

# THE HYBRID STATE AND THE REGULATION OF LAND AND REAL ESTATE :

## A CASE STUDY OF GURGAON, HARYANA

### I: INTRODUCTION

Real estate involves the sale, purchase and development of land that had mainly been used for agriculture for private housing, commercial and industrial spaces. Under the Indian system of governance where administrative powers are divided between the Union and State governments, real estate businesses are mostly regulated by state governments through the respective state town and country planning departments.

Typically there are three broad regulatory apparatuses governing land development in urban and peri-urban areas. First, the state government can notify a master plan for the development of land. A master plan is a long term framework for the development of the city. On the basis of surveys and estimates of present and future requirements, the focus of the master plan is on land use planning. Thus, a master plan typically allocates land for various uses, ranging from residential, commercial, industrial to other public purposes such as leisure and entertainment. The master plan is detailed through zonal and layout plans. It also envisages the kind of finance and ownership for land development, which can be either through private or public investment. In recent times, it is increasingly the norm that investment in land development for almost all kinds of purposes is through private investment. Second, every state government typically has a Town and Planning Act under which cascading structures of Town and Planning Authorities (from state capital to districts headquarters) are established for regulating the de facto development of the land. As per the provisions of this Act, the clearance and approval of real estate businesses is given to private investors. The third regulation apparatus focusses on the transaction between buyers and promoters of residential real estate projects. The Union Cabinet of the Government of India recently cleared the “The Real Estate (Regulation and Development) Bill, 2013”<sup>1</sup> tabled earlier by the UPA government. In light of the fraudulent practices adopted by realtors, the central

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<sup>1</sup> The text of the original bill is available at <http://goo.gl/prkd15> , website accesses on 2<sup>nd</sup> May, 2015

government's bill<sup>2</sup> seeks to regulate the transaction between buyers and proprietors of residential real estate projects by establishing the norms of fair business practices<sup>3</sup>.

The scope of this paper is limited. It endeavours to document, analyse and understand the complexity embedded in regulating formerly agricultural land and its development through private capital/investment in the urban periphery of Delhi, Gurgaon. The paper does not analyse the relationship between buyers and promoters of residential real estate projects. It attempts to understand the dynamics of regulation through the first two regulatory frameworks delineated above. The focus is on the politics of the regulation of land development through analysing the master plan of Gurgaon city as well as by making sense of the actual process of converting agricultural land into real estate housing.

### *Data Sources*

This study was conducted with the help of partially structured open ended interviews with 13 real estate developers (proprietors), 7 government officers in the Office of Town and Country Planning, 4 property liaising officers and 3 local politicians including a politically powerful Member of the Haryana Legislative Assembly and 2 leaders of caste Panchayats, also known as *Khaps* in Haryana. Besides this, a number of informal conversations were carried out with people who are interested in local development, economy and politics. These people range from attendants/peons, clerks, low grade officers in government offices, petty property brokers, shop owners and traders, labour contractors, workers, members and volunteers of political parties, municipality staff, lower rank police officers, erstwhile agricultural landowners etc. The stories narrated by these people were haphazard and anecdotal. However, there was a distinct structure to these stories which when placed in macro regulatory context made sense and helped in binding the

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<sup>2</sup> The scope of this Bill is limited to contracts between buyers and promoters, and transfer of property. Both these items fall within the Concurrent List

<sup>3</sup> The bill provides for the establishment of a regulatory authority in each state, i.e. - Real Estate Regulatory Authorities (RERAs) as well a state level tribunal called Real Estate Appellate Tribunals. Decisions of RERAs can be appealed in these tribunals. The focus of the original bill introduced by the earlier United Progressive Alliance government and as well the amendments (An official summary of the amendments is available at <http://goo.gl/c5EF92>, website accessed on 2<sup>nd</sup> May, 2015) brought in by the current National Democratic Alliance (NDA) led by Bhartiya Janta Party (BJP) focuses on to 'protect[ing] the interest of consumers, to promote fair play in real estate transactions and to ensure timely execution of projects' (Ibid.) In this endeavor, it emphasizes on regulating the business practices of the promoter of the real estate project. The bill makes mandatory for the promoters to register their project; 70% (or less, determined by states) of the amount collected from buyers for a particular project be deposited in a separate bank account and be used only for construction of the project.

loose threads together. Insights from these narratives helped prepare the author to ask relevant and pin-pointed questions to people (both government officials and private investors) who are prime agents in land development. With the help of these interviews, we attempt to understand the regulation of this particular sector by exploring the experience of real estate firms. By examining their interaction with the various decision-making and regulatory bodies and the instruments used by such firms to conduct business with the state's regulatory bodies, this case study starts to unpack the political frontiers between formal and informal policy and the formal and informal economies in a way we have reason to believe is generally relevant.

The paper is divided into the following sections. The next section describes the importance and drivers of real estate development in Gurgaon. Section III attempts to explain how neo-liberal aspirations are thwarted by the path-dependence emerging from existing socio-economic structures, a phenomenon which we descriptively model as the "hybrid state". The politics of master plans and the everyday regulation of land and real estate businesses then provide empirical bases to the concept of the hybrid state. The last section concludes by theorising the characteristics of the hybrid state in the context of land regulation.

## **II: GURGAON: DRIVERS OF REAL ESTATE DEVELOPMENT**

This section summarises and highlights existing knowledge of the drivers of real estate development in Gurgaon. The city, also known as 'millennium city', is seen throughout India as a model of fast-paced urbanisation. Present-day Gurgaon can be understood in several ways. First, it can be seen as an economic hub. This status has been acquired because of the favourable policy and tax regime of the Haryana government, the creation of infrastructure by Haryana Urban Development Authority (HUDA) and the need for a business centre closer to Delhi and the international airport. Delhi-based businesses were willing to shift out because of the high costs of physical infrastructure in New Delhi proper. The Haryana government made special attempts to smooth and fast-track the establishment procedures for Technology/IT Enabled Services (IT/ITES) and Business Process Outsourcing (BPO). By the end of the century, Gurgaon was an outsourcing hub with firms such as Genpact, Evalueserve, Dell, Accenture, Hewitt Associates, Copal Partners, American Express, Ericsson, Siemens and Convergys and with other IT and pharmaceutical firm and garment industries operating there. The city continues to grow and

currently houses the regional head-offices of Alcatel-Lucent, Niksun, IBM, Opera Solutions and Bain & Company. Gurgaon is also the headquarters of the two biggest automobile manufacturers in India - Hero Honda and Maruti Udyog.

Second, the successful policy-based creation of Gurgaon as an economic hub was accompanied by a complex mix of sub-urbanisation and counter-urbanisation which we detail below.

Sub-urbanisation as a phenomenon largely connotes a ‘...residential or dormitory (settlement with a) . . . character ... dependent on the city for occupational, shopping and recreational facilities’.<sup>4</sup> Although, geographically and administratively Gurgaon lies in a different politico-administrative unit, its growth is largely due to its proximity to the National capital, Delhi. So the classical definition of sub-urbanisation - understood as a process which is largely the result of negative aspects of city cost, congestion etc.<sup>5</sup> - is partially true in the case of Gurgaon. Over the last two decades Gurgaon has been steadily populated by people who work in Delhi and reside in Gurgaon, due to the availability of relatively cheaper housing for the middle class (and further facilitated by access to easy housing bank loans). However, the current spatial growth of Gurgaon cannot be merely seen in terms of the relationship between a metropolitan centre and its urban periphery.

The concept of counter-urbanisation describes a spatial phenomenon where there is a blurring of the city and the suburb such that the ‘sub-urban frontier has moved outwards to encompass wide tracts of land and embrace formerly free-standing towns and villages’<sup>6</sup> and the ‘suburbs’ themselves develop some of the economic sectors of city ‘cores’. Gurgaon and its periphery saw a parallel development of commercial real estate (e.g. office blocks), organised retail real estate (e.g. malls), hospitality real estate (e.g. hotels) special economic zones, residential real estate, health cities/zones, eight five-star hotels, seven golf courses and state-of-the-art business parks. Gurgaon itself became a centre of counter-urbanisation and propelled growth in its own periphery. The pace of urbanisation can be judged from the fact that there were 762 villages in the Gurgaon District in the year 2001 which declined dramatically to 242 in the year 2011.<sup>7</sup> Agricultural work withered. By

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4 R.J. Johnston, (ed.), *The Dictionary of Human Geography*, Oxford: Blackwell, 1981, pp. 331

5 Tony Champion, “Urbanization, Suburbanization, Counterurbanization and Reurbanization” in Ronan Paddison (ed.), *Handbook of Urban Studies*, Sage, London, 2001, p. 148

<sup>6</sup> Ibid. p, 150

<sup>7</sup> Directorate of Census Operations, Haryana (2011, District Census Handbook, Gurgaon, p.11

2011, the percentage of agricultural cultivators to total workers in the district was 10.3 per cent whereas in 2001 it had been 20.9 per cent<sup>8</sup> - a robust indication of a shift from agriculture to urban-based livelihoods. Meanwhile the city witnessed an upsurge in population growth during 1991-2011, with the influx and growth of the tertiary sector due to the new policies of state and central governments. The decadal growth of urban population in the decade 2001-2011 was around 74 per cent.<sup>9</sup>

These developments in the city of Gurgaon - the city as an economic hub and a space of sub-urbanisation and counter-urbanisation - are critically connected to the central focus of this paper, the policy process related to land and real estate development. They are contingent on policy changes in land use patterns, that is, in the shift from agriculture to commercial use - including housing and the investment of private capital in the development of land and real estate. The former in India is achieved through the preparation of master plans that allot land for different developmental uses (commercial, housing, industrial, hospitality etc.). Changes in land use patterns also give impetuses to the growth of real estate, which has emerged as an important and rapidly growing industry.

The complex mix of sub-urbanisation and counter-urbanisation has accentuated the class differentiation of the local economy with implications for the real estate business. Middle and large agricultural-landholders and even small farmers whose land is acquired by private players are found to diversify to other service providing sectors like transport, cable television, general store, construction etc. A good number of them have also invested directly in the real estate sector: big farmers of the region have sold a portion of their agricultural lands, using the surplus as seed money to start small real estate projects - both commercial and housing - on their remaining land. Some of them have become power brokers who facilitate the interaction between the regulators and the real estate developers. This may include small time politicians who have access to the corridors of power as well as professional brokers who have managed to make this particular economic activity the mainstay of their earning and livelihood. This point will be developed later. The landless and migrant agricultural working-class population, primarily from Uttar Pradesh,

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<sup>8</sup> Ibid. p. 14

<sup>9</sup> Ibid. p. 15

Odisha and Bihar, constitutes about 20-30 per cent of the population.<sup>10</sup> Although they have been absorbed into the local economy, they command relatively meagre incomes in the unorganised service sectors or in manufacturing and automobile units. The modern city of Gurgaon with its high-rise gated communities and glass and steel shopping malls co-exists with several villages with thriving informal sector markets and low-end housing to accommodate the residential needs and wage-good demands of the working-class informal sector population<sup>11</sup>. Many of the erstwhile farmers have constructed dwellings (both legal and illegal) which they rent to the low-end migrant population. This has led to an escalation of land prices even in areas which have very little or no municipal services. Lastly, the service sector has created substantial opportunities and draws both professional and unskilled migrant workers from various parts of the country. The professionals provide an important basis for real estate housing business development either through their purchase of new properties or the renting out of accommodation in the new residential sites.

The real estate business for this segment of population is controlled by a range of economic agents. The first category is the *big real estate players* in the construction industry who have a massive presence not only in the region of our case study – Gurgaon – but also in other big metros of India. This includes big firms like DLF, Unitech, ITC group, Ansals API, Chintel, Bestech etc. As in many sectors of the Indian economy, this oligopoly co-exists with many small players – the former big farmers and landlords who have sold agricultural land to create small housing projects. Many are also property agents who invest their surplus in similar projects.

### **III: HYBRID STATE, REAL ESTATE AND POLICY PROCESSES:**

In the current era, the growth of cities is being theorised through a combination of the intellectual tools of neo-classical economics and new institutional economics to suggest how cities generate avenues for economic growth. In policy (advocacy) documents, the bottlenecks to peri-urban growth are identified through phrases such as the “pace and shape of urban expansion (is being) distorted by rigid land policies”, “lack (of) the systems to record and manage information on land transactions”, the need to “reorient the built environment through effective floor space index regulation”, the absence of “land use and infrastructure coordination”, “housing problems

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<sup>10</sup> According to local informants

<sup>11</sup> Tathagata Chatterji, “The Micro-Politics of Urban Transformation in the Context of Globalisation: A Case Study of Gurgaon, India”, *Journal of South Asian Studies*, 36:2, 2013, p. 284

compounded by rigid land regulations”, the “weak position of India’s housing finance market”, “challenges for commuters and freight”, “slow and expensive commuting”, “fragmented state-central government institutional responsibilities” etc.<sup>12</sup> Accordingly, recommendations flowing from the identification and analysis of obstacles to metropolitanisation suggest that “developing institutional foundations to support land markets is essential for the long term- property rights”, the needs for “institutions that enable independent valuation and public dissemination of land values across uses”, for a “strong legal framework”, “managing urban densities for vertical expansion”, “enhancing connectivity and service delivery” etc.<sup>13</sup> As we see, these analyses of bottlenecks and the solutions for peri-urban growth recommended from the World Bank concentrate primarily on land development through private investment - with the help of an enabling policy framework.

The basis of these recommendations is the theoretical comfort provided by combining neo-classical micro-economics, particularly its methodological individualism with the theories of rational choice institutionalism.<sup>14</sup> Broadly, the literature argues that state intervention will restrain the economy and therefore urges neo-liberalism inspired marketization and a minimalist state. Markets are preferred to deliver consumer products and public services, including large scale public infrastructure like roads, malls, transport and transit systems etc.<sup>15</sup> Underlying this model it is assumed that self-regulating markets will generate an optimal allocation of investments and resources. Although, the claim of neo-liberalism is based on an uniquely efficient market, the reality, however, is far more complex. The neo-liberal market is always contextually embedded and politically mediated.<sup>16</sup> It is in this sense that neo-liberal market reform has been understood as path-dependent. It is argued that,

“Neo-liberal programs of capitalist re- structuring are never imposed in a pure form ... for they are always introduced within politico-institutional contexts that have been moulded by inherited regulatory arrangement, institutionalised

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<sup>12</sup> The World Bank, *Urbanization beyond Municipal Boundaries Nurturing Metropolitan Economies and Connecting Peri-Urban Areas in India*, Washington DC, World Bank, 2013, pp. 43-74

<sup>13</sup> Ibid, p. 77-88

<sup>14</sup> See, James M. Buchanan, “Rent Seeking and Profit-seeking”, in James M. Buchanan, Robert D. Tollison, Gordon Tullock (eds.), *Toward a Theory of the Rent Seeking Society*, Texas A & M University Press, 1980, pp. 3-15; Oliver Williamson, *The Economic Institutions of Capitalism*, New York, Free Press, 1985

<sup>15</sup> See David Harvey, *A Brief History of Neo-Liberalism*, New York, Oxford University Press, 2007

<sup>16</sup> Nik Theodore, Jamie Peck, and Neil Brenner, “Neoliberal Urbanism: Cities and the Rule of Markets” in Gary Bridge and Sophie Watson(eds.), “The New Blackwell Companion to the City” Sussex, Willey-Blackwell, 2011, p.

practices, and political compromise. It follows that there are always deep path-dependencies, as established institutional arrangements significantly shape the terrain, the terms and trajectory of market reform. In this context, pre- or non-neoliberal institutions should not be seen simply as anachronistic institutional residues; in their interpenetration with neoliberal forms of restructuring they will shape pathways and outcomes in ways that are distinctive, generative, and contradictory...”<sup>17</sup>

How is the neo-liberal reform in land development and real estate market in Gurgaon contextualised? How are the market-promoting and market-creating policies shaped and implemented in the land and real estate markets of this specific case? These are the central questions addressed by our field research.

Gurgaon, being one of the most important cities of Haryana is critically affected by the political dynamics of the state. Haryana state politics, until recently, was controlled either by the Congress Party or an alliance led by regional parties like the Indian National Lok Dal (INLD), and the Haryana Vikas party (HVP). In the 2014 election, it was the Bhartiya Janta Party (BJP) that decisively won the state assembly election - displacing the Congress Party which had ruled the state since 2004. The politics of the state is dominated by *Jats* - the rich land-owning farmer caste -<sup>18</sup> who constitute around 25 per cent of the state population. Other politically relevant and land-owning castes are *Gujjars*<sup>19</sup> and *Ahirs*.<sup>20</sup>

Haryana was also one of the important participants in the Green Revolution in the 1960s and 70s. The Green Revolution immensely benefitted the big landlords, especially the *Jats* and has been the source of their economic and political clout.

Even before economic liberalisation in India, Haryana was always friendly to private investment in land and in land development for large scale urban development projects. As far back as 1977, Haryana had set up a legislative framework, the Haryana Urban Development Act (HUD), to

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<sup>17</sup> Ibid. p. 79

<sup>18</sup> *Jats* are traditionally agricultural community in Northern India. Their status in caste hierarchy is unclear though many of them claimed themselves as *Kshatriya*- the warrior caste, a claim severely contested by *Rajput*( another powerful warrior caste) leading to several violent clashes.

<sup>19</sup> *Gujjar* are traditionally known as pastoral agricultural ethnic group. In Haryana, they have largely settled down and also combine farming with animal husbandry.

<sup>20</sup> The traditional are cow rearing community but in Haryana they now largely practice settled agriculture



provide state agencies with the power to acquire agricultural land for industrial and residential development zones which can be further contracted-out to private investors.<sup>21</sup> Additionally, through the Haryana Development and Regulation of Urban Areas (HDRUA) Act of 1975-76<sup>22</sup>, private developers were given licenses to pool and develop a minimum of 100 acres of land. This facilitated the build-up of large urban residential areas in Gurgaon by big real estate firms such as Ansals and DLF. These developments gathered momentum with the coming of liberalisation, aided explicitly by policy attempts on the part of the Haryana Government to attract and facilitate multinational corporations to set up offices, establish special economic zones (SEZs) etc. Haryana was also the first state to notify and pass its own Special Economic Zone Act (2005)<sup>23</sup> complimenting the legislation of the Central government, the Special Economic Zones Act (2005).<sup>24</sup> As of 2015, there are 52 SEZs in Haryana, of which 35 are located in the district of Gurgaon.<sup>25</sup>

The unique aspect of the Haryana model was the fact that it allowed private investors directly to purchase land from agriculturalists.<sup>26</sup> The state government provided a framework of land development through successive master plans but more crucially, private investors found farmers willing to sell their land at market rates - due to its high value and the ability of farmers to negotiate their interests with private developers. In other words, the big landlords, being a powerful political block, invariably obtained the support of the state whenever required in their negotiations with private investors. Moreover, as we saw, a significant number of farmers have also moved into the real estate business, having sold land.

Commentators often see the Haryana model as supporting “laissez faire growth”<sup>27</sup>. An alternate interpretation sees Haryana in terms of a model of regulatory state/ regulatory capitalism with roots in neo-liberal ideology: the state of Haryana has successfully extended the administrative arm of

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<sup>21</sup> The Haryana Urban Development Authority Act, 1977, available at <https://goo.gl/szJPG4>, website visited, 7<sup>th</sup> May, 2015.

<sup>22</sup> The Haryana Development and Regulation of Urban Areas (HDRUA) Act 1975-76, available at <http://goo.gl/DCKuFW>, website visited, 7<sup>th</sup> May, 2015.

<sup>23</sup> *The Haryana Special Economic Zone Act (2005)*, available at <http://goo.gl/EcvixS>, website accessed on 7<sup>th</sup> May, 2015.

<sup>24</sup> Union Ministry of Commerce and Industry, *The Special Economic Zone Act, 2005*, Department of Commerce, New Delhi, available at <http://goo.gl/EcvixS>, website accessed on 7<sup>th</sup> May, 2015.

<sup>25</sup> Union, Ministry of Commerce and Industry, ‘Notifications for Establishment of SEZs’. Department of Commerce, available at <http://goo.gl/8SFfMI>, website accessed on 7<sup>th</sup> May, 2015

<sup>26</sup> For a detailed discussion on these development see Tathagata Chatterji, “The Micro-Politics of Urban Transformation in the Context of Globalisation: A Case Study of Gurgaon, India”, *Journal of South Asian Studies*, 36:2, 2013, pp. 278-280

<sup>27</sup> *Ibid.* p. 281

neo-liberal ideology: new public management (NPM). NPM advocates that the state should create the real estate market through legislation and policy guidelines, thereby setting the broad framework of rules (as for the HUD and HDRUA Acts) and inviting private players to invest and develop the land. The state 'steers' rather than 'rows' in contrast with both the 'night watchman' state (*laissez faire*) and the old combination of direct control and hierarchical regulation. Thus the state allows firms to self-regulate and comply with codes of practice and other responsive techniques that substitute for direct command.<sup>28</sup> In this NPM framework the state is seen as prioritising administrative and economic efficiency.<sup>29</sup> NPM seeks to insulate the economy (markets) from everyday politics and interest groups.

Our field evidence persuades us to contest this perspective. We argue that the state in this current *avatar* is a hybrid state.

Political regimes in Haryana in the last two decades have aggressively shifted towards governing through the instruments of NPM. However, path dependency cannot prevent the new policy regime from being embedded in local socio-political dynamics. Path dependency is not merely reproducing the previous structure of policy and its regulations. Neo-liberal development seeks to jealously promote the policies and programmes that are expected to create markets in spaces which were hitherto the exclusive domain of the state and also to usher in market-like "efficiency" in regulating and implementing these policies. These institutional arrangements are being planned and implemented in a society where political power and socio-economic domination are largely derived through socio-political processes entrenched in caste, ethnic and regional locations. As a result, there is a two-way interaction between the formal neo-liberal reforms and the pre-existing formal and informal socio-political structures. Existing socio-political processes shape and influence the reforms while also generating and sustaining newer forms of informality in the regulatory processes. As a result, the reforms and their interaction with the path-dependent socio-political process develop into a specific kind of hybrid state where multiple formal and informal institutions - in this case, big private/corporate interests, dominant caste groups, politicians,

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<sup>28</sup> J. Braithwaite, "The New Regulatory State and the Transformation of Criminology", *British Journal of Criminology* 40, 2000, pp. 222-38

<sup>29</sup> G. Majone, "From the Positive to the Regulatory State", *Journal of Public Policy* 17, 1997, pp. 139-67.

bureaucrats, police, and musclemen - are intertwined in relationships of collusion and rent-giving/seeking, and in sharing control over urban and rural spaces and populations.

The concept of the hybrid state helps us to understand the formal and informal dynamics of the state's endeavour to regulate economic activities in the interest of economic growth and revenue while both adhering to the path-dependent informal socio - political norms and shaping newer forms of informality. This path dependence generates two critical impacts.

First, it persuades us to understand and see the difference between the state and its political and executive members. The political and executive members of the state pursue their own interests through creating informal networks with market players through which they operate for their own profit through rent-seeking. There is a critical difference between the older rent-seeking state<sup>30</sup> and the hybrid state. The earlier rent-seeking state created rigidity in the markets and governed to accumulate rent whereas the hybrid state aggressively promotes the withdrawal of the state, creates new private property rights, allocates them to different groups/individuals which seek rent from private players. The state loses control over land resources but its executives are empowered through their formal power to create regulatory instruments and enforce regulation. This is not to claim that the state's ability to regulate and enforce property rights has diminished due to the presence of powerful social groups. Neither is the state a manifestation of an all-powerful patron satisfying the material urges of its clients in return for their votes.<sup>31</sup> In fact, the hybrid state is client as well as patron. The state-as-client is manifest wherever it generates a policy framework to look aggressively for (corporate) private players and a variety of investors. The state-as-patron appears where it distributes largesse to powerful social groups in return of their political support. More importantly, the hybrid state encourages and sustains rent-seeking and giving in both its manifestation of client and patron, political behaviour we elaborate upon later.

Second, the study of the hybrid state also allows us to document the relationship between formal and informal institutions in the course of the policy process -including its regulation - and to see both formal and informal within a continuum rather than as distinct binaries.

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<sup>30</sup> For a good review, see, Pranab Bardhan, 'Corruption and Development: A Review of Issues', *Journal of Economic Literature*, 1997, 3: 1320-46

<sup>31</sup> Mushtaq Khan (1996) understands the relationship between the state and private players/social groups through two ideal type models. Patrimonial political settlement model is conventional patron-client relationship where the patron (that is the state) is more powerful. In contrast, the political settlement model where the clients are more powerful. The property rights defined by the state are weak and contested by well organised social group who are able to challenge the rights being enforced by the state. See Mushtaq H. Khan. "A Typology of Corrupt Transactions in Developing Countries" *IDS Bulletin (Liberalization and the New Corruption)*, Volume 27, Issue 2, pp.12-21

In the next section, we explain the political attributes of the hybrid state and then illustrate them with the case study of regulation of land markets in Gurgaon, Haryana.

First, the emergence of the hybrid state in Haryana implies that the formal state structure coexists with path-dependent informal socio-economic norms, the latter articulated with the former. Politicians and bureaucrats take pro-active steps to conceive and establish a market in land and enable its development for the purpose of economic growth and revenue generation.<sup>32</sup> Thus, one manifestation of state hybridity is reflected in the ability of the state to establish a formal framework for business in land and its development.<sup>33</sup> This framework would correspond to the neo-liberal idea of promoting a regulatory state using the administrative arm of NPM to service capitalism

Second, beyond the formal domain, pervasive and informal political relations give form and content to the hybrid state. Politicians and bureaucrats continuously seek avenues to create profit in land from private promoters and in turn create informal avenues for their own rent accumulation. In this peculiar and distinctive process the interests of the private players in land and real estate are often formalised through the reworking of master plans and office orders in return for rent and political donations. While formally and technically the state is merely promoting private investment for growth and revenue generation in fact it seeks to benefit the private investors. We see below how different pathways shape the everyday regulation of land and real estate development.

### **The Master Plan: An Insight from Gurgaon, NCR of Delhi**

A master plan lays down the vision for the long term development of the city. It endeavours to outline the guidelines, policies and space requirements for various socio economic activities (commercial, housing, parks, roads, special economic zones etc.) expected to support the city

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<sup>32</sup> Haryana has witnessed sustained economic growth in last two decades. The Gross State Domestic Product (GSDP) has growth between 5-8 per cent. It has been almost equal and on times better than the national average. Between 2007 and 2015, the finance and real estate contributed around 11- 15 per cent to the GSDP. This is the highest contribution when compare to similar contribution to GSDP by other sectors of the economy. See Government of Haryana, *Economic Survey 2014-15*, Department of Economics and Statistical Analysis, Panchkula, 2015

<sup>33</sup> Land development is both through public and private intervention, albeit in the last few years it has aggressively gravitated towards the private investment. State's departments acquire land, develop it and sell it to private players at the prevailing market rates. This task in Haryana is carried out by Haryana Urban Development Authority (HUDA). Around 50 per cent of the land in Gurgaon is under the control of HUDA.

population during the plan period. It also proposes a plan for all infrastructural requirements. The master plan also delineates the institutional mechanisms needed to realise the plan's objectives.

As is evident from the purpose of the Master Plan described above, it is inevitable that cities in the modern era are planned through a master plan. The master plan is generally developed for a period of 10-15 years. However, in recent years, Gurgaon has seen *three such plans* released by the government. The first Draft Master Plan 2021 was released in 2006 and subsequently notified in 2007. Within four years, another plan titled Draft Master Plan 2025 was released in 2010 and subsequently notified in 2011. Again, within a year, in 2012, a new Master Plan 2031 was notified.

These successive master plan freed up agricultural land for the following purposes:

<b>Table 1: Master Plans of Delhi</b>				
<b>No.</b>	<b>Land Use</b>	<b>Master Plan 2021 (Notified in 2007)</b>	<b>Master Plan 2025 (Notified in 2011)</b>	<b>Master Plan 2031 (Notified in 2012)</b>
<b>Areas in Hectares</b>				
1	Residential	14930	15148	16010
2	Commercial	1430	1429	1616
3	Industrial	5441	5431	4613
4	Transport and Communication	4231	4289	4420
5	Public Utilities	564	609	626
6	Public and Semi Public Use ( Institutional)	1630	1775	2035
7	Open Spaces	2675	2688	2775
8	Special Zone	106	106	114
9	Defence Land	633	633	633
	<b>Total</b>	<b>37069</b>	<b>37512</b>	<b>32842</b>
Source: Various Notified Master Plans of Guragon, Haryana, Town and Country Planning Department				

### *The Politics of Land: Interpreting the Master Plans*

As is evident from Table 1, between 40 to 48 per cent of the land is allocated to private realtors for the development of residential blocks. During the course of field work, key informants including senior government officials revealed that the frequent changes in the master plan are due to the influence of a rich and politically powerful lobby of real estate developers. While this information

cannot be conclusively proven, the narratives and facts collected and patterns of behaviour observed during the course of fieldwork are consistent with the formal regulatory institutions of the state's having been breached by the informal networks and lobbies of private relators. The following institutional process of land conversion should be taken into account:

- a) There are two stages in the preparation of the Master plan. First, a draft Master Plan is prepared and subsequently the Master Plan is officially notified. It was explained that the Draft Master Plan of 2021 had been changed substantially by the time it could be notified such that many public and semi-public spaces/public utilities were converted to residential and commercial use. The process was repeated at every successive iteration of the draft Master Plan up to the stage of notification.

Breaches of the formal regulatory process can be inferred from the fact that many realtors had bought a significant amount of agricultural land even before the draft Master Plan was announced. A few realtors found that the land they purchased had been notified as designated for public and semi-public spaces/public utilities. Even so, in the final notified Master Plan, much of the land designated for public use was re-designated for commercial/residential use.

The process underlying such re-designation is crucial to understanding the politics of regulation of land. It is more than possible that the realtors had inside information about the forthcoming Master Plan and hence the mad scramble for purchase of agricultural land before the announcement of every successive draft Master Plan.

- b) Second, as evident from Table 1, each successive master plan increased the residential category by 1080 hectares. A senior official in the Town Planning Department explained that this addition was achieved through the political intervention of the private realtors lobby at the highest level, enormously benefitting a few select construction companies.
- c) Third, the state government, while fast-tracking the Master Plan to the year 2031, announced that 4570 hectares of land earmarked for Special Economic Zones was to be developed for commercial and residential use. The rationale given by the notified Master Plan 2031 was "The scenario regarding setting up of SEZs has undergone sea change since notification of these plans and virtually there are no more takers for SEZs now. Even the already notified SEZs are not being implemented and resultantly, the landowners of such land were demanding re-planning of their land so that they are able to utilise the same for

some other purpose.”<sup>34</sup> The chief beneficiaries of this process were big real estate companies. So the state government simply chose to go by the interest of the realtors instead of protecting the interests of the farmers whose land had been acquired for SEZs. They were conveniently ignored.

These frequent changes in the Master Plan have been supplemented by several crucial policy changes (for instance, in 2009, increasing the density per acre from 80 to 100 persons). Taking together they indicate a series of informal political processes which are interacting with the formal regulatory processes, a fact repeatedly attested by number of key informants during the course of field research. The process involves breaching formal procedure through the collusion of the bureaucracy, private realtors and political leaders such that the private interests of the economic agents are formalised through the state’s formal policy pronouncements.

But the politics of land regulation is not limited to macro-policymaking; it also operates at the micro level during implementation.

### **The Politics of Regulation of the Land seen through the Process of Housing Development**

The following account developed from interviews of real estate developers highlights another aspect of the politics of land. The narrative captures the relations by mean of which real estate agents engage with formal policy processes once agricultural land has been cleared for a real-estate housing project (group housing).

#### *The Formal Process*

The first stage in real estate-housing development is to obtain a ‘letter of intent’ (LOI). In order to obtain the LOI, the file has to be approved by the office of the Senior Town Planner, District Town Planner (DTP) and by the Financial Commissioner (FC). After all the clearances, the file goes to the Principal Secretary in the Office of the Chief Minister. The latter stage is due to the fact that the current Chief Minister holds the portfolio of Town & Country Planning and Urban Estates. This process involves the following steps:

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<sup>34</sup> Master Plan 2013, Town and Country Planning Department, Haryana Government, 15 November, 2012, Pg 1

Office of the District Town Planner: In the DTP office, two officers are responsible for scrutinizing the proposed housing project. They are Planning Assistant (PA) and Junior Draftsman (JD). These two officers are responsible for approving the map of the proposed scheme and physical access to the site. There seems to be no universal format and guidelines for submitting these details which in turn gives lot of leverage to the PA and JD to use their *discretion*.

Office of the Senior Town Planner: The STP re-scrutinises the file and attests if the DTP has correctly approved the proposed site and if the scheme is deemed fit for initiating construction.

Office of the Director General Town and Country Planning: The file is sent back to the DTP office where the Director General has to give her approval.

Office of the Finance Commissioner: Once all the approvals are procured, the file is sent to the Finance Commissioner who has to attest all the earlier approvals.

Office of the Chief Minister: The file is finally sent to the Office of the Chief Minister (Haryana's Chief Minister routinely retains the portfolio of Town & Country Planning and Urban Estates). Technically the file has to be cleared by the Principal Secretary of the Department but during the time of field work under the Congress Government, the file was cleared by the Principal Secretary to the Chief Minister.

Once all the approvals are obtained, the LOI is granted to the real estate developer, though certain conditionalities are placed. These conditionalities demand the deposition of External Development Charges, Internal Development Charges, License Fee and Scrutiny fee. Once the LOI is obtained and conditionalities are fulfilled, the real estate developer has to apply for a license. The license can be obtained on providing the following documents:

1. Master Plan of the proposed housing project
2. Building Plan
3. No Objection Certificates. The certificates are to be obtained from 8 different departments. They are Municipal Corporation, Director, Urban Local Body, Haryana Urban Development Authority (local office as well as main head office), Pollution Control Board (local office as well as main head office), Department of Forest, Department of



Irrigation, National Highway Authority of India, Office of the Electricity Distribution ( local office and main head office)

Once the license is procured, the real estate developer has to submit the following documents to the office of DTP, STP, and DGTP and take their respective approval.

1. Zoning plan (indicating the entrance and connection to the main access road)
2. Service Estimate (indicating the plan for internal roads, electricity, drainage, sewerage)
3. Building Plan

Once all the approvals have been procured and adhered to as per the approved plan, the completion certificate is granted.

#### *The Informal Process of Obtaining Approval*

The politics of land at the micro level stage of execution reproduces that of the master plans. The approval by various regulatory authorities is never obtained through the merit of the case but by *breaching the formal institutions through informal means*. The real estate developers explained the various informal institutional means to get the clearances from various regulatory authorities. Three types of intermediaries are discussed below.

- a) **Liaison Agents:** These are locally influential people, often coming from the local dominant caste. They have a presence in local politics and known to have access to political leaders and the bureaucracy. As professionals they are hired at fixed rates by the private real estate developers to get the clearance and approvals at various stages of the regulatory processes. Big real estate developers have such agents on their permanent pay rolls, while the small time real estate developers hire them on a case-to-case basis. Often, the agents specialise in procuring approvals for the realtors from a specific office/ regulator. In such a case more than one agent is hired.

The cost of the agent depends on his/her proximity to the office/ minister/ local politician. If the agent herself is not in direct contact with the relevant regulator, costs increase since a portion of the money also has to be paid to a mediating contact. While such practices

create informal livelihoods, real estate developers informed us that this not only results in escalation of costs but also delays in timing.

- b) **Political Network:** A strong political network with the right ministers and other (senior) elected representatives also results in the smooth facilitation of the procurement of approvals. However such a network is not without costs contingent on the proximity of political facilitators with the relevant minister. Political facilitators then take money from the real estate developer. These facilitators are often reported to be the conduits/agents of relevant ministers. Or they provide political funding during elections and then claim their 'return favour' by facilitating the procurement of the various approvals for real estate developers.
- c) **Caste Network:** Caste leaders are also understood to have access to political leaders who operate on the lines of the political network discussed under b).

#### *Mode of Payment of the "Approval" Fee to the Political and Bureaucratic Decision Makers*

The payments made to the various decision makers acquire different forms. Interviewees informed us that cash seems to be preferred only by liaison agents.

Others may prefer payment *in kind* (though this is not always necessary) which may later be encashed. At times some flats/land/commercial spaces are allotted to the relatives of decision makers at prices much lower than the market price. However, this kind of "approval" fee is only given to facilitators belonging to political and caste networks, who in turn divide the "approval" fee between them and the decision makers. For they are able to provide, what was described as 'single window clearance'. In other words, politically influential facilitators are able to secure all approvals, and the real estate developer is saved the trouble of hiring multiple agents for the various regulatory authorities.

Another form of popular payment method is gold and other precious metals and two small real estate developers informed us that they had presented a luxury car to a senior bureaucrat for obtaining a necessary clearance.

## **VI: CONCLUSION: THE HYBRID STATE AND THE POLITICS OF LAND REGULATION**

From our field research, the hybrid state combines institutions and practices representing two principles of governance – first, neoliberal governance through the formal regulatory instruments supported by NPM and second, regulation through (pre)existing informal institutions. The hybrid state is an emergent formation that develops through the interaction and inter-penetration of these two systems of governance and the actors associated with them (big private/corporate interests, dominant caste groups, politicians, bureaucrats, police, and musclemen). It is a new system of governance, in which the constituent parts of each domain are recognisable and where ‘hybridity’ emerges from the intertwining of the two systems of governance. It cuts across the formal-informal, public-private divides and combines characteristics of the state, markets and predatory elements.

Accordingly, the politics of regulation of land consists of two essential aspects. First, while the state creates the market in land and in real estate-housing, it also informalises itself and in return shapes the formal processes of policy-making in the interest of private real estate agents. Second, in the actually existing development of formerly agricultural land, the regulatory arms of the state complicate or delay the decision making processes so as to extract rent. The regulatory process is breached through informal channels to procure formal decisions for real estate development.

The politics of land regulation in Gurgaon- Haryana reveals the hybrid character of the state where the government pursues the neo liberal ambitions of market-led land development, but its political and administrative executives are still embedded in the formal and informal institutional matrix sustained, re-worked and reformed in the earlier period of a more openly interventionist state.

Instead of land acquisition by the state through the principle of “eminent domain”, the dominant form of economic transaction related to land has become the sale and purchase of land through the market. Corporates, multi-national corporations, big real estate promoters, manufacturing units, garment exporters, automobile units, car manufacturing plants etc. are given preferential treatment for any investment. Most of the many official clearances and approvals are fast-tracked through a policy institution which is popularly known as “single window clearance”. A mini state secretariat has been established in Gurgaon for speedy economic clearance and to avoid the loss of time in commuting between the state capital (Chandigarh) and location of the project. Haryana in general and Gurgaon in particular is also witness to other forms of neo-liberal reforms which range from privatisation of waste management and several other municipal services, market rates for

electricity tariffs for household and commercial spaces, gradual privatisation of public transport etc. However, the state's neo liberal aspirations rarely fructify. The political networks, caste networks, political donations, speed money and several other informal institutions discussed in this paper ensure that markets in land persist in being influenced and governed by factors beyond "pure" market logic. The hybrid state results.

The reasons for the hybridity in the state's policy processes and the balance of social forces that generate indeterminacy and specificity in the outcomes of this hybridity can be better understood by isolating the principal socio-political and economic factors that shape and influence each other. In this case they are i) the close connection between the political role of dominant big farmers, particularly belonging to the Jat community, ii) the commodification of land and iii) the interest of the political elite in further promoting the commodification of land.

Beginning in the late 1960s and early 1970s, the state experienced the green revolution which contributed to India's food security. The major beneficiaries of this initiative were the big (Jat) farmers owning large tracts of land who profited from canal irrigation and high yielding variety seeds and highly subsidised soil nutrients - fertilisers - provided by the government. The Jats developed a powerful influence on Haryana politics: all chief ministers of the state in the last 30 years come from the Jat community. The Jats also started populating government offices at every level of the state administration. Although land was the source of their economic and political power, they were soon to understand the direction of the newly liberalised economy. They were ready to part with land in return for good compensation from the state government or from open market sale. Most of the big farmers retained part of their land. The proceeds from land sales were invested in businesses such as real estate, transport, brick kilns etc. or frittered away in conspicuous consumption. Being a politically powerful community, Jats could always bargain from a position of strength - whether with the state or private players.

Closely related to this is the phenomenon of the status and commodification of land. Agriculture is no more the mainstay of big agriculturalists in Gurgaon. The state government aggressively promoted the commodification of land in Gurgaon. Most agricultural tracts have been commodified and developed as real estate either through acquisition by the state under the Land Acquisition Act of 1894, or by private investors directly from the farmers. Land acquired under

this Act was allocated for residential, industrial and other commercial purposes. The guiding framework of this division came from the various master plans, the frequent changes in which benefited realtors. In acts of 'insider-trading', the political executive is alleged to have passed on vital information about future master plans even before it was announced and notified. Realtors then bought agricultural land, which later became prime real estate property after the master plan was notified. Legal office orders were therefore changed and master plans altered in favour of select real estate firms largely due to a close nexus between real estate promoters and the political executive.

The second aspect of hybridity becomes evident when the laws, officer orders and norms are executed and implemented by the town and country planning officials in return for some kind of rent. We have already explained that this rent giving and receiving is facilitated by a complex of informal networks and agents owing their roles to economic niches, political dependencies and caste authority.

Thus, in a hybrid state, formal rules through which land and its development are regulated are implemented through informal institutions. There seems to be a continuum of formality and informality which shapes this hybridity. More importantly, the political space between formality and informality where hybridity acquires its nutrient base is also a space of power politics, physical intimidation and violence, speculation in land and real estate, manoeuvring of private players for political donations, rent seeking etc. These relations coalesce to regulate the development of land, the most important and economically productive activity in the district of Gurgaon.