

Mundra Special Economic Zone Case Study
Socio – Legal Issues

Rajesh Kapoor, Cohesion Trust and Sanjay Upadhyay

Prepared for the Government of Gujarat

**Supported by World Bank under
Non-Lending Technical Assistance on Strengthening and Transformation of
Institutions for Management Land Acquisition and Resettlement and Rehabilitation**

Table of Contents

1. Background and Rationale	1
2. National and State Legal and Policy Framework on Special Economic Zones.....	3
2.1 <i>Gujarat Special Economic Zones Act 2004</i>	3
2.2 <i>Environmental Impact Assessment Notification 1994 EIA Notification 1994</i> :	4
3. Private and Common Land required for SEZ:	4
4. Land requirement for Mundra SEZ.....	4
4.2 <i>Private land</i> :.....	5
5. Compensation for the loss of Gauchar Land.....	6
6. Loss of Customary and Traditional Rights	8
7. Compensation for Destruction of Mangrove Forests.....	9
8. Other economic concerns.....	9
9. Socio-psychological and sociological impacts	10
10. Other Observations transpiring from interactions with Local Communities, Panchayat Representatives, Government Officials and Local Key Informants	10
11. Recommendations.....	11
Annex 1	13
<i>The Special Economic Zones Act 2005 and 2006 Rules</i>	13
Annex 2	14
<i>Category of land allotted to MSEZ</i>	14
Annex 3	15
<i>Status of land requirement and transfer for the Power Plan</i>	15

Mundra Special Economic Zone Case Study

1. Background and Rationale

The Government of India (GoI) framed a policy in the year 2000 to promote Special Economic Zones (SEZs) to boost industrial growth. The incentives for companies' covers extensive tax concessions, liberalised labour laws and a separate developed infrastructure in order to promote investment. However this model to develop growth centers has increasingly created centers for conflicts. These issues have led to death¹, forced the Government to draft a relocation and rehabilitation law²; and even caused a division within the Cabinet³.

Gujarat has emerged as the State with the most area devoted to SEZs, with an estimated 15000 hectares, much of which are on the coastline.

The Mundra SEZ was approved in principle by GOI, Ministry of Commerce dated September 10, 2003, wherein a formal proposal was requested from M/s Adani Exports Ltd. incorporating the commitments of the state governments⁴. (See box 1 for conditions for in principal approval). The Department of Commerce (EPZ section), Ministry of Commerce and Industries approved the setting up of a SEZ at Mundra to M/s Mundra Special Economic Zone Ltd. on Feb 12, 2004 and interestingly it had the same address as Adani Exports Ltd. Legally speaking it appears that the request for approval was done by one legal entity (i.e. M/s Adani Exports Ltd.) where as the approval was given to another legal entity (namely, M/s Mundra Special Economic Zone Ltd.) The SEZ proposed is for an area of 10,000 ha of which 2,550 ha of land would be developed in the first phase, wherein the zone would provide industrial, commercial and social infrastructural facilities. Several conditions were put forward including the mandatory requirements of approvals from various statutory authorities under relevant statutes and regulations of the Government of India and the state government. Infact, the state government was also mandated to enact a SEZ Act before seeking notification of area of SEZ. It is perhaps, because of this condition that the government of Gujarat enacted the SEZ Act of 2004 through an ordinance. (See section 2.2)

Conditions for in principle approval for SEZ

1. That the area incorporated in the proposed Special Economic Zone is free from all

¹ In the case of the SEZ opponents killed in Nandigram, West Bengal (see Asian Human Rights Commission Appeal, <http://www.ahrchk.net/ua/mainfile.php/2007/2166/>).

² See National Resettlement and Rehabilitation Policy 2007 and proposed Act.

³ In relation to the apparent disagreement between the Commerce Ministry and the Finance Ministry (see <http://www.ahrchk.net/ua/mainfile.php/2007/2166>)

⁴ See letter dated September 10, 2003 from Department of Commerce, (EPZ Section) Ministry of Commerce and Industries issued to M/s Adani Exports Ltd.

environmental restrictions.

2. That as far as possible single point clearance system and minimum inspection requirement under States Laws/Rules would be applicable for the SEZ units.
3. That state will allow generation, transmission and distribution of power within SEZ.
4. That Water, Electricity and other services would be provided as required.
5. That power under the Industrial Dispute Act and other related enactments would be delegated to the Development Commissioner or his deputies and units would be declared as Public Utility Services under this Act.
6. That supply of goods from Domestic Tariff Area to SEZ units will be exempted from State sales tax, control, mandi tax, turnover tax etc.

The Mundra SEZ was notified as an SEZ on the June 23, 2006⁵. Interestingly, the Mundra SEZ limited was amalgamated with Mundra Port and Special Economic Zone Limited vide Order dated 24th November, 2006 of the High Court of Gujarat. The name of the company was finally changed to Mundra Port and Special Economic Zone Limited⁶. It is obvious that the nature of the company has changed due to the requirement of the land and the last change of the nomenclature was to actually include the areas of village Tunda in Mundra for a power plant. It is a project, which provides port and container terminal, commercial, power and social infrastructure facilities. It is in fact India's largest SEZ covering over 100 square kms with a total investment of more than Rs 7400 Crores, and is in fact three SEZs combined. The Mundra SEZ contains trading, stone, timber, and furniture parks⁷.

The objective of the study is to examine the mechanism adopted by state government to transfer wasteland for the project and its impact on communities deriving livelihood from wasteland or on the coastal area. Mundra case study highlights the general issues around land acquisition and compensation, specific areas of consideration in relation to compensation to fisher folk communities and other stakeholders⁸. In addition, it provides an opportunity to understand how SEZs are perceived by local community, what demands are being made and how both private and public institutions are dealing with them.

⁵ SO 936(E)

⁶ See Notification No. AM-2007-125-M-LUK-162005-2913-GH dated 31.07.2007

⁷ See <http://www.mundrasez.com>

⁸ See Setu, Yusuf Maheraully Centre, Kutch Mahila Vikas Sangathan (KMVS), *Implication of SEZ on the Fishing Community of Kutch*, Gujarat 2005.

2. National and State Legal and Policy Framework on Special Economic Zones

Prior to understanding the specifics of the Mundra SEZ it is important to understand the national and state framework within which such economic development process are being promoted. The Government of India announced intent of establishing SEZs in the Foreign Trade Policy of March 2000. The rationale behind the creation of the SEZ was stated as “SEZ are growth engines that can boost manufacturing, augment exports and generate employment. Private sector has become associated with the development of SEZs. The SEZ (sic) require fiscal and regulatory regime in order to impart a hassle free operating environment encompassing the state of the art infrastructure and support services”⁹.

In order to further encourage the growth of SEZs, the Union Parliament passed the Special Economic Zones Act 2005 in May 2005. The purpose of the Act was to create a “single window clearance” for creating and investing in SEZs. The Act and the rules provide for a procedure for proposing, establishing, obtaining approval and tax exemptions for SEZs (details annex 1).

2.1 Gujarat Special Economic Zones Act 2004

The Gujarat SEZ Act predates the National Act. Indeed, as forerunner to the Act, a Gujarat Special Economic Zone Ordinance was passed in 2004. The Act empowers the State Department to recommend a proposal for a SEZ to the Central Government¹⁰. A State Approval Committee set for each SEZ can grant clearances, approvals and licences¹¹. Environmental clearances from the Gujarat Pollution Control Board (GPCB), where necessary, under the Coastal Zone Regulation 1991 (CRZ Notification 1991) and for the utilization of forestland are obtained from the centrally appointed SEZ Development Commissioner¹². Clearances under the Environmental Impact Assessment Notification, 1994 (EIA Notification 1994) should be obtained directly from the Ministry of Environment and Forests¹³.

The Approval Committee will monitor all clearances, approvals, and registrations to ensure that they are completed. The provision for single window clearance similarly allows for a single application form¹⁴. The Act also provides for a SEZ Development Committee, the purpose of which is to develop the SEZ infrastructure and facilities¹⁵. The rest of the Act provides for the development of infrastructure, delegation of labour issues to the Development Commissioner and the creation of fiscal benefits. The Gujarat SEZ

⁹ Chapter 7 of the Foreign Trade Policy (up to 7th April 2006)

¹⁰ Gujarat SEZ Act 2004, section 3.

¹¹ Ibid section 7.

¹² See SEZ Policy at www.sezindia.nic.in/environmental_policy.asp and Gujarat SEZ Policy in Taxmann's *Law Relating to Special Economic Zones* (3rd Edition), 2006, pages 9.31.

¹³ See Gujarat SEZ Policy

¹⁴ Gujarat SEZ Act section 8.

¹⁵ Ibid section 11.

Act procedure for setting up and running a SEZ pre-empts the National Act, but is nonetheless in conformity, in providing a simple one stop system.

2.2 Environmental Impact Assessment Notification 1994:

The EIA notification issued under the Environment Protection Act, assesses the environmental impacts of various categories of projects under it. It was amended in May 1994, and April 1997, 2001, 2003, 2004 and 2005 and substantially in 2006 and 2007. The requirement for a SEZ *per se* to have an EIA was included in the September 2006 Notification, prior to that the EIA was done on the basis of industries contained therein. There is no requirement for a SEZ to have a public hearing as part of its EIA, which was omitted by the 1st August 2001 Notification.

3. Private and Common Land required for SEZ:

Land is a state subject and acquisition laws and procedures to transfer common property already exist. Based on the assumption that matters related to land requirement will be addressed under the existing frameworks, therefore both the National and Gujarat Act, do not make reference to ‘acquisition of private land’ or ‘transfer of government land’.

4. Land requirement for Mundra SEZ

With the 2001 amendment, public hearing is no longer mandatory as part of EIA. This provides ample scope for criticism of SEZs, as being a back-hand method of obtaining cheap land by large corporations.

4.1 The SEZ at Mundra covers 28 km of coastline and has been built on land that has been either privately acquired from farmers¹⁶, or wasteland purchased¹⁷ or leased¹⁸ from the Gujarat Government. Part of this land has now also been given for the development of the Power Plant namely Coastal Gujarat Power Ltd (CGPL) /Ultra Power Project Plant owned by the Tata’s. The Adanis’ submitted a request for 13,000 hectares of land to the state government and about 38.68 million sq m (or 3868 hectares) of government and gauchar land (Grazing lands) was allotted by October 2007¹⁹. The Mundra SEZ was originally allotted land from 14 villages by the Government in June 2004²⁰, which it said

¹⁶ See SEZ appeal, April 16th 2007,

¹⁷ See also RTI application by Janvikas dated February 20, 2006 asking Land allotted for SEZ Mundra and types and the Reply on March 20, 2006 by Revenue Department which confirms the nature of land to include Government land and Gochar Land.

¹⁸ “Mundra Port SEZ and cut-off” · <http://sify.com/finance/equity/fullstory.php?id=14555372>

¹⁹ From the Office of Land Acquisition Officer, Kutch. Note that under the RTI application by Janvikas dated February 20, 2006 asking Land allotted for SEZ Mundra and types the reply on March 20, 2006 by Revenue Department described that the Government and Gauchar land amounted to about 31.5 million sq.m. The Government land then was about 21.5 million sq m and the Gauchar Land is about 10 million sq. m

²⁰ Ibid, Mundra-A Case Study. See also RTI application February 20, 2006 asking Land allotted for SEZ Mundra and types and the Reply on March 20, 2006 by Revenue Department.

is mostly arid and unoccupied. (See Annex 2 for list of villages and the nature of land. It also includes area demanded for Mundra)

4.2 Private land:

In the beginning of the year 2008, there has been land acquisition of private land in Tunda village and its hamlet – Tundavandh - for a Power Project, being set up by Coastal Gujarat Power Ltd. (CGPL), now a 100% owned company by Tata Power Company (TPC) Ltd. This Project requires 1052 Ha. of public and private land to be acquired from three villages namely Tunda, Mota Kandagara and Nana Bhadiya of Mundra Tehsil (See Annex 3). From the documents perused, it seems that the sizeable portion of land has been reassigned from the Mundra SEZ and additional requirements of land are being acquired through the Land Acquisition process. Discussions with farmers revealed that the announcement of the project triggered land purchase and 27 farmers, including 4 women, sold their land to others from Tunda or to outsiders. Finally the project will acquire 181 ha of 76 farmers (see below) from Tunda and Tundavandh village.

Table 1: Social Composition of Land Owners and land acquired.

S.NO.	Type of Farmers	Number	Land being acquired (Ha)
1	Scheduled Caste Farmers	7	21.75
2	Women Farmers	21	43.80
3	Others	48	115.45
	TOTAL	76	181.00

4.3 In accordance with the Land Acquisition Act, Government of Gujarat initiated the process of acquisition (see below table 2). The project faced resistance from the community. CGPL, along with the support of the office of LAO Kutch, organised several meetings to motivate farmers to agree to consent award. These meetings were attended by Panchayat representatives, affected communities, Government officials, Company representatives and other local functionaries. Government had fixed Rs 250,000 per hectare for the private land based on last five years of land transactions. A series of negotiations resulted in consent award fixed as Rs. 1,500,000 per ha for private land. It is reported that LAO played a key role towards convincing the company to increase the rate. The government facilitated the process of negotiation and 62 farmers gave their consent to the award and remaining 14 farmers moved the court for enhancement of compensation. However, the process of disbursement has not been completed and the company has deposited only 75% of the land value to the Government.

Table 2: Land Acquisition Notices

S.No.	Particulars	Date
1	Application by CGPL to Revenue Department for acquisition of land in Mundra Tehsil	June 8, 2006

2	Public notice under Section 4 of LA Act (Ref. No. AM/2006/211/M/JKU/162006/2913/GH)	October 19, 2006
3	Public notice under Section 6 of LA Act (Ref. No. AM/2007/125/M/JKU/162006/2913/GH)	July 31, 2007
4	9 (3, 4) inquiry	November 26 to 29, 2007

5. Compensation for the loss of Gauchar Land

5.1 The use of such *gauchar* land in India provides significant support to poor and marginalized households without private land, who use the land for cultivation, pastoral and industrial uses such as fishing. In fact, in a study done in the mid-80s it was estimated that the poorest families earned between 11% and 17% of their income for this common land²¹. There have however been widespread encroachments on the *gauchar* land in India and it is reported that the average encroachment in revenue villages has been up to 50%. Specifically it is claimed that land in the Gujarat context has been taken back and transferred for industrial purposes, as in the case of Mundra SEZ.

5.2 It is understood that in 1973, the Gujarat Government passed an order allocating 16 hectares of *gauchar* land per 100 animals per village and prohibited the selling of that land for any purpose²². It is further claimed that there is a shortage of *gauchar* land in the Mundra taluka (district) below that minimum, but that *gauchar* land from nine villages has been sold to Adanis for Mundra SEZ, excluding that for Power Plant. This raises the issues of how *gauchar* land has been sold to the Mundra SEZ and what compensation, has been given to those who have lost the use of that land for livelihood purposes. Interaction with community leaders of Goarasama and Tunda villages revealed that the cattle rearers were against the transfer of gauchar land i.e. 881 Ha. sold by Government from 9 villages at Rs 156.6 millions (see below), i.e. at an average rate of Rs. 1,77,682 per hectare. One of the conditions of this transfer is that 30% of the revenue generated will be transferred to Zila Panchayat, Kutch, for development of the remaining gauchar land²³. However, government has not taken any initiative to develop the balance quantum of land.

²¹ Iyengar, Sudarshan, *The Gujarat Experience*, <http://www.india-seminar.com/2001/499/499%20sudarshan%20iyengar.htm>

²² Pandya Mahesh, "Mundra- a case study". <http://www.esgindia.org/moefsuno2005/Mundra%20SEZ%20Gujarat.doc>; National Centre for Advocacy Studies, Advocacy Update on land rights, October-December 2005 ; "Mundra SEZ Spell Displacement for fisherfolk", Down to Earth, http://www.downtoearth.org.in/full6.asp?foldername=20070331&filename=news&sid=18&page=2&sec_id=50

²³ See for example, the Vidhan Sabha Starred question no. 8433 regarding amount of Gauchar Land give/sold prior to 31st March, 2007. The answer refers to a policy whereby 30 % amount is to be given to DDO for improvement of other Gauchar Land.

Table: Status of gaucher land sold to Mundra SEZ (as on 31st March, 2007)²⁴

Sr. No	Village Name	Land given to SEZ (in Ha)	30% of amount paid by SEZ (Rs.) (Paid by Adanis)
1	Navinal	93.5	3739596
2	Luni	73.9	1927202
3	Shirachha	40.7	488298
4	Baroi	20.2	607050
5	Goarasama	27.0	849870
6	Gundala	8.96	448287
7	Mokha	41.9	1005751
8	Mundra	489.8	36881318
9	Tunda	85.4	1024700*
	TOTAL	881.2	46972072

* - This land in Tunda village was sold to Mundra SEZ but through Government Order dated 25th September, 2007 issued by District Collector, Kutch, this land was transferred to Coastal Gujarat Power Ltd and credit given to Mundra SEZ for adjustment against land to be allotted to them in future.

5.3 A case of Tunda village is highlighted here²⁵, where gauchar land has been transferred. The grazing land available after land transfer is 56.4 ha. According to the norms of 16 ha for 100 animals, the balance amount of land can support approximately 370 animals against more than 3000 livestock population. During negotiation for price fixation of private land, the villagers submitted their demand for compensation towards loss of grazing land (Government waste land is used as a grazing land) by purchasing land from government and private ownership in vicinity of village. But so far no efforts have been made towards addressing loss of livelihood from transfer of grazing land.

S.No.	Particulars	Date
1	Resolution by Revenue Department, GoG for allocating the Government and grazing land admeasuring 524.44 ha.	October 19, 2006
2	Application by CGPL to the Principal Secretary, Revenue Department, GoG for transfer of reserve forest land	February 22, 2007

²⁴ Source: Revenue Department, Government of Gujarat

²⁵ Source: Report on Baseline Social Impact Assessment Ultra Mega Power Project, Mundra Taluka, Kutch District, Gujarat, INDIA

S.No.	Particulars	Date
3	Approval by Ministry of Environment and Forest, GoG for transfer of 130 Ha of reserve forest land with a condition to develop compensatory forest by CGPL	March 29, 2007
4	Offer of 130 ha. land at Bamnka, Bhachau Tehsil by District Collector, Kutch for compensatory afforestation at the rate of Rs.100,000/Ha	August 29, 2007
5	Transfer orders for wasteland and grazing land at Tunda and Mota Kandagra by District Collector, Kutch	April 7, 2007 and May 14, 2007 for Tunda and Mota Kandagra respectively

6. Loss of Customary and Traditional Rights

The Mundra SEZ also potentially has had an appreciable affect on other local livelihoods especially of the seven fishing settlements, home for 10 months of the year along the coastal fringe. According to field sources²⁶, 940 fisher folk families are likely to be displaced by the project. According to the Gujarat fisheries department census (1997-98), these fishing settlements have a population of 3,979, representing 705 households. An estimate by local NGO Setu – a unit of Kutch Nav Nirman Abhiyan – indicates that about 1000 households are likely to be affected by the SEZ. The people do not possess permanent titles.

The fishing practice along the coastal line consists of two methods, lagadia²⁷ and pagadia²⁸. Major concern for these communities highlighted during the group discussions include (a) displaced eight times over the last 15 years due to various projects including an airstrip²⁹; (b) loss of access to traditional rights of access to the sea, including their customary right to have settlements on land on which they have no title; (c) disintegration of community; and (d) effect of the environmental damage caused by the SEZ on the quantity of fish catch.

Protest to voice their grievances with the Collector and other revenue officials on access did not yield favorable results. Five members of the community filed a petition in the Gujarat High Court on February 14, 2007 presumably under Constitutional provisions. MSEZ finally provided an alternative access around the proposed airstrip, extending the route by 1 km. The fisher folk community is concerned that the airstrip may be extended in the near future, entirely blocking their access. They are demanding a guaranteed route.

²⁶ Personal communication with Mahesh Pandya of Prakriti Mitra

²⁷ A technique of fishing in which the fisher folk would go inside deep water to catch fish using boats.

²⁸ A technique of fishing in which the fisher folk would catch fish near the sea shore till the depth of water is at the waist level and no boat is required for fish catch.

²⁹ See Mackinnon Benjamin and Bhattercharya PB ibid.

Even if there was an EIA, there was no public hearing in which the fishing communities could voice their concerns. It is therefore unlikely that there was any independent assessment of the effect of the SEZ on the Mundra fisher folk communities. It is worthwhile to note that there are strong evidences of bonafide residence of these communities through numerous documentary evidence such as licenses to fish by the fishery department as well as seasonal creek passes routinely issued by the department of customs. Some of these passes can easily establish their bona fides pertaining to both livelihood as well as residence. However, this has to be established through a due process of law.

The discussions with Government officials and community members indicate that no assessment of the effect of the common LA on the fisher folks and cattle rearers has been done and no compensation given to these communities for the loss of customary and traditional rights.

7. Compensation for Destruction of Mangrove Forests

The Mundra coast is acknowledged to be an area of large mangrove reserves (see description on the Gulf of Kutch³⁰). Mangroves are required for the food chain, which provides the fish for the fisherfolk communities, as well as for prawn farming, which is also an income-generator for the local community. It is reported that 570 hectares of mangrove has been already cleared for the Mundra SEZ resulting in a 30 percent drop in fish catch.³¹ Apart from the environmental consequences clearly this has a bearing on the livelihood security of thousand odd households in Mundra.

8. Other economic concerns

Besides above mentioned effects, following are other economic concerns:

- There are certain disadvantaged communities, such as Kolis and Bhils, who use *Prosopis juliflora* from public land to make charcoal. They mainly used government wasteland for carrying out their charcoal making activities. Their livelihood is likely to be affected.
- 49132 persons in the CGPL affected villages are involved in agricultural labor. Opportunities for finding agriculture labor work will get diminished partially due to private land acquisition
- There is possibility of increase in food insecurity of agriculture labourers, small and marginal farmers due to increased dependence on the market for consumption needs. The increase in cost of living is also anticipated due to increased demand resulting out of immigration both, temporary and permanent.
- Loss of fixed and other bankable assets by some of the affected people.

³⁰ <http://iomenvis.nic.in/EIA%27s%20gujarat.htm>

³¹ Ibid Mackinnon Benjamin, “Mundra SEZ Spell Displacement for Fisherfolk”, Down to Earth.

³² Source: Report on Baseline Social Impact Assessment Ultra Mega Power Project, Mundra Taluka, Kutch District, Gujarat, INDIA

- Increase in cost of living due to greater demand generated by in-migration of mostly such people who are likely to have better purchasing power.
- Loss of traditional skills for income generation among charcoal makers, potters and fishermen.

9. Socio-psychological and sociological impacts

- Gender issues can arise due to risk of displacement and food insecurities. There can be adverse impacts on vulnerable sections, especially girl child, women headed households, single women and old people.
- Fear of losing status as farmers among small landholders in Tunda village, since they would not be able to purchase land in the nearby villages as the land prices are rising due to industrial and infrastructure development.
- A feeling of separation from roots may take place due to parting with ancestral land.
- Risk of conflicts within families related to sharing of compensation amounts.

10. Other Observations that transpired from interactions with Local Communities, Panchayat Representatives, Government Officials and Local Key Informants

- Land acquisition is one of the most critical and sensitive aspects; Gram Panchayats expressed that the acquisition procedure should be done in consultation with them from the initial stages, which has not happened. This has consequently raised disputes among the community.
- SEZ authorities are based at Ahmedabad and Village Panchayats have no alternative but to raise the issues with Collector's office. This acts as communication barrier in flow of information.
- The general perspective of community members and their leaders is that Government priority is to provide land for industrialization and the interests of disadvantaged rural communities become secondary. .
- The community does not have clear information on how much land is already acquired by SEZ. They opine that transparency is not followed and hence community is not clear about the quantum of land, which is already purchased by SEZ. They also feel that a more land is being acquired by SEZ than what is actually required.
- Local people have premonition that after the area is developed, plots would be subleased to other units at market place. They think that monopolistic situation may arise after a few years and the new industries, instead of approaching Government, will go to SEZ authorities for land. This situation may make SEZ authorities more powerful than the Government.
- There is a suggestion from the local people that government should publish white paper regularly; providing details of land allotted to different people and for different purposes.

11. Recommendations

The following recommendations are made based on experience of the case study related to LA for MSEZ:

- Conditions for approval of SEZ need to be monitored with a sound Monitoring and Evaluation Framework so that social and legal norms are followed as per the agreed terms.
- Any expansion to the original proposal for SEZ should be dealt with as a new proposal with all norms being followed both from the legal and social perspective. The SEZ Policy must be revised accordingly.
- Public Hearing must be built into the framework of establishing the SEZ. The SEZ Act of Gujarat must be amended accordingly.
- There should be separate criteria for transfer or diversion of gauchar land and other Government wasteland. Livelihood of local communities should be of first charge on such gauchar lands.
- The land acquisition in MSEZ is not just having social and economic impacts on the farmers, but other communities too. The latter include those with customary claims to land, others with no legally recognized claims and those using resource on seasonal basis. The land acquiring authorities should be sensitive in recognizing traditional and customary rights and include compensation provisions to mitigate the adverse social, economic, psychological and other impacts on such communities. Alternative system needs to be prepared to see that the vulnerable communities, such as fisher folks, pastoralists, charcoal making people etc do not lose their livelihood opportunities.
- There should be certain non-negotiable norms related to transparency so that the affected communities, described above, participate from the initial stages. The institutions of these communities, such as village panchayats, should also be involved in consultations. This becomes essential when acquisition of public land is taking place. There is an urgent need to inform the general public about the land allotted and acquired physically. This should be mapped survey number wise for different villages and put on public domains. More of public Consultations and disclosures, therefore, are required.
- Compensation for land and other assets should include their market value and transaction costs related to restoring the assets.
- Besides recognizing the customary and traditional rights on public land, Government should devise norms for pricing the public land rationally so that fair amount goes to Government exchequer.

- The norms for earmarking of gauchar based on cattle population should be adhered to. Besides using livestock census data, participatory mapping should also be done for estimating gauchar land needed and assessing its availability. Micro planning should be done and implementation mechanisms established for the development of the remaining gauchar land by the District Panchayat as funds are already available with them for this purpose.
- The Land acquiring authorities should invest in capacity building and arranging other services for alternative livelihoods options.
- The people getting compensation in cash should be provided with counseling and other inputs so that they invest the amount obtained in such a manner that it gives them regular returns on long term basis, as was being done previously by their land.
- Gender dimensions need to be given due importance so that not only there is no negative impact on girl child and women of other age groups, but the land acquisition should be seen as an opportunity for promoting gender equity. Involving women actively in public consultations and ensuring control of women on the compensation amount (e.g. enforcing joint bank account) are some instances of ensuring gender equity by meeting women's strategic gender needs.
- Government should ascertain that food security is ensured of the affected communities using public distribution system and other means. Right to food has to be adhered to.

Annex 1

The Special Economic Zones Act 2005 and 2006 Rules

It provides for a person, State Government or Central Government to make a proposal to set up a SEZ to the State Government after identifying a suitable area³³. The proposal is then forwarded for consideration to the National Board of Approval³⁴, which will agree, modify or reject the proposal. The constitution, duties and functions of the National Board are demarcated under the Act³⁵. The Act similarly provides for Central Government to appoint a Development Commissioner for one or more SEZ³⁶. The functions of the Development Commissioner are *inter alia* to guide developers in developing an SEZ and to monitor the performance of the developer, including, it appears, the granting of certain clearances (see below)³⁷.

The system of approvals under the Act is ensured through the formation of a Committee of the Development Commissioner for every SEZ which has the power to provide the requisite national approvals needed for, especially foreign companies, to set up and operate an SEZ³⁸. There is also a provision for a single application form and returns³⁹. The Act also institutes a system of designated courts to try civil suits and notified criminal offences⁴⁰, with an appeal to the High Court⁴¹. The Act constitutes an SEZ Authority for every SEZ. The function of the Authority is to *inter alia* develop the infrastructure, to promote exports, and to review the functions of the SEZ⁴².

The Special Economic Zones Rules 2006 provides detail to the procedure setting up an SEZ laid out in the Act. In particular, it mandates the State Government to set up a single point clearance system to the Developer and unit under the State Acts and Rules⁴³.

³³ Special Economic Zones Act 2005, section 3.

³⁴ Formed under section 8 ibid

³⁵ Ibid section 9.

³⁶ Ibid section 11

³⁷ Ibid section 12.

³⁸ Ibid sections 13 and 14.

³⁹ Ibid section 19.

⁴⁰ Ibid section 23.

⁴¹ Ibid section 24

⁴² Ibid section 34.

⁴³ Rule 5(5) of the SEZ Rules 2006.

Annex 2

*Category of land allotted to MSEZ.*⁴⁴

S. No	Village Name	Land Sold by Government Adanis (Ha)	Type of Land
1	Vadala	276	Government
2	Gorasama	218	Government - 189 Ha, Grassland - 28 Ha
3	Shekhadiya	130	Government
4	Bhdreshwar	94	Government
5	Shiracha	426	Government - 385 Ha, Grassland - 41 Ha
6	Luni	382	Government - 301 Ha, Grassland - 80 Ha
7	Radha	78	Government
8	Navinal	239	Government - 145 Ha, Grassland - 94 Ha
9	Tunda	540	Government - 455 Ha, Grassland - 85 Ha
10	Baroi	42	Government - 22 Ha, Grassland - 20 Ha
11	Gundala	92	Government - 77 Ha, Grassland - 15 Ha
12	Mundra	492	Grassland
13	Mokha	42	Grassland
14	Dhrab	105	Government

⁴⁴ Source: Office of the LAO, Kutch

Annex 3

Status of land requirement and transfer for the Power Plant⁴⁵

Particulars	Total private land identified for acquisition	Total Transferred to the Company	Total public land earmarked for acquisitions	Land Identified for Acquisition			Land Transferred to the Company		
				Wasteland	Grazing land	Forest Land	Wasteland	Grazing land	Forest land
Tunda and Tunda Wandh	181.00	Nil	318.00	306.00	12.00	NA	306.00	12.00	NA
Mota Kandagara	Nil	NA	371.00	241.00	Nil	130.00	241.00	Nil	130
Nana Bhadiya	Nil	NA	182.00	182.00	Nil	NA	182.00	Nil	Nil
Sub Total	181.00	00	871.00	729.00	12.00	130.00	729.00	12.00	130.00
Total land acquisition	1052.00								

Comment [a1]: I am checking this from LAO as informations are different from two sources. As revenue department information is more authentic, we may delete this table

⁴⁵ Source: Report on Baseline Social Impact Assessment Ultra Mega Power Project, Mundra Taluka, Kutch District, Gujarat, INDIA