



Coal route: The New SEZ
As we know SEZs are, by the Government's definition, supposed to be foreign countries within the country, for the purposes of trade operations and duties and tariffs, with special rules for facilitating foreign direct investment. This means that the Panchayats or Municipalities in whose jurisdiction the areas covered by the SEZs lie cannot take a call with respect to any approvals within those areas. In 2008 Goa awoke to what was called a New Year gift, that SEZs would be scrapped. Rather the SEZ policy would be scrapped to imply that there would be no SEZs. However, SEZ-like set ups continued to exist in Goa. Information Technology Parks and Biotechnology parks continued to be possibilities as the IT Policy and the Biotechnology Policy, which make these possible, as they speak of SEZ like parks, were not scrapped.

Now in 2020, we have another kind of looming SEZ-by-another-name. I say 'looming' because it is not yet an Act. The Major Port Authorities Bill 2020 was introduced in the Lok Sabha on 12th March, 2020, just prior to the introduction of total national lockdown. It was passed by the Lok Sabha on 23rd March, 2020. It awaits passage by the Rajya Sabha, before it can be moved for the assent of the President.

The implications of this legislation per se for any part of India are wide-ranging. The Bill has an innocuous-sounding perspective, namely, to provide for regulation, operation and planning of major ports in India, and to vest the administration, control and management of such ports upon the Boards of Major Port Authorities and for matters connected therewith or incidental thereto. The Economic Times in fact reported that the Bill looks to reorient the governance model in central ports to landlord model, whereby port infrastructure is leased to private operators, and is aimed at decentralizing decision-making and to infuse professionalism in governance of major ports.

However, ironically, it is in diametric opposition to the decentralization and Panchayati and Municipality Raj envisaged by the 73rd and 74th Amendments to the Constitution. The Bill stipulates that all port assets shall be used and developed as per the regulations made by the Board in that behalf, and to the exclusion of any municipal, local or Government regulation. It even stipulates that the tenure for lease of land or immovable property for Public Private Partnership projects by the Board shall be subject to the policy notified by the Central Government in respect of such Public Private Partnership projects. So the Board of Major Port Authority and the Central Government will take a call. This is far from the concept of decentralization mooted by the 73rd and 74th Amendments.

The Bill also provides that the Board of each Major Port may erect, construct or build such civil structures for port development or improving commerce and trade in national interest | 1

for which no regulatory license or approval from the State authorities shall be required, unless so mandated by the Central Government. The word 'national interest' is key. Terms such as 'national interest' and 'national security' have been used as convenient weapons by the State to foist laws that in the garb of checking terrorism actually are used by the State to crush dissent and critical accountability-seeking. The Unlawful Activities Prevention Act of which Fr. Stan Lourduwamy is only the latest prey, is a blatant example of the same.

Considering that this is a law that deals with major ports, and Mormugao Port is one of the 12 major ports in India, people in Goa will directly face its repercussions. The Mormugao Port Trust's jurisdiction extends from Cortalim Jetty across Raj Bhavan, Dona Paula, and the entire coast line of Mormugao Taluka, right upto Arossim beach and extending and including the coastline on both sides of Betul beach. Goa has a 160 km coastline of which the MPT has jurisdiction over about 53 kms of coastline. Therefore what the Bill in effect means is that the local people and the panchayats or Municipalities in whose jurisdiction the areas would otherwise fall have no say in the decision-making in respect of the development and regulation of these areas.

At a time when there has been tumult over projects that are dicing, (mis)appropriating public domains, not recognizing the value added to the land and property in Goa by its toiling populations, this in-the-pipeline legislation can only be expected to inspire more distrust about loss of land, and the loss of use of land, in favour of crony capitalism. The local Goa laws, which the Goa Panchayat Raj Act, for instance, has to be read with, are given a complete go-by. The Code of Comunidades and the mundkar and tenancy laws may have no foothold as the prescriptions will go by the legal imagination of the Board and the Central Government, which again is left vague, because the powers are arbitrary and not in any manner circumscribed by some basic principles.

The Bill also enables the Port to undertake any reclamation of foreshore within the Port limits without any reference to State authorities. Here again, there have been serious grievances regarding the reclamation of land without following due process with revenue authorities. This will now be an open door for the Mormugao Port Trust to regularize such ulterior, motivated and environmentally-unsound initiatives.

Goencho Avaaz had in fact, in a representation made as far back as 31st July, 2020, to the Union Minister of Shipping, Government of India, pointed out that this Bill confers draconian powers on the Board of proposed Major Port Authority, empowering it to carry out construction and development activities on their assets, including within port limits, without any reference to local town planning and development laws. The organisation has also pointed out that the master plan prepared by the Major Port Authority under Sec 25 will

supersede the Regional Plan for Goa and the ODP of Vasco da Gama. At the public protest at Chandor, organized primarily by *Goyant Kollso Naka* and *Goencho Awaaz*, a strong demand to remove the MPT from application of the Bill was heard.

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They say that the rose by any name would smell as sweet. Here it may be said that the SEZ by any other name would stink as much.

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