karnataka continues to operate, where feasible, under KIADA, whose provisions regarding the protection of affected communities have been shown to be unusually weak, and therefore prone to abuses of many kinds.[41] (Karnataka's civil service has had a well-deserved

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[37] Manshi Asher, "Gujarat and Punjab: The Entrepreneur's Paradise and the Land of the Farmer", in Rob Jenkins, Loraine Kennedy, and Partha Mukhopadhyay (eds), *Power, Policy and Protest: The Politics of India's Special Economic Zones* (Delhi: Oxford University Press, 2014), pp. 147-150.

[38] Government of the State of Himachal Pradesh, "The Land Acquisition (Himachal Pradesh Amendment) Act, 1979" (1979), http://www.prsindia.org/uploads/media/Land%20Acquisition/state/1980HP4.pdf.

[39] "State cabinet okays amendments to rules," *The Tribune* (2011, July 27), http://www.tribuneindia.com/2011/20110728/himachal.htm#1.

[40] The Karnataka Industrial Areas Development Board, "The Karnataka Industrial Areas Development Act, 1966" (Bangalore, 1966).

[41] Anjali Mody, "Karnataka: The Primacy of the Local", in Rob Jenkins, Loraine Kennedy, and Partha Mukhopadhyay (eds), *Power, Policy and Protest: The Politics of India's Special Economic Zones* (Delhi: Oxford University Press, 2014), especially pp. 214-224.

reputation for exploiting loopholes in LAA 1894.[42]) It may be that the existence of this alternative channel for land acquisition has convinced the state's ruling party that its interests are best served by complying with LARRA's formal requirements, while using its other powers to deviate from the spirit of the law when necessary.

Tamil Nadu, ruled by a regional party rather than by Congress, may also have had its response to LARRA influenced by pre-existing state-level legislation. Compared to the 1894 LAA, the Tamil Nadu Acquisition of Land for Industrial Purposes Act (TNALIPA), which came into force in 2001, allowed for more flexible compensation. But TNALIPA also had more streamlined procedures in the event of a dispute over compensation. This sped up acquisition by "increasing the state's authority to execute compulsory acquisition." Additionally, in 2009 the Tamil Nadu government announced a new policy that would ensure one job for every family from which at least one acre of land was acquired to develop an SEZ in the state. This was an attempt to build a rehabilitation component into at least this one source of displacement. While falling far short of what was guaranteed under LARRA, the existence of the protections provided under Tamil Nadu law were part of the reason why resistance to land alienation has been less severe in the state than elsewhere. Other reasons included the changing composition of economic activity, and the relative efficiency of the state's bureaucracy.[43]

The state government in Odisha, on the other hand, faced a policy environment that arguably inclined its leadership to see LARRA as less threatening than their counterparts in many other states had. In 2006, Odisha declared its intention to "minimize displacement, recognize the voices and needs of displaced communities, protect the livelihoods of the indigenous people, ensure environmental stability, and develop mechanisms for resolving conflicts and redressing grievances." The state showed support for tools such as socioeconomic surveys and village assemblies. These were consistent with the principles and techniques enunciated in LARRA. What may have been even more reassuring to the Odisha Government was that, in practice, this state policy did not prevent the Odisha government from displacing,

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[42] Reports from state government monitoring agencies have, since at least the 1960s, made reference to the frequency with which the "urgency" clause of the LAA 1894 was used to bypass procedures designed to protect the interests of landowners. A 1967 Karnataka government circular noted that state-level authorities had "observed that, of late, there is a steady increase in the number of proposals … invoking the urgency clause for land acquisition…. In this connection it may be stressed that…Section 5A [of the LAA] cannot be arbitrarily exercised." Government of Karnataka, "Memorandum – Subject: Acquisition of lands under the urgency clause of the Land Acquisition Act – Instruction Regarding" (Bangalore: March 1967), originally cited in Centre for Policy Research, *PRS Legislative Brief* (New Delhi, 10 March 2008), p. 5. http://www.kiadb.in/index.php?option=com_content&view=article&id=15&Itemid=15.

[43] M Vijayabaskar, "Tamil Nadu: The Politics of Silence", in Rob Jenkins, Loraine Kennedy, Partha Mukhopadhyay, et al., (2014), *Power, Policy and Protest: The Politics of India's Special Economic Zones* (Delhi: Oxford University Press, 2014) especially pp. 312-318.

without due process or just compensation, large numbers of people to make way for industrial and infrastructure projects.[44] LARRA might involve more elaborate procedural requirements, but the Government of Odisha, which has remained in power for three terms despite all odds, appears confident in its skills when it comes to regulatory evasion. For this reason, submitting operational rules that resembled in some respects the state's earlier policy dispensation was less surprising than it might at first glance have appeared.

A similar dynamic may be taking place in Punjab, where the state had a pre-existing policy stating, among other things, that no more than 20% of a "total project's" land requirement could be obtained through compulsory acquisition by the state. Punjab's state-level policy also stipulated that property-owners who derived their livelihood substantially from their land required additional rehabilitative measures.[45] Under such circumstances, the threat from LARRA (where the need to obtain local-community consent is the most feared provision) may have seemed less worrying to the state government. It is worth nothing that while Odisha and Punjab are similar in this respect, one (Odisha) is ruled by a regional party, whereas the other – Punjab – is ruled by a coalition in which the BJP has joined with a regional party.

In West Bengal, by contrast, the legislative and policy inheritance has been eclipsed by the political dynamics that have attended contentious cases of land acquisition in recent years. The West Bengal Land Requisition and Acquisition Act, 1948, provided the state government the legal authority to take possession of land first, and compensate the owners at a later date – a system that gave rise to disputes stretching across decades. During the 35 years that the Communist Party of India-Marxist (CPI-M) governed the state (as the leading party of the Left Front coalition), various adjustments to compensation formulas and modalities were introduced from time to time. These were modified more intensively during the period of crisis surrounding the Singur and Nandigram agitations of the late 2000s, in a vain attempt to blunt the force of political resistance to the state's industrialization policy. Because of Mamata Banerjee's central role in organizing resistance to the forcible acquisition of land in these places, as well as refusing to endorse piecemeal reforms as an opposition leader, and because the election of her Trinamool Party to power in 2012 represented such a profound break with the state's pattern of one-party dominance, it is understandable that her government would be more focused on overturning the

[44] Partha Sarathi Banerjee, "Orissa and West Bengal: The SEZ Imbroglio", Rob Jenkins, Loraine Kennedy, Partha Mukhopadhyay (eds), *Power, Policy and Protest: The Politics of India's Special Economic Zones* (Delhi: Oxford University Press, 2014) especially pp. 289-290.
[45] Greater Mohali Area Development Authority, "Land Acquisition Policy" (2006), http://gmada.gov.in/category/land-owners/land-acquisition-policy/.

more draconian provisions of West Bengal's inherited legal framework surrounding land, rather than contesting too many provisions of LARRA, beyond the urban-rural compensation differentials mentioned above.

V. By Way of Conclusion

This paper has been a preliminary analysis of trends surrounding the efforts of the NDA government to amend (and through other means to defuse) a law that came into force just months before the election that brought Prime Minister Narendra Modi to office. The still-limited nature of the substantive analysis provides no compelling basis for advancing particularly bold claims that speak directly to the cross-national literature. Nevertheless, it is possible to advance four arguments of admittedly more limited scope.

First, understanding policy approaches adopted at both the central and state levels of India's federal system requires an appreciation of the underlying political dynamics at work in each domain. In the context of the LARRA amendment process, federal consultations were a helpful institutional form for a ruling party that faced strong incentives to not be out on its own advocating amendment of this law. Federal structures can, when driven by the right combination of political incentives, be a convenient means of forging a broader, cross-party consensus on the need to promote legislative and regulatory reforms. In this case, the ruling party, to its credit, recognized the politics of the situation: that the new government was not merely passing economic legislation after winning an election, but was seeking to overturn a signature piece of rights-based legislation – one that in its final form enjoyed widespread support – just months after it came into force. Federalism – and the matrix of political incentives and capacities in which it is embedded – contributed to the pursuit of this objective. The way in which the federal dimension was brought to bear is also instructive. It was not through a scheduled meeting of a formal centre-state institution, such as National Development Council. Instead, the consultations took place through networks of land administrators from the states, which were brought together with the Ministry of Rural Development, which is the central government's designated "nodal agency" (a term that conveys the network mindset underpinning this approach) for coordinating LARRA implementation. This emphasis on relatively informal policy-development networks, and away from formal institutions of federal relations mirrors a similar shift in international affairs. Slaughter has argued that the efficiencies of less ornate forms of substantive trans-border, issue-based engagement have driven governments to use them as a means of bypassing the time-consuming rituals of traditional international diplomacy. Slaughter foresaw a world order characterized by networks of similarly situated specialists, backed by

reciprocal legal commitments that fell short of a treaty, which had the added benefit of rendering ratification by a domestic legislature unnecessary.[46] The informal, policy-specific federal networks in India play a functionally equivalent role.

The Modi government has also shown itself sensitive to the image it projects to subaltern groups. This is itself significant, since the party is often portrayed as elite-oriented to the point that such concerns do not figure in its political calculus. In fact, the BJP's political strategists see a distinct downside in pushing too hard, too quickly, on too many actions that could be portrayed as anti-poor (including rapid dilution of NREGA, for instance). It is this political sensitivity, as much as the NDA's lack of a majority in the Rajya Sabha, that has led the government to employ less aggressive methods than many had initially expected. Among other things, the BJP does not want to allow resistance to a reform agenda that would gut LARRA to end up uniting what is now a conveniently divided opposition whose component parts could possibly be picked off more efficiently – one at a time – if reforms were less aggressively sequenced.

The second argument, which at this point is more of an observation, is that in certain policy domains – including land, industrialization, and urbanization, LARRA's core elements – politics at the state and central levels of the Indian Union have become so profoundly interrelated that neither can be considered in isolation from the other. This interrelationship can be seen clearly in the actions (and inactions) of state governments for most of the year following LARRA's passage. Let us not forget that state governments knew much earlier that legislation along these lines was coming – at least since 2011, when the LARR Bill was introduced – and yet, still, in most cases do not have functioning policy-implementation machineries in place. Indeed, the lack of concerted effort to create such structures were at least in part a reflection of how states perceived the national political climate surrounding rights-based legislation. The distinct possibility that the 2014 general election would bring to power a party that favoured repealing – or at least substantially scaling back – LARRA acted as a deterrent to long-term regulatory planning by state governments. Why invest in the administrative infrastructure of a fully elaborated compliance machinery if the national legal framework was itself about to be dismantled?

The politics of land, industrialization, and displacement at state and central levels of India's federal system are intertwined in other ways as well, including through the clearances that (inevitably politicized) central government authorities (such as the Board of Approvals for SEZs) must provide to infrastructure and other projects for them to proceed. These multiple centre-state veto points can be

[46] Anne-Marie Slaughter, *A New World Order* (Princeton: Princeton University Press, 2005).

overcome only through political negotiation between elected or party representatives at each level. One sign that central and state-level politics of industrialization have become inextricably linked is that the degree of skill displayed in these negotiations by leaders at each level becomes an important aspect of their political appeal.

Third, state-level policy inclinations (regarding reform of, as well as operating amidst, LARRA) may have less to do with the party affiliations of government leaders than with state-specific policy legacies. State governments from all parties recommended at least some significant changes to LARRA through the federal process convened by the NDA government. The BJP-led governments led the charge for repeal. But other state governments voiced serious concerns. The reaction of Congress state governments, which have not rushed to defend LARRA *in toto*, may reflect the currently rather weak hold of the party's apex leadership over provincial party affairs. Other non-BJP-led state governments are mainly ruled by regional parties, and thus even more immune to blandishments from above. The specific nature of states – their size, location, or the nature of the terrain – informed some of the differences revealed across states. There was also cross-party convergence on the preferred tactics for adapting to and/or evading LARRA as a practical reality.

The paper's fourth main argument is that civil society's ability to influence LARRA's future direction will likely be greater at the state level than at the centre, thus reversing the pattern that prevailed during most of the UPA government. During the UPA government, the National Advisory Council, chaired by Congress Party President Sonia Gandhi, was instrumental in framing a raft of rights-based legislation. As we have seen, the approach taken to the LARR Bill, in which acquisition and restitution were treated equally, and rooted in a rights-based framework, exhibited all the hallmarks of an NAC-created bill. This does not mean that the final product did not involve input from a wide range of stakeholders. Many hands went into putting LARRA on the statute books. That India possessed a small cadre of bureaucrats-turned-activists – including NAC members Harsh Mander, Aruna Roy, and NC Saxena – made a difference to the quality of the legal drafting and the ability to operate within official processes. This influence was greatest at the national level. To ensure the retention of crucial provisions within the bills that became NREGA, NFSA, RTEA, civil society lobbied at the highest levels in Delhi. The access to the state machinery that the NAC provided to civil society groups was remarkable. Social activists could make their appeals directly to cabinet members and the most senior civil servants. They did this supported by allies from academia, Left politics, and issue-based movement groups.

To some social activists this level of 'civic incorporation' was nothing new. It was an extension of the situation that prevailed during the Janata government. From 1977-79, CSOs had an outsized voice in government policymaking – not only in social policy debates, but also in the creation of official forums and frameworks for government-NGO partnerships. During the UPA government, there was much sniping within the activist community against those who had forged a relationship with the Congress leadership. Critics claimed that some of the "anointed" members of civil society had failed to learn the lessons about cooptation that emerged in the post-Janata period, during which the "NGO-ization" of erstwhile social action groups had begun, allegedly extinguishing the independence and popular accountability of these once-vibrant movements.[47]

Since the replacement of the UPA government with the Modi-led government, the channels of influence for progressive social activists have narrowed considerably. Some, including the People's Union for Civil Liberties, argue the situation is far worse than that – that the government is actively targeting NGOs and protest movements.[48] The Intelligence Bureau report on NGO activism that was leaked in mid-2104 became a frequent talking point among the broad centre-left because it implied that the government would be acting to curb movement groups that slowed down industrial projects or other state initiatives that face organized (or even sporadic) resistance.[49] But the report was initiated by the previous government, and would not in any case be a viable roadmap for muzzling dissent, which has far more channels of expression.

Where pressure may most effectively be brought to bear, therefore, is at the state level. As we have seen, state governments, through which most of the implementation takes place, seek ways to evade LARRA's core provisions, whether through the creative use of ambiguity in the language of operational rules, amendments to (or new means of implementing) relevant state-level legislation, alternative methods of assembling large tracts of land, or through the creation of major exemptions. Influencing these state-level policy decisions, and their application to individual cases, is something that movement organizations, which tend to have stronger state-wide, rather than national networks, appear well positioned to pursue in the years ahead.

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[47] Sangeeta Kamat, *Development Hegemony: NGOs and the State in India* (Delhi: Oxford University Press, 2002).
[48] http://www.indiaresists.com/pucl-condemns-ib-report/
[49] "Modi Government's Message to NGOs in India: Big Brother is Watching You", *Forbes.com*, 16 June 2014, http://www.forbes.com/sites/meghabahree/2014/06/16/modi-governments-message-to-ngos-in-india-big-brother-is-watching-you/