

1. Mining Conflicts in Liberalising India

In the late 1980s, the small social advocacy organisation Samatha ('Equality') started working with impoverished Adivasi communities¹ facing land alienation in the Eastern Ghats hill range of northeastern Andhra Pradesh. Members of the organisation had earlier experienced first-hand how outsiders, whether for private gain or through government projects, were acquiring land that was intended to be reserved for Adivasis, thus pushing people into deep poverty. Realising the lack of understanding of the formal procedures of the government on the part of the Adivasis, Samatha started helping people to secure the land documents they needed in order to make use of existing legal protection.

In the early 1990s, villagers approached Samatha when a subsidiary of the Birla Group, one of India's biggest industrial conglomerates, wanted to mine calcite in their village. As the mining plans were believed to violate the *Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959*, which bans the sale or transfer of land from a tribal to a non-tribal person, what came to be known as 'the Samatha case' was taken to court in 1993 and later appealed to the Supreme Court in Delhi (Vagholikar and Moghe 2003; Krishnakumar 2004).

¹ The term 'Adivasi' is widely used as an alternative to the official designation of 'Scheduled Tribes' (or 'tribals') as groups of people with special constitutional benefits who mainly live in central India's forested hill region.

A final verdict in the Samatha case was reached by the Supreme Court in 1997. Relying on a combination of the Indian Constitution's Fifth Schedule, set up to protect and support Adivasis across the country, and Andhra Pradesh state land transfer legislation,² the court reached the conclusion that no land, including government (or 'revenue') land, private land or forest land, could be leased out to non-tribals or to private companies for mining or industrial operations. The judgment stated that '[i]f the government was allowed to transfer or dispose of its own land in favour of non-tribals, it would completely destroy the legal and constitutional fabric made to protect the Scheduled Tribes' (India 1997). The court ordered an immediate closure of all existing private mines in Andhra Pradesh, and suggested a process for other states with Scheduled Areas³ to review their laws in accordance with the judgment.

The Samatha judgment has been widely acclaimed for reaffirming the constitutional right to land for Adivasis. But where the similar Mabo judgment in Australia in 1993 successfully opened up a space for Aborigines to become participants in all discussions over what should happen on their traditional land, and resulted in strengthened overall environmental protection (O'Faircheallaigh 2006), the efforts of the Indian authorities have mainly been directed to limiting the impact of the Samatha judgment by confining its application to Andhra Pradesh. As the Fifth Schedule of the Indian Constitution applies to some of the country's main (existing and potential) mining areas across nine states in central eastern India, the judgment at the time created a lot of unease among policymakers across the country. If it was implemented in Andhra Pradesh, and even expanded to the other states with similar legislation, a large share of India's main reserves of iron, bauxite, chromium and coal would be off-limits to the private investment that was supposed to be the basis of future expansion since the new national mineral policy was announced in 1993.

2 The new state of Telangana was separated from the state of Andhra Pradesh on 2 June 2014, but the tribal land transfer legislation has been retained by both states.

3 The Scheduled Areas are the territories reserved for India's tribal communities in the Fifth Schedule of the Constitution. It applies to the states of Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Haryana, Jharkhand, Madhya Pradesh, Maharashtra, Odisha (formerly Orissa), Telangana, and Rajasthan. Due to migration, the tribes do not exclusively live in the Scheduled Areas nowadays. Similarly, there are parts of the Scheduled Areas where non-tribal peoples are now the majority.

The judgment continues to stand but has not been implemented outside of Andhra Pradesh. The current impasse has thus been interpreted as a ban on private mining in Andhra Pradesh despite continued mining in other states. Mining across much of central, tribal India has even been able to expand despite the many controversies repeatedly surrounding mineral projects. These have perhaps been most severe in Odisha (formerly Orissa) State, where clashes between the police and local people protesting against land alienation have resulted in violence on several occasions, with casualties suffered in specific protests against bauxite mining in Kashipur (Reddy 2006; Goodland 2007) and a proposed steel plant at Kalinganagar (Mishra 2006; Padhi and Adve 2006). Also, in the states of Chhattisgarh and Jharkhand, Adivasis have been at the receiving end of violence when finding themselves caught between Maoist Naxalite rebel groups and the government, including the allegedly state-sponsored Salwa Judum militia. This was seen by some as a conflict over access to valuable mineral resources (Sundar 2006; Lahiri-Dutt et al. 2012). It is clear that the present approach to industrialisation is one that leaves large parts of the rural population alienated, despite much protective legislation and at least some supportive court verdicts.

Reinterpreting the Samatha Judgment to Allow Mining

In Andhra Pradesh, and in the newly formed state of Telangana, private-sector mining is still unable to encroach on Adivasi lands, yet these lands are in great demand for many government projects seen as operating in the public interest, including coal mines and irrigation dams. Since 2005, new attempts have been made to exploit the bauxite ore in this region, even though the Samatha judgment is an accepted part of the legislation. The relevant project instead relies on a weakness of the Samatha judgment by using an Andhra Pradesh Government company to carry out the mining while the private investor, Jindal South West (JSW), which is financing the entire project, locates its associated refinery just outside of the Scheduled Areas, where private land ownership is allowed (see Figure 1.1). A confident state government with a strong role to play in national politics, and the support of one of India's major business families, at the time looked certain to be able to implement the project in this new form of public-private partnership, which in large part appeared to have been designed to circumvent the Samatha judgment.

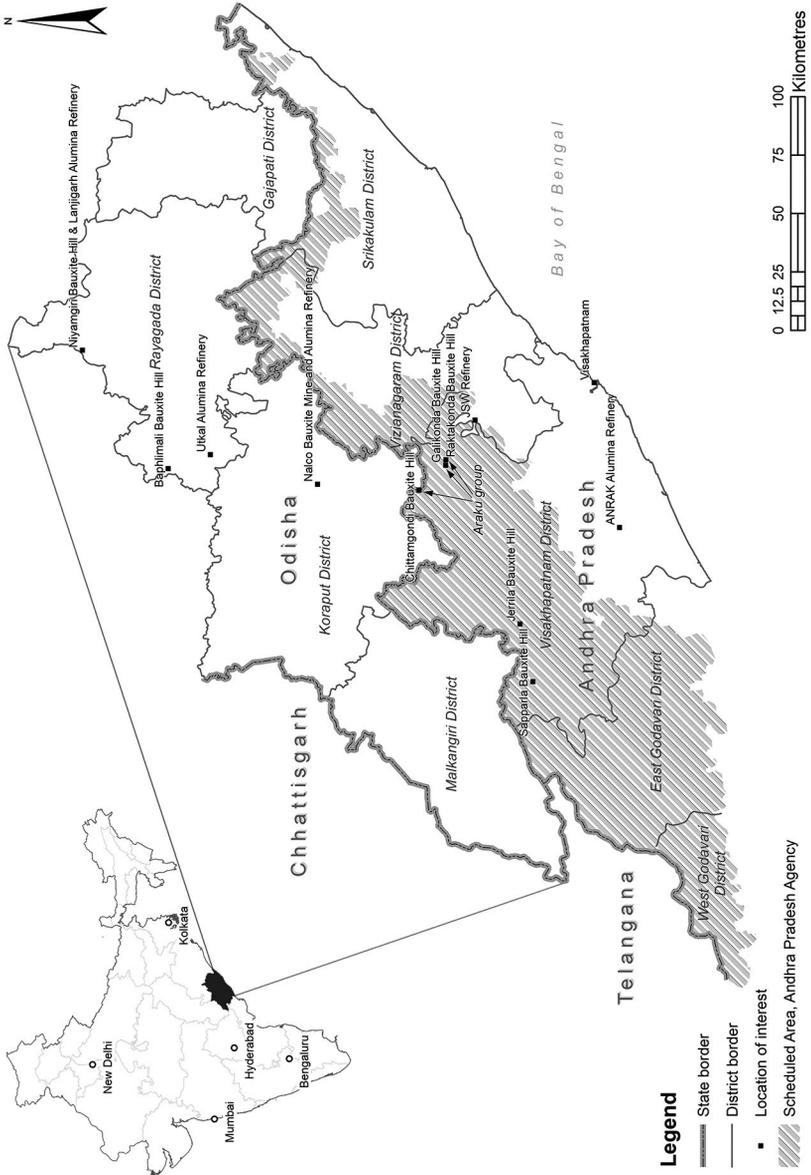


Figure 1.1 Map of northern Andhra Pradesh with proposed bauxite mining and refining locations.

Source: Cartography by Patrick Wennström, Swedish University of Agricultural Sciences.

The legal form of this public–private partnership was perceived by anti-mining activists as an overly generous interpretation of the law in favour of private-sector interests. However, given the slow pace and unpredictability of court procedures, it was still possible to launch this major investment. Along the way, significant protests were staged, not only at the sites chosen for the mine and refinery, but also in the wealth of local, state and national government and other forums that form part of India’s extensive framework for democratic debate and decision-making.

Since its inception, a great amount of uncertainty has characterised the project implementation, allowing it to linger for many years in a condition similar to that of a range of other high-profile mineral projects in central eastern India’s mineral tracts.⁴ Government responses continued to indicate that bauxite mining and refining was still under implementation, with tangible signs on the ground when land was acquired, and some—but crucially far from all—administrative approvals provided for the refinery. In 2013, however, the company confirmed in a newspaper interview that it had cancelled its investment because of the slow pace of implementation and a lack of government support (Anon. 2013). Without an officially declared cancellation, and in any case all too experienced with radical about-turns for controversial projects, civil society actors continued to be vigilant, fuelling further media speculation about renewed mining in 2014 (Patnaik 2014). The continued vigilance after the 2014 elections appears to have been well founded, since the new state government quickly initiated discussions about restarting the controversial bauxite mining and refining projects (Anon. 2014).

This book examines the controversial attempt to start new private mining in the state of Andhra Pradesh in 2005. This was one of many conflicts over (and acts of resistance to) economic reform involving tribal land that have been happening across central eastern India.⁵ It explores, on one hand, the tension between existing tribal land rights legislation and concerns over land use changes resulting from mining industry operations, and on the

4 The Posco steel plant in Odisha State was proposed in 2005 and officially cancelled in 2016. Vedanta Resources planned a bauxite mining project that has remained locked in local protests over land, but also in various legal and other disputes, since 2003 (Pingle et al. 2010; Amnesty International 2011).

5 Tribal land is here defined as any land in areas traditionally inhabited and/or used by people officially categorised as members of Scheduled Tribes, whether this land is officially designated as private, forest, revenue or any other form of land, or is located within or outside of the Fifth Schedule areas, since many tribal villages are outside of these borders.

other hand, the potential profitability of mining projects, especially for politically influential interests. A key issue at stake is the choice between alternative uses of the land for mining or for low-intensity cultivation and extraction of forest products. The choice is either to prioritise the protection of Adivasis from absolute poverty or to promote economic growth through mining, thus reflecting alternative visions of development and justice.

In this case, the many different forces and processes working to promote or frustrate industrialisation developed into a paralysing stand-off. This book explains how this unexpected outcome was the result of permanent distortions in the way that different groups understood one another and dealt with their differences about how Adivasi land and natural resources should best be used. The core concern over how land should be used resulted in a deadlock—here described as a ‘landlock’—in which the extension of local cultivation and forest use was just as impossible as the extraction of mineral ores. This outcome was to no one’s benefit, since the minerals are not being used yet stronger tenure rights for local people cannot be translated into improved livelihoods. It is argued that the sort of long-running conflict detailed here, while perhaps not paradigmatic, offers insights into the deeply ingrained inability to resolve the differences expressed in countless conflicts over Adivasi land and resources in recent decades.

Mineral Extraction, Land and Indigenous People

In many parts of the world, the conflict between mining projects and indigenous people has become an increasingly significant issue. In these conflicts, not only are different uses of land and resources under contestation; often it is two entirely different views about what is of value and how society should progress (Godoy 1985; Ballard and Banks 2003; Bebbington 2011; Gilberthorpe and Hilson 2012). As mining imposes radical transformations on indigenous territories, with potentially permanent changes to local environments and societies, long-running conflict has been the result.

Among the most difficult conflicts to reconcile have been the conflicts on indigenous lands. India’s Adivasis, like indigenous populations in Australia, Melanesia or South America, continue to suffer

disproportionately when their lands and cultures are disrupted as a result of mining. However, a history of exploitation, combined with modern-day dispossession, has also generated wider support for the 'indigenous' cause, even to the point where the term 'has come to be embedded in discourse surrounding resource extraction' (Gilberthorpe and Hilson 2012: 4–5).

Even so, the struggles of Adivasis in India cannot be fully and easily reconciled with indigenous struggles elsewhere. The basic point that most Indians are indigenous, given that they have lived within the country's present borders for many centuries, is hard to ignore. Even more so, the internal variations and divisions among those designated as Adivasis make a unitary struggle harder to envision (Baviskar 1995; Guha 2007).

At the same time, while global mineral investment offers opportunities, it provides new challenges for accountability. As Hilson argues:

circumstances are severest in developing countries, where governmental intervention is minimal, regulatory frameworks are commonly incomplete, and fewer effective support schemes are in place for community and industrial groups. Compounding the problem is the fact that a number of these countries' governments, which have heavily promoted foreign investment in their minerals sectors in recent years, almost exclusively side with mining companies on key land use issues (Hilson 2002: 65).

The difficulties of relying on a mineral-dependent development strategy have been the subject of frequent discussion in the literature. Developmental failures resulting from a heavy reliance on minerals have led to a broad acceptance of the 'resource curse' theory (Ross 1999; Auty 2002) amongst policymakers. However, the extraction and sale of minerals remains a tempting pathway out of poverty, especially in times of high mineral commodity prices, and this has driven the combination of continued mining with attempts to improve policy measures to avoid the resource curse.

Some of the efforts to improve social and economic outcomes nationally, as well as in mineral-producing regions, have focused on getting international companies to implement best practices in all their project locations around the world through corporate social responsibility programs, often following the recommendations of the Extractive Industries Transparency Initiative. These efforts have nevertheless tended to work on terms set by the companies themselves rather than by the affected communities (Gilberthorpe and Banks 2012). In some countries, attempts have

been made to provide local people with a share of mineral benefits, and sometimes the right to participate in decision-making, but even when there are mandatory negotiations between indigenous communities and mining companies, as in Australia, uneven power relations tend to be significant and local outcomes are highly variable (O’Faircheallaigh and Corbett 2005).

Despite India’s long history of mining, the industry did not attract much interest from social scientists before it started to expand, and therefore become more visible, as the result of the liberalisation of the mining legislation in the early 1990s. There has since been a growth in the number of civil society publications (e.g. Reddy 2006; Kalshian 2007; Bhushan and Zeya Hazra 2008; Amnesty International 2010) and in more academic works (e.g. Herbert and Lahiri-Dutt 2004; Padel and Das 2010; Bedi 2013; Kumar 2014; Lahiri-Dutt et al. 2012; Oskarsson 2013a, 2015; Lahiri-Dutt 2014, 2016). Research on mining in India has been particularly concerned with the negative consequences of displacement, especially for the Adivasis, and the effects of deforestation. Coverage of current conflicts is part of a larger body of literature on land and natural resources in tribal India, and on the social movements that have worked towards securing land rights in the face of threats from non-tribal farmers and moneylenders, from forest departments and commercial forestry operations, or from the building of large dams (e.g. Baviskar 1995; Balagopal 2007a; Guha 2007; Springate-Baginski and Blaikie 2007; Kumar and Kerr 2012). When violence became more common in central India, Arundhati Roy (2009) referred to this as a struggle between the Maoists and the ‘MoUists’ because of the large number of mining deals—known as memoranda of understanding—that had been signed.

India, however, represents something of a special case within the international literature, given its surprising degree of insulation from international mining industry practices and actors. While the country has nominally opened up its economy, and now has a policy framework designed to attract foreign investment, the investors in mining remain overwhelmingly domestic, and it is mainly the technology that is sourced from abroad. Some of the raw materials and end products, especially alumina and aluminium,⁶ are exported, but the domestic market is more

6 Aluminium production is a three-stage process of bauxite mining, alumina refining and aluminium smelting. Alumina is aluminium oxide, an intermediary product usually manufactured close to the mine site.

significant. International financial institutions like the World Bank, while active in the country in many other ways, are not involved in mining projects (Herbert and Lahiri-Dutt 2004), and indications are that most of the future expansion is going to be funded either by domestic banks or by the mining companies themselves.

The virtual absence of international companies or financial institutions in the mining sector has resulted in an avoidance of the international discourse on best practices in the sector, including the discussion of corporate social responsibility and community relations programs. Indian legislation on mining, while certainly extensive, has not been significantly influenced by international policies or standards. The result is an industry characterised by insularity in both policy and practice, with only very modest improvements in community relations in recent decades. While this might represent a seemingly difficult scenario, there is a possible upside, given that the industry is more locally accountable and less dependent on decisions made by foreign companies with headquarters far away, as has often been the case, for example, in Africa or Melanesia (e.g. Ferguson 2006; Bainton 2010).

This is why it might make more sense to situate the conflict over mining on Adivasi land in India within the broader literature on land rights. Land continues to be the most important productive asset for rural communities in India, and ownership of land is linked to a reduced incidence of poverty (Mearns 1999). The Samatha judgment has strengthened tribal rights to this crucial asset by preventing the development of several proposed mining projects. Yet the contested nature of its implementation, as well as continued attempts to mine the mountains, make it doubtful whether local people have been able to utilise these stronger rights for economic improvement. This is especially the case since private landholdings are still frequently denied to tribal farmers in forests controlled by the government.

Because tribals have no security of tenure and live under the constant threat of eviction, they cannot invest in improving their land. Their poverty prevents them from planting tree crops that have long gestation periods, and the illegality of their position precludes their receiving loans from the government to make their agriculture more productive (Baviskar 1994: 2500).

Although alienation of the best agricultural land has been a serious issue in many Adivasi areas, access to land has often been a somewhat less important issue, with the average landholding size being larger than

the Indian national average. Instead, infertile soils, a lack of agricultural inputs and poor infrastructure, including a lack of irrigation facilities, have been among the main reasons for low productivity (IFAD 1991; Purushothaman 2005). When settled agriculture has not been sufficient, the commons—especially forest lands—have been an important additional resource (Mearns 1999), but even in the case of forests, there continue to be significant challenges to local access and management.

India has been characterised as having experienced ‘thousands of small wars against land acquisitions’ (Levien 2011: 66) in recent decades, when farmers, forest-dwellers, herders and many other groups dependent on land for their survival have fought with the state and private companies over increasingly scarce pockets of land. Land is a very sensitive subject anywhere in India, with a close relationship to the livelihoods of the poor, but also to social identities, the food security of the nation, and the desire for industrialisation and progress. In tribal, central India this connection is even starker due to the intense poverty of the region, people’s inability to move into alternative employment once land has been lost to mining or other industries, and a lack of other possibilities for economic improvement. Adding to this already bleak picture, there have been violent clashes between Maoist groups and counter-insurgency forces, partly related to the process of industrial expansion on tribal land (Sundar 2006).

When Adivasis across India have been unable to participate directly in political debate (Guha 2007), demands for protection of their rights have instead been organised through social movements, mainly engaging directly with the bureaucracy or the judiciary (Katzenstein et al. 2001). This approach to strengthening tribal claims to resources seemed to be successful in parts of central India as mass movements for the protection of *jal*, *jungle* and *jameen* (water, forest and land) became increasingly common in recent decades. But the failure to achieve significant change, as in the case of opposition to the Sardar Sarovar dam on the Narmada River, seems to have provided the opportunity for counter-claims. One example of this is the way that right-wing Hindu organisations have made significant inroads into tribal India in recent years (Chatterji 2004; Baviskar 2005). This ongoing fight for the right to interpret tribal identity remains uncertain and, like the many other contestations underway at any point in time in India, is cross-cut by a multitude of different issues and voices.

As a result of centuries of struggle, Adivasi land protection and a wealth of other Adivasi rights continue to exist in different forms with widely variable implementation across central India. Adding to this complexity is a significant expansion in rights for disadvantaged groups that has been secured in recent years, coupled with other legislation that has been added or altered in favour of mineral-led industrialisation. And while the overall thrust of national economic policy is in favour of private investment, the public sector continues to be a major participant in all forms of mining, as well as in refining and thermal power generation. What emerges is a mixed picture, not only of mineral governance and land rights, but also strategic approaches somewhat at odds with the official rhetoric of economic liberalisation, as various forces within and outside of the political establishment struggle to influence the way that various resources are best utilised and by whom.

The landscape of rights is constantly changing across India, with local adjustments as well as laws targeted to certain socio-economic groups. The result is a confused mix of laws that, though significant on paper, take on a much less clear meaning on the ground. Frequently, the intended beneficiaries need to mobilise in order to demand their implementation. In worst-case scenarios, rights passed into legislation become little more than empty rhetoric when politicians seek re-election. The resultant governance framework contains a multiplicity of institutions, following regulations that often overlap, are at odds with one another, or with contradictions that are unresolved. Governance often comes with great democratic ambition, but is fuelled by much uncertainty and controversy.

The strongly stated intention of the state to work for economic growth with the private sector as its partner have combined, in a somewhat ad hoc manner, with a significant expansion of social legislation meant to strengthen local people's rights. Many active participants, plenty of forums in which to debate development, and very extensive legislation thus characterise India's democracy. However, the reach of participatory democracy does not easily extend to the pursuit of industrialisation and economic growth. Here uncertainty, secrecy, complexity and overlapping authorities are some of the underlying factors that have resulted in much controversy between supporters and opponents of industrialisation on Adivasi land. While these concerns have long existed in India, recent controversies in the extractive industry sector have been exaggerated by the combination of national economic liberalisation with an international resource boom and the seeming contradiction between the pursuit of public goals and personal profits by many of the key actors.

Private-Sector Mining for Economic Growth and Political Patronage

The language of liberalisation commonly used to describe India's economic reform process (Bhagwati 1993; Krueger 2002) suggests that the country should end up with a rule-bound, transparent economy that uses the market to allocate resources. When India continues to have significant government interventions in the economy, there has been a tendency to explain this as a result of the liberalising reforms not proceeding as far as was intended. An alternative and more credible characterisation of the economy views it as one based on the preferences of a narrow public–private alliance with limited intentions to let go of earlier opportunities for control. The political system remains remarkably similar to that which existed before the onset of economic reforms, with the same drivers that invited Indian politicians to look for opportunities to control the economy for political and personal gain, and with the same business groups willing to bargain for preferential treatment. According to Kohli (2007: 113), 'the development model pursued in India since about 1980 is a pro-business model that rests on a fairly narrow ruling alliance of the political and the economic elite'. A pro-business approach favours established interests by means of active state intervention. Reasons to support existing businesses may be nationalistic or may be based on other ties—including monetary ones—that cause decision-makers to intervene.

Before the economic reforms, patronage was largely based on opportunities for bureaucrats and politicians to selectively award licences and contracts, or simply to accept kickbacks for the grant of particular administrative approvals (Kochanek 2007).

The essential business of a state minister is not to make policy. It is to modify the application of rules and regulations on a particularistic basis, in return for money and/or loyalty. The telephone is his essential instrument, for his orders modifying the application of general rules are only rarely written (Wade 1985: 480).

The state–business developmental alliance is able to use old-style political control techniques to gain benefits in the newly 'reformed' economy. The system of regulation and control in the sphere of industrialisation remains impossibly complex for any administrator to manage effectively, despite the recent reforms intended to simplify the system. Lack of information, split responsibilities in the federal system, multiple laws with

overlapping and often contradictory content, unclear implementation procedures, and frequent changes to the rules make it impossible to stay up to date with regulatory demands. This regulatory complexity is a key factor that continues to allow politicians to use their discretionary power for the benefit of select business partners in a system of legally reasonable market orientation and democratic division of power. 'At a very basic level, politicians continue to be needed as fixers' (Jenkins 1999: 116).

The best opportunities for earning additional direct incomes in the reformed economy are to be found in land transactions. Land acquisition cannot take place without state government cooperation, and within each of the states, fixers are needed from each particular area of acquisition. Direct kickbacks for enabling land transactions might not even be necessary, since opportunities will exist to divert funds from the purchase, including diverting land to relatives and friends, or simply to profit from knowing that the value of land next to any industrial project will inevitably rise (Jenkins 1999).

Whenever cases questioning the public purpose of certain land acquisitions have been made, the courts have generally said that whatever democratically elected governments decide counts as a public purpose, so long as rules are followed regarding compensation for those losing land (Iyer 2007). But the acquisition of land for private companies is politically sensitive, so there is indecision as to whether or not governments should intervene and on whose behalf they should act (Fernandes 2009). Just as in the distribution of benefits, informal possibilities exist for politicians to negotiate compensation whenever enough power can be assembled to seriously challenge development plans. The opportunities rest with individual political brokers who can use personal influence to intervene on a case-by-case basis (Jenkins 1999; Newell and Wheeler 2006).

Since the early 1980s, with a radically reduced level of national public investment, state governments have been forced to compete for private investment in a completely new way. In some sectors, like mining, state governments nevertheless have some means to strongly influence—if not control—decisions about who gets to operate where. The exploitation of especially valuable ore deposits depends on investment in plants to refine the ore, otherwise contracts will not be awarded. A complete lack of transparency in the award of these contracts ensures that consideration will only be given to politically favoured investors. Even for smaller mining leases, administrative approval procedures remain complex and

hidden from the exercise of any independent authority, thereby allowing scope for manipulation. Industrial investment also creates opportunities beyond those associated with land acquisition, as in the sub-contracting of construction or other activities. These contracts can either be won by companies owned by politicians or distributed to other contractors as a form of patronage.

The chief ministers are key actors in the process of seeking out sources of private investment.

In the 1990s drama of economic liberalisation state chief ministers play leading roles in India's emergent federal market economy. They are seen on front pages, covers of news magazines and television screens, making and breaking coalition governments, welcoming foreign statesmen and investors, dealing with natural disasters and domestic violence (Rudolph and Rudolph 2001a: 1541).

Having never been especially prominent among Indian states, either economically or politically, Andhra Pradesh shot to sudden fame in the early 1990s when Chandrababu Naidu of the Telugu Desam Party (TDP) became the first state government politician to openly embrace a package of economic reforms (Rudolph and Rudolph 2001a; Suri 2005). Whether Naidu was as reform-minded as he claimed to be remains uncertain, since many of the welfare programs instituted by previous governments continued during his period in office. Eventually, his government was damaged by the accusation of neglecting the countryside (Suri 2004), and once the Congress Party came back into power in 2004, there was a return to standard state government behaviour, with reform measures carried out by stealth, and the promulgation of well-advertised populist welfare packages for the poor (Srinivasulu 2009).

It was in this highly politicised setting that proposals for a number of large-scale bauxite mining and refining projects were made from the early 1990s onwards. India's significant bauxite ore deposits, confined to a relatively small geographical area in the Eastern Ghats hill range in the states of Odisha and Andhra Pradesh, were first identified in the 1970s. The first—and to date the only—large-scale mining operation to be established was implemented by the public company Nalco (the National Aluminium Corporation) in Odisha in the 1980s, with the French company Pechiney involved as a supplier of technology. Direct private-sector involvement only began with the economic reforms of the 1990s, but despite significant efforts, such attempts by Indian and multinational

companies have so far not resulted in new mining operations. This has forced related alumina refineries, like Vedanta's Lanjigarh refinery in Odisha, to operate with a mix of bauxite ore from other parts of India or from abroad.

The world aluminium industry, like much of the metals sector, underwent rapid expansion in the 2000s, with the price of alumina reaching an all-time high in the summer of 2007.⁷ An important factor behind the sustained growth since the early 1990s has been Chinese demand (World Bank 2006). China is now the world's largest aluminium producer, and Indian bauxite deposits have been among those geographically best placed to cater to this demand. China accounted for as much as 82 per cent of Indian alumina exports in 2006/07, with a value of US\$339 million. The aluminium industry is the biggest metal industry in the world after iron and steel, and production of its raw material has been shifting towards the tropics over the course of the last 50 years as new deposits have been found in countries like Brazil, Guinea and Jamaica (Barham et al. 1994). At the same time, the industry has been constrained by the high energy costs and increasingly stringent environmental norms applied in the Western consumer countries, while ore-producing nations have long sought to obtain a greater share of the final value of processed aluminium (Francis 1981; Bunker 1994).

Economic and technical obstacles to the growth of this industry in India have been reduced by the availability of international technology and private-sector funds, and by greater access to the world market. But as far as Adivasis are concerned, the continued lack of benefits from this or any other changes to the modern economy might not make much difference.

Adivasis were displaced from their lands and villages when the state occupied the commanding heights of the economy. And they continue to be displaced under the auspices of liberalisation and globalisation (Guha 2007: 3306).

The main difference in recent years may not have consisted of formal policy changes, but rather the scale of the threat of displacement as the mineral industry has looked to expand its operations by means of private-sector investment and the importation of large-scale technologies of extraction.

7 The onset of a global recession towards the end of 2008 significantly reduced prices—a trend that has since continued.

Whether the developmental alliance will be able to implement its plans is not so easily predictable when its discourse of economic growth and export-oriented industry is clashing with a strong oppositional discourse. As is clear from the public interest litigation that enabled and later defended the Samatha judgment, there is significant capacity in civil society to support continued Adivasi land and livelihood protection in Andhra Pradesh, and this is supported in turn by a well-established—even if at times unpredictable—democratic framework.

Deliberative Democracy in India

Indian democracy affords opportunities for widespread deliberations over the reasons for and against a certain choice. These deliberations take place in upper and lower houses of the national parliament, in state government assemblies, in district and local councils, as well as in many other forums, such as print media and television. They extend over geographical scales, and are increasingly conducted in local languages, allowing the inclusion of a wider group of people than at any earlier point in time (Kohli 2001). Furthermore, the issue of tribal land protection has been defined as a matter of public policy through earlier struggles. Legal protection is prescribed in the national constitution and in state land rights acts, and it is therefore open to public debate. The Supreme Court has reaffirmed in the Samatha judgment that governments cannot diminish the importance of this legislation in favour of other societal goals such as promoting broader economic growth.

As part of the dominant discourse on land use, the extraction of mineral ores from central India is justified by an ideology of modernisation and economic development through industrialisation that has been present in top policymaking circles ever since Independence (Chibber 2003; Kohli 2004). Minerals are seen as vital inputs to industrial processes or as sources of crucial export revenues, which are key for progress technically and economically, and one of the few realistic hopes for impoverished central Indian states to improve their economies. The focus is on economic growth rather than on mitigating the costs borne in the Scheduled Areas, or ensuring that a significant share of the income is returned to the mineral-producing areas. A related and influential factor is the unreformed nature of the political system, where the need for resources to fund political patronage incentivises politicians to attempt to extract rents by controlling access to land and natural resources.

Habermas treats systematically distorted communication, the failure to reach the goal of communicative action and therefore to reach mutual understanding (Edgar 2006), as unintentional, thereby indicating that a refusal to participate in deliberations is not part of a conscious strategy of domination. But Bohman (2000) argues that this is not necessarily the case, and that there are situations of purposefully distorted communication. In his view, domination is often based on the avoidance of consensus building, and that is how elites can best assure themselves of a disproportionate share of resources. Avoidance of debate over the bauxite project discussed in this book is exemplified by the way that the state government secretly signed a deal with JSW in 2005 and proceeded to make comprehensive plans without sharing the details with the public.

Indian laws, however, require certain documents to be produced as part of government procedures. At least some parts of the administration cannot remain completely silent on what is being planned: there may be attempts to prevent information from reaching the public, but legislation exists to ensure at least some degree of transparency, which can open matters up for wider debate. In addition, the media produce many stories, often based on protests or controversy, but also allowing a voice to project proponents. In these cases, the nature, its quality and timing of the information that reaches the public are likely to be crucial for the stimulation or suppression of public deliberations. Even if project promoters attempt to suppress such deliberations, it might be possible to create alternative public spheres in civil society to support communication on such matters of concern. The varying capacities and interests of the actors in the bauxite project opposition, first to access, and then to interpret and share, information in various forums, is decisive for the success of such alternatives.

The many years of delay in the development of mineral projects in central India seem to show that it is not merely the available material resources and capabilities that are important for the outcomes. If this were the case, the promoters of bauxite mining would be certain to come out on top due to their ability to influence state functions and their greater command over technical and financial resources. A starting point for the need to extend a political economy analysis is the subject of land rights that constitutes the focus of this book. The demand for tribal land rights depends on claims to identity, in addition to material livelihood needs, rather in the way that other natural resources have come to be imagined and contested in the cultural politics approach favoured by Baviskar (2008). But while the symbolic opposition to polluting extractive industries proposed in

the green hills reserved for Adivasis continues to provide support for traditional land uses, this book is focused on the possibilities for affecting policy preferences and implementation across a range of different forums across the whole of India. A discursive model can here be seen as more appropriate, since it involves:

a plurality of forms of association, roles, groups, institutions, and discourses ... [where] the means of interpretation and communication are not all of a piece. They do not constitute a coherent, monolithic web but rather a heterogeneous, polyglot field of diverse possibilities and alternatives (Fraser 1989: 165).

In this cacophony of claims and counter-claims, the outcomes sought by the groups involved are not necessarily the same, and different groups may not even use the same discourse.

A core difference does exist where the developmental alliance favours a discourse based on economic growth while civil society concerns over Adivasi land rights are based on the politics of identity. Additionally, there is a significant geographical dispersion of forums across the country as a whole, despite the physical challenge of gaining access to national forums, particularly for those losing land to extractive projects in remote, central eastern parts of the country. And different forms of communication are being used, both in terms of the common language being spoken and the technical vocabulary required by those identified as experts, as for example in the domain of environmental science. The claims for redistribution and recognition (Fraser 1989, 1997), or claims about economic growth as opposed to the protection of Adivasi identity, are thus not able to speak back to one another. The analysis offered here is therefore broadened to include the ability to make claims embedded in material and cultural discursive contexts in a setting where vast differences between decision-makers and citizens call for attention to a third term that is crucial for Fraser (2009), namely representation.

Information is crucial to communication, since without it very little purposeful communication can take place. If people do not know the what, where and how of the planning made for a bauxite project, there is really very little that can be learnt, even if more inclusive deliberations take place. Informational issues are particularly relevant when significant knowledge exists, even though such knowledge is often fragmented among many different actors, and this point applies to the extension of bauxite

industry operations in the country and the work of oppositional groups whose members have used the law to improve the realisation of rights in support of tribal livelihoods.

Genuine deliberations resembling the Habermasian ideal of inclusive, deliberative democracy, where all citizens can engage in open and unhindered communicative exchanges, require that ‘information about state functioning be made accessible so that state activities would be subject to critical scrutiny and the force of “public opinion”’ (Fraser 1997: 72). Without basic information flows in place, it becomes difficult to even start imagining new and better ways of understanding the changes brought on by large-scale extractive industries in tribal India, and how the current social and economic development dilemmas should be resolved.

Nowadays, some Indian government agencies are pursuing increased openness in policy implementation, and to some extent in policy deliberations, while other agencies seem to want to keep that space closed. Different federal ministries have vastly different approaches, as shown by comparison of the drafting and implementation of the *Special Economic Zone Act 2005* by the Ministry of Commerce with that of the *National Rural Employment Guarantee Act 2006* by the Ministry of Rural Development. Where the former has been made without any civil society influence, the latter has a *lok adalat* (people’s court) as part of its mandatory monitoring mechanisms (Dreze and Khera 2009). When specific information-sharing and public accountability provisions are lacking, as in the Special Economic Zone Act, then the *Right to Information Act 2005* allows every citizen to access a wide range of information related to government action. Before this important act was passed:

[a]ctivists had to rely on ‘leaked’ documents and information gleaned from government responses submitted to the courts and to donor organizations such as the World Bank which had a more liberal public disclosure policy (Baviskar 2007: 5).

Meaningful deliberations depend not only on the ability to access information, but also on the possibilities for people to convert this information into useful knowledge (Thomas and Parayil 2008). The average citizen cannot be expected to understand technical planning reports relating to the mining industry, and indigenous people around the world ‘often lack the financial resources and the access to “technical” information and expertise required to ensure effective participation’ (O’Faircheallaigh 1999: 64).

In India, the environmental impact assessment report, normally written by environmental engineers for decision-makers who are also environmental engineers, is the only mandatory piece of public information about a proposed industrial project that has to be translated into the local language. Due to the technical approach adopted in such documents, the critique of them depends on middle-class activists who have the formal education and other necessary resources to understand and challenge the legalities and technicalities of extractive industry plans.

Since basic information flows about a project are already guaranteed through the independence of the media and a few legal transparency clauses, complete secrecy is not likely to be a viable option for those promoting them. Instead, 'the powerful use control over the production of knowledge as a way of setting the public agenda, and for including or excluding certain voices and participants in action upon it' (Gaventa and Cornwall 2008: 175). These actions can include the framing of scientific rules that exclude certain people and/or claims in favour of decisions made by technical experts, or the denial of representation in various democratic forums. However, if the right kind of information can be accessed, it might be possible to reorganise the terms of deliberation; for example, by means of a court case. In the present case, oppositional groups and individuals with relevant skills might be able to counter their exclusion by using new information technologies and rights to information legislation in addition to the forms of opposition that have previously prevented mining on tribal land. The struggle over tribal land can thus be seen as being just as much a struggle over the right to define who is affected and who is not, and who is supposed to make decisions about the use and distribution of resources. In the contestations over tribal land, information is a resource that can be used to blunt the overt exercise of power.

This book uses an analytical framework based on Fraser's (1989) 'three moments in the politics of needs interpretation', but also draws on her more recent work (Fraser 1997, 2009). This allows a transition from an initial examination of the natural characteristics of the resource and its political economy, to the mediation of the state and the possibilities for different oppositional claims to be heard across India's many deliberative forums during project implementation, and finally to an examination of the outcomes of the contestation.

The Legitimation or Denial of Needs

The legitimisation of the need to protect Adivasi land has both a material and cultural basis. The strength of this need ensures that the proponents of mining cannot easily and completely deny the value of tribal land protection, especially since the Samatha judgment. Instead, if industrialisation is allowed to proceed, alliance members must attempt to modify the interpretation of what is meant by these rights by emphasising other forms of material gain. Oppositional groups may point to the strong cultural image of the tribal people to show the need to continue with land protection or justify it as a means to livelihood protection. These interchanges create a tension between demands for redistribution and recognition.

The first part of the legitimisation or denial of needs, as detailed in Chapter 3, is the way in which the mining project is formally organised and what its terms of reference mean for the distribution of material benefits derived from it. The proponents rely on significant advantages in accessing state and market resources when attempting to use tribal land for industrial purposes. The ability to formalise a business agreement that sets out certain rights and obligations between those who are party to the agreement, but also conditions the way that future costs and benefits will affect third parties, involves an apparent use of power. The issues are political economy questions concerned with the creation and organisation of the bauxite project itself, and how political and economic power has directed its design towards certain outcomes.

The second important legitimacy concern is with the specific pieces of land, and their current users, located at the centre of the contestations, as detailed in Chapter 4. The importance of land rights for tribal people has been well established as a general principle, but the particular ways in which the bauxite project proposes to divert and use the land, and how these new uses compete with existing livelihoods, affects the perception of the need to protect existing land use in each specific case. This need is shaped by the compensation offered to the land users and the opportunities to build new livelihoods when old ones are no longer possible. Environmental degradation will indirectly affect local livelihoods beyond the experience of immediate displacement, and to some extent will also generate wider regional concerns over the condition of water and forests.

The Negotiation over Needs

Analysis of the negotiation over needs is still concerned with the material issue of tribal land and its many uses, but shifts to a discursive arena of government mediation and competitive bargaining processes, where the claims of different actors are voiced at different discursive sites, ranging across scales from specific project locations to the state and central capitals. The exercise of power and the complexity, not only of the planned bauxite project and its many potential 'externalities', but also of the legal and administrative processes that are meant to mediate its implementation, contribute to the contested and uncertain nature of the process.

The government is meant to mediate between different claims by application of the rule of law to ensure justice for all citizens, and additionally to ensure special affirmative rights for especially disadvantaged groups like tribal people, as detailed in Chapter 5. For example, the way that issues are framed over land acquisition, compensation policies, or forest and water use will have crucial importance for the way that these issues are discussed. In the former statist economy, the bureaucracy almost took on a life of its own with regard to promoting or preventing different programs and plans, but this autonomy is seen here as having been significantly curtailed by the action of the most influential politicians, even if other forums might be able to counteract this dominant influence. Representation is therefore a key issue in the negotiation over needs, since it determines who is allowed to voice a claim in relation to the project.

Furthermore, opportunities to mediate are offered by actors and organisations in civil society, including those immediately affected by the prospect of displacement and pollution, as detailed in Chapter 6. The many forums that exist across India's federal democratic system can be used to stake oppositional claims on issues related to the alienation of tribal land and the way that these concerns have been framed in government procedures. Issues of representation are also important for the ability of opposition groups and individuals to claim legitimacy when speaking on behalf of those who are negatively affected. Politicians in power may have an advantage on this score, despite the many problems associated with the way that elections are fought, since they can claim that they were democratically elected, as opposed to most of those who disagree with their plans.

The Satisfaction of Needs

The final stage in the analytical framework is the satisfaction of needs, or the extent to which it is possible to reach the outcomes that are being sought. The model of communication proposed by Habermas treats access to information as the basis for people to debate how they wish to have their societies organised. However, differences in access to—and use of—information across India's many public forums can limit deliberations, thus creating openings for those in power to shape future tribal land use according to their own wishes. Resourceful civil society organisations and actors may be able access the informational resources that would allow for challenges to be made to the power of the developmental alliance. Whether the alliance is able to control access to information, rather than rely on the exercise of overt power based on its superior material resources, is thus seen as a crucial factor in satisfying the need to protect tribal land rights. Chapter 8 uses informational problems experienced during my own fieldwork as a way to understand the eventual outcomes of this process.

Methodology

Due to the crucial role that information is found to play in struggles over land and mineral resources, this book frequently mentions the informational problems experienced by various actors, including myself as a researcher. This reflexive approach was chosen in order to emphasise the way that context-specific informational resources are crucial to an explanation of outcomes in a setting characterised by a great deal of uncertainty and apparent gross inequality of power, not only between the two opposing sides but also within these broad coalitions. The capacity to access and process information was found to vary enormously from one individual to the next, and I was one such individual during the course of my fieldwork.⁸ The strategies that I used to uncover information are taken as further evidence of the depth and nature of these informational problems, illustrating the need to move beyond standard political ecology explanations, as shown in Chapter 7. Information is here seen not only as a vital resource, with access determined by sheer power, but also as being uncertain, complex, full of contradictions and coded in particular languages that determine who can and cannot access and make use of it.

8 Fieldwork was carried out during three visits, lasting a total of 10 months, between 2006 and 2008. Another, shorter visit was made to the proposed mine and refinery sites in June 2012.

It was far from obvious where I should start enquiring about the planned bauxite industry operations during my fieldwork. If you try to see company representatives in their local registered offices, you will find JSW located on the outskirts of Visakhapatnam, in the housing estate built for employees from their other small facility in Vizianagaram District. A few rooms seem to function as temporary offices, while others are reserved for managers staying overnight. There are no reception staff other than the local security guard; in fact, the office seems to have very few, if any, permanent employees. Similarly, AnRak Aluminium, the other proponent of an aluminium project in Andhra Pradesh, is housed in a plain family home in the upmarket suburb of Jubilee Hills in Hyderabad,⁹ without any hint of it actually functioning as an office space. There is not even a company name to be seen there.

The state government offices are only marginally more approachable, since they at least have official addresses with signboards. Key in the Andhra Pradesh Government planning effort is the Mines and Geology Department and its head, who is designated as the vice-chairman and managing director. This department operates on the seventh floor of the extremely worn-down BRK Bhavan building in central Hyderabad, where the lifts rarely work, adjacent to some of the most insignificant departments of the state government. There was an air of efficiency about the managing director's dealings, and I encountered a significant number of other visitors on several of my own visits. Nevertheless, whenever one approached him with specific questions, some obstacle or another would make an appearance. In the end, these personal interactions were curtailed by the absence of a second authorisation from the state government, despite the grant of a research visa by the central government, which supposedly required the state government's approval.

My fieldwork strategy then changed from making largely unsuccessful attempts to find company representatives or meet policymakers in Hyderabad to engaging with the vocal and widespread opposition in the more directly affected city of Visakhapatnam. This is where bauxite mining had become a major issue, perhaps even disproportionately so when compared to its actual economic importance, or even to the area of land to be acquired or the amount of pollution to be caused. Many other

9 Visakhapatnam District is located in the residual state of Andhra Pradesh, while Hyderabad is now the official capital of Telangana. However, Andhra Pradesh will have Hyderabad as its capital until the construction of a new state capital has been completed.

projects were being proposed at the time, in and around Visakhapatnam city, such as the expansion of the Vizag Special Economic Zone, with its focus on information technology, and a ‘coastal corridor’ made up of other infrastructure and industrial projects.

The various opposition parties and activist groups that had been campaigning on the bauxite issue, as well as local journalists, would not necessarily be close to the corridors of power in Hyderabad and Delhi, where all decisions and detailed plans were being made, but they had often managed to get hold of some government document or other piece of information that could reveal something about what was being planned. Much effort had been put into the discovery of such information by a dedicated set of groups and individuals, but there was little coordination in the analysis and dissemination of their findings. Only an outside researcher could manage to stay sufficiently clear of the politics of information access amongst these oppositional groups to gather the data presented in this book.

The politics of information access worked in many ways—sometimes unexpected or even quite random. Claiming neutrality as a researcher was a good start when meeting people for the first time. Nonetheless, the topic was highly politicised, with no apparently neutral position. Not taking a stance might seem suspect and thereby limit my own access to information. Affiliation with a foreign university only worked to some extent to establish trust with respondents. Introductions were much more reliable, and these opened up opportunities for further enquiries with the project’s opponents, but almost never with the government, and especially not with the company, which was unknown to just about everyone in the state. Connections established in my previous work as a volunteer in a non-governmental organisation (NGO) could open some doors, but could also be a drawback; for example, when I encountered one of the many feuds between various civil society groups and political parties.

Sheer luck was certainly also an element of my fieldwork. I came across a person who had a good friend and former ‘junior’¹⁰ who was high up in the local administration. When the senior made a request on my behalf, it was possible to get access to a wide range of government documents that would never have been made available otherwise, or at least would have taken months or even years to obtain.

10 A ‘junior’ is someone a year or two below you in university.

As the research moved from policy corridors to the project opposition and then to the sites of implementation, issues of access to information became less and less problematic. In the towns and villages on and next to the proposed project sites, people would even go out of their way to contact others I might be interested to meet, irrespective of their particular position on the issue.

It was known that some activists had been very active in obtaining information through the recently introduced Right to Information (RTI) Act. As it turned out, almost every respondent had some document to add to the puzzle of what was actually being planned. They rarely divulged the manner in which these had been obtained, other than by saying that RTI and other methods had been used. It is assumed that NGOs had mastered RTI procedures well enough to mainly depend on this legislation for information access, whereas journalists and other independents lacked the time, knowledge and resources for RTI requests, and therefore had to depend on other methods. Data collection was thus a combination of ethnographic work and documentary analysis aimed at understanding a very fluid situation spread out across different geographical scales. This combination has much to offer as a methodology to investigate resource contestation, especially the translation of government policy into project implementation (Randeria and Grunder 2011).

The existence of a multitude of planning documents, and the ability to access internal government communications, allowed for at least some insights into the meticulous work of reasonably high quality that was being carried out inside government departments. Although there were indications of rules being bent to favour project implementation, this was far from being a complete picture in a state with a relatively well-trained administration following a detailed set of regulations.

Outline of the Book

This book examines the paralysing stand-off on bauxite mining and Adivasi livelihoods in three parts. The first (Chapters 2–4) connects the historical and recent struggles for Adivasi land rights in Andhra Pradesh with the way that a bauxite mineral project was planned; the second (Chapters 5–6) deals with the contestation of the project during its implementation phase, both at the actual project sites and across a multitude of state and national forums; which leads to the third part (Chapters 7–8), in which an explanation is sought for the experience of paralysis.

Chapter 2 provides the historical context of longstanding struggles, at times of a violent nature when other means of protest have not been possible, to protect Adivasi land from outsiders, not only in Andhra Pradesh but across large parts of central India. Since the issues around land use and forest access for traditional inhabitants remain largely unresolved, opposition to the present wave of private sector-led investment in the bauxite industry has been heavily influenced by this historical context.

Chapters 3 and 4 examine the details of how and by whom the project was planned, and how Adivasi livelihoods would be affected at the two sites chosen for it. This sets the foundation for understanding the way that wider concerns about social justice were addressed as part of the planning process. The existing land transfer legislation and the many actors supporting it provide a foundation for the tribal people to realise their land rights. There is a very stark contrast between land transfer laws and the Samatha judgment, on one hand, and economic policy in general, specifically the new mineral policy framework, with its emphasis on economic growth through private investment, on the other hand. Yet these seemingly incompatible policies and laws continue to live side by side, their interaction shaped by ongoing contestations and the amount of pressure that various influential groups can exert in each particular case. The contest over bauxite mining in Andhra Pradesh is here seen as one instance of hundreds of similar battles currently raging across central India.

Chapters 5 and 6 examine the way that project implementation has been mediated in government processes and through civil society interventions, first at the local project sites and then across the wider institutional framework of the state. In these chapters, the mediation processes move away from the immediate struggles over access to, and control over, various natural resources, to address the unique character of the contestation that came to be defined by the question of who could access key information and then master the techno-bureaucratic language and complicated procedures required in order to access forums where challenges could be launched. State mediation processes offer opportunities to find a middle way between the two conflicting positions, because the state is in charge of ensuring that the rule of law is followed. However, the state comes with many internal contradictions, most clearly seen in this case in the role of politicians as promoters of industry and that of the judiciary as upholder of the law that bans the transfer of tribal land to non-tribal actors. Chapter 6 discusses the role of civil society in circumstances where government mediation has limited effects.

Chapter 7 returns to my concern with informational problems as seen through the eyes of the researcher, to illustrate the difficulty of generating a larger, common understanding when so many fractured understandings exist, in government agencies as well as among groups and individuals in wider civil society. Finally, Chapter 8 provides an overall conclusion, including a discussion of the larger theoretical implications of this analysis for the future relationship between land, minerals and people in central India and beyond.

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