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Sand and the politics of plunder in Tamil Nadu, India

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The chapter shows the working of Wild East forms of criminal economies by exploring the evolution of pork-barrel politics and organised looting in Tamil Nadu. It shows a shift from populist to predatory forms of politics by unraveling the local il/legal economy of sand mining. In contemporary Tamil Nadu, profits from the criminal extraction of sand are directly and indirectly injected into the electoral process and are employed to fund vote buying – a tactic of electoral fraud widespread in this part of India. Criminals fund political parties, shaping vote outcomes through vote buying as well as through the allocation of preferential policies and state resources after the elections. Expert commissions of enquiry have exposed law-breaking by the sand mafia assembly in the state. The criminal economy of sand is resisted by social and political activists, students, exceptional journalists and public interest lawyers.

Introduction: Tamil Nadu and criminal populist politics

When the criminal politics of riverbed sand is factored into the politics of the southern state of Tamil Nadu, far from being populist, what emerges is pork-barrel politics with Tamilian characteristics. In this chapter we make a first attempt to map the hidden connections between electoral politics and cash amassed and distributed illegally from the 1980s to the present. Our focus on the political and economic logistics of criminality in riverbed sand mining represents a case where a known criminal source of cash is deployed in politics, one among many (granite, beach sand, liquor and real estate). For the past 50 years, the state of Tamil Nadu has been under the rule of either the DMK (Dravida Munnetra
Kazhagam; Dravidian Progressive Party) or the AIADMK (All India Anna Dravida Munnetra Kazhagam). While in government, both parties introduced many important welfare programmes, some universal, some targeted. For instance, the food security programme in the state is one of India’s best, with universal coverage and every household entitled to 20 kg of rice every month at no cost. Similarly, a midday-meal programme provides free lunches for all schoolchildren in the state. A health sector programme ensures the availability of vital medicines in all state hospitals. And, as well as drawing resources from the federal pool, the state has used its own resources to expand the number, scope and coverage of such schemes and programmes. To boost its public distribution system, for example, Tamil Nadu has managed to draw food stocks from the central pool in excess of its allocated quota – as the federal pool is always left with surplus in its annual outlay due to poor and very low levels of uptake by less-developed states. As a second example, the Integrated Child Development Services (ICDS) programme was expanded in parallel with assistance from the World Bank in Tamil Nadu beyond the provisions of the Indian government funding (Vivek 2015, 7). Another notable scheme that doubled cash assistance to beneficiaries is the support given to pregnant women. While the centre gives INR 6,000 as assistance to each pregnant woman, the state matches with an equal sum and, as of 2016, provides total assistance of INR 12,000.

It is therefore unsurprising that the academic discourse for politics in Tamil Nadu is broadly located within a narrative of ‘populism’, with a specific scholarly meaning that puts people’s welfare at the core (Swamy 1998; Subramanian 1999; Harriss 2000). Many labels have been developed to describe this focus. Wyatt (2013a), for example, attributes the new kind of policies enunciated by the AIADMK since 2011 to ‘protection populism’. By contrast, the policies adopted by the DMK in its earlier avatar were termed ‘empowerment populism’ (Swamy 1998, 110). Subramanian (1999) distinguished the policies of the DMK as ‘assertive populism’ and those of the AIADMK as ‘paternalist populism’. The DMK too has since moved towards ‘paternalist populism’ (Swamy 1998). The recent framework adopted by AIADMK, since it came back to power in 2011, is identified as ‘technocratic populism’ as ‘it best expresses the combination of “people-centred” politics and the enthusiasm for more effective delivery of governance outcomes’ (Wyatt 2013a, 373; 2013b). Most recently, Walton and Crabtree (2018) have invoked Tamil Nadu as an exemplary case of ‘crony populism’.

The argument that the politics of these two parties is ‘populist’ is premised on a direct link between the policies of mass welfare and
the electoral outcome (exemplified by Swamy 1998 and Subramanian 1999). Welfare programmes broaden the party base and win elections. But is there such a direct, one-to-one, linear relation between the welfare policies of the ruling party and electoral outcomes? Is electoral politics so simple and uncomplicated to comprehend? On the contrary, a perusal of the Tamil Nadu legislative assembly results since 1984 indicates that there is no direct link between the policies of the party and electoral outcomes. Electioneering has not been a simple process in which welfare schemes implemented by a given political party have won them votes.

The supremacy of people’s political agency in elections can be best understood through an analysis of the electoral outcomes of recent assembly elections. The 2006 assembly election brought the DMK to power and the electoral victory was widely attributed to a very promising manifesto. The DMK government kept its promises and introduced an INR 2/kg rice programme along with a complete waiver of farm loans. It launched the free distribution of colour television sets, LPG stoves, health insurance and a social security scheme for agricultural labourers and farmers. It also introduced a massive free housing programme that converted thatched huts into concrete houses. With this array of welfare schemes, the party faced the assembly elections in 2011 only to lose very badly. While this electoral defeat is attributed to a whole host of reasons (Jeyaranjan and Vijayabaskar 2011) it is clear that ‘populism’ alone does not fetch votes.1 Local field experience of elections suggests a very different narrative – that of pork-barrel politics, starting locally but spreading to the entire state during the previous parliament and assembly elections.

‘Money for votes’ politics

Apart from fast-tracking the implementation of welfare and government programmes in a by-election, the most important evidence is the distribution of cash to voters.2 The well-known ‘Thirumangalam formula’ of distributing money to most of the voters in a constituency gained notoriety during the 2009 by-election in that constituency during the DMK regime. Each voter was paid INR 3–5,000 by the ruling DMK, which then won massively, as documented in news sources including Raju 2015; Krishna 2014; and Hiddleston 2011. During by-elections, each cabinet minister is put in charge of an assigned electoral area and has to engage about 10,000 voters. Payments of INR 5,000 to each voter cost about INR 50 million per constituency. There may be 20 ministers deputed to the constituency to do such ‘election work’, and by distributing this kind of cash to about 10,000 voters in their respective areas the entire constituency
is saturated with cash. The outcome of such a concentrated effort by the entire state cabinet and ruling party (both AIADMK and DMK) has been that they have not lost a by-election from 2001 to now. Through the development of pork-barrel politics with Tamilian characteristics, the DMK won all the by-elections during its regime and the AIADMK has repeated this feat during its own terms.

During the 2014 parliament elections and in the 2016 assembly elections, Chief Minister Jayalalithaa adopted the Thirumangalam by-election formula to distribute money to voters. The scale of this strategy is mind-boggling. On average each parliamentary seat is six times larger than an assembly seat. Never before in the history of either parliamentary or assembly elections in Tamil Nadu has money been distributed on such a grand scale. In each assembly constituency, AIADMK cadres identified 50–75,000 non-DMK, and non-AIADMK voters and each of these non-Dravidian party voters was given INR 1,000 to vote for the AIADMK. The DMK and other candidates could not generally match the ruling AIADMK’s scale of money-distribution. Even opposition candidates commanding that scale of private money realised that they lacked the AIADMK’s efficient distribution machinery for elections. Consequently, the AIADMK used the power of money to win most of the seats it contested. Tamil Nadu politics therefore needs to be understood in a way that transcends the boundaries set by mainstream ‘populist’ discourse. In turn the complex interconnections of massive amounts of money disbursed to voters during elections and the source of such vast amounts of cash need to be probed.

Urbanisation and construction, welfarism and riverbed sand

Tamil Nadu and neighbouring states in South India are not only developing through welfare expenditure but have also been witnessing steady economic growth with a corresponding increase in per capita income (alongside gross inequality). Rapid urbanisation has led to nearly half of the total population living in towns and cities (Sivakumar 2011). Demand for housing is also rising due to the consumption linkages when agricultural incomes are supplemented by non-farm livelihoods. Through social sector policies and the public distribution system for rice, the state subsidises the everyday requirements of the population, thereby releasing money for other expenditure, including housing. An efficient public transport system encourages daily commuting to work. Remittances from migrant workers outside the country are also on the rise. All of
these developments combine and lead to an increase in demand for housing. The state has its own construction and housing programmes and the real estate and private, labour-intensive construction sector together set the conditions for a booming demand for materials. Cement and concrete production relies on sand as an important ingredient. Although there is an alternative in the form of fly ash and ‘M-sand’ (granite crushed into minute granules with machines), these materials cannot satisfy demand. M-sand is costlier than river sand, and river sand is available as a natural resource in the state (see Chapter 6 for UP).

The supply of riverbed sand prior to the 1980s

During the 1980s, the growth rate of the state was some 25 per cent lower than in the twenty-first century, the level of urbanisation too was lower, as was demand for building materials, with sand for construction drawn from local sources. Sand was manually loaded onto bullock carts from the nearest riverbed. A paltry fee was collected for the sand by the local panchayats. Effectively, sand was available as a free good that could be appropriated for an insignificant fee by cart owners. Sand was transported whenever the carts that were habitually rented out remained idle, meaning that the capacity utilisation of the carts was enhanced. Most of the cost of sand covered labour and transport. Sand mining provided a small-scale livelihood for poor owners of a cart and a pair of bullocks who lived in, or close to, a town. There were no regulations governing the local extraction of sand from riverbeds. In cities like Chennai, small lorries (known as half-body lorries) were hired to bring sand from nearby sources. Sand mining was undertaken using manual labour; few engaged in the activity and it fell beneath the politicians’ radar.

The entry of politicians

During the late 1980s, when the real estate boom started, demand for sand increased. Small-time mining using carts and manual labour was unable to meet this demand. Apart from covering transport and labour, a significant component of the price was for sand per se. For the first time, sand developed value as a commodity. Since sand was a common property resource, it came up on the politicians’ radar. Money started to play a very important role in everyday political life; apart from becoming involved in real estate, arrack shops and bars, politicians also entered sand mining. Disputes over sand mining among small-time
local politicians attracted the attention of higher-level politicians, who gauged the potential for money in sand from the intensity of such disputes. Investing their own resources, they co-opted local politicians as junior partners in sand ventures. Political power shielded them from regulatory rules that could be enforced by local revenue officials and the police. In turn the revenue officials and police also sensed the profit from sand mining and started to test it by demanding regular (and increasing levels of) bribes.

In the 1980s, the regulation of sand shifted from the jurisdiction of the local panchayat to the Public Works Department (PWD). The PWD identified areas of excess sand deposits in riverbeds and permitted their removal so that river water could flow unhindered. The removal of excess sand deposits was auctioned by the PWD. District-level politicians from the AIADMK and the strong men from the opposition party, the DMK, colluded across party lines to form cartels, bid low and yet win contracts to remove sand. Profits were shared among the cartel members with advance payments sometimes replacing a share in profits. Thus, at the district level, sand became an important source of cash for the two Dravidian parties. Through the control of sand contracts and sales, the district secretaries and ministers from the districts also benefitted from sand mining. As the demand for sand increased, so the cashflow swelled and competition intensified. So too did physical violence. Sand auctions grew to be arenas for ever greater displays of muscle power, political power and money, by means of which competition was elbowed out.

Scale and impact

Increases in demand, prices and cash flows led to the indiscriminate mining of sand. The small-time operators owning bullock carts were barred from working on the riverbeds. Machines were introduced to expand the scale of excavation. The regulatory conditions stipulated for quarrying were ignored. For several years, no one realised what the danger of unplanned mining would be, during which time violations had severe consequences:

1. The area where sand was to be removed was not marked.
2. The sand was scooped from depths of 15 feet, whereas approval was never given for removal deeper than 3 feet.
3. Machines were used for loading when by law they were banned.
4. Each load was limited to 2 units (200 cubic feet), but this was routinely exceeded.
Very few loads were recorded and routine unpermitted loads cheated the treasury.

Lease periods were extended by false claims that miners had not completed the removal of the contracted quantum of sand and, based on the affidavit, the miners obtained court orders extending their contract period.

There was no practical monitoring by the officials formally responsible.

Mining as organised looting: the early 1990s and the entry of Fort St George

The AIADMK took power in the 1991 legislative assembly elections. J. Jayalalithaa became Chief Minister (CM) and many consequential decisions were taken during her first tenure. The disproportionate assets case that landed her in prison in 2014 is a product of that time. Chennai city was booming and the Palar river was the main source of sand for the city’s construction industry. ‘M.’, a Dalit from Chengalpattu town on the banks of the Palar, which in that stretch is a wide sandy riverbed, dry for most of the year, was a fleet owner, a supplier of sand to Chennai and part of a cartel paying the district administration regularly for Palar sand. A district collector gave him the blueprint for a new system whereby he could have a monopoly right over Palar sand provided he struck a deal with the CM’s friend, Ms Sasikala. He was also assured by the collector that the latter would negotiate the deal.

The deal came through in 1993. M. had to pay INR 1 crore every week to Ms Sasikala, the friend and confidante of the CM, and in turn he had the monopoly of Palar sand in the Chengalpattu stretch. The monopoly was formally conferred on M. by invoking the power under Rule 39 of the Tamil Nadu Minor Mineral Concession Rules through which the government can invoke its ownership right over the state’s mineral deposits. It can avoid open auction and issue a government order based on an application from the contractor to quarry in a particular plot of land over a specified period in return for a payment. This extraordinary power was intended to preserve and develop the mineral wealth of the state and to be invoked in the ‘public interest’.

Using this loophole in the interpretation of the law, M. was appointed as contractor. This initiated a looting of monumental proportions that continues to this day. Given that M. paid promptly and the deal proved mutually effective, the same model was extended to other
river basins in the state and the same rule was invoked for awarding similar contractual monopolies during that time. From among these contractors, ‘O.A.’ captured contracts for several sand quarries in the state’s riverbeds. Meanwhile, M., enjoying the monopoly bestowed by the government machinery, prospered for three years until the 1996 elections. Since the deals were transacted directly with the political apex, the district-level administration was under his complete control, money poured in and he promptly paid the agreed sums to all concerned, including the personal aide of the CM. Sand mining reached a new ‘height’ in the Palar basin, with the district administration reduced to silent spectators, shorn of all regulatory oversight powers. Since M. complied promptly with contractual obligations, he retained the contract until the following elections.

His success and the wealth he managed to accumulate in a short span of time indicated the potential of sand mining: he was able to purchase the largest bungalow in Chengalpattu, previously owned by a big landlord (who was the symbol of feudal wealth and stereotyped as such in many Dravidian movement plays scripted by DMK leader Annadurai). It was indeed a more than symbolic moment, one whose significance was publicly appreciated when ‘sand money’ purchased the long-standing manifestation of local ‘feudal wealth’.

During the following decade, this set of political arrangements and pay-offs became the model for sand mining. Control of, and returns to, sand mining shifted permanently to the CM’s office in Fort St George. This was also the period when the state government machinery experienced a role reversal, from being an employer resourced from legal revenue to being an employee paid from illegal loot to regulate and secure this stream of politically legitimised criminal money against capture or sabotage by others. The government’s principal duty was thus to check the ‘illicit’ sand mining while protecting the contractor’s ‘legal’ mining.

Regime change in 1996 and the continuation of the system

The anti-Jayalalithaa wave that swept Tamil Nadu during the 1996 general elections brought the DMK back into power. Jayalalithaa was defeated in her constituency, where voters were angered by her widespread corruption, reputed arrogance and ugly display of wealth. Seamlessly, the DMK assumed control of sand. The contract system for sand continued, with
a few DMK notables forming a cartel and seizing the Palar contract from M. Without experience or infrastructure, they brought in O.A. as their partner in Palar dealings. In the process O.A. was outsmarted and ousted from the Trichi and Thanjavur district quarries, which are located in the Cauvery river systems and have the largest deposits of sand in the state. ‘M.D.’, the Trichirapally strongman of the DMK, developed rent-sharing formalities with Fort St George, found suitable local partners and controlled all the sand mines in these two districts. Mining intensified further with blatant violations of contractual conditions:

1. Although the contract was only for a particular plot of land specified in the lease deed, the contractor treated the entire riverbed as their leasehold.
2. Contractors dug down to any depth until the sand was exhausted.
3. The use of machinery became more common.
4. Mining continued brazenly throughout daylight hours.
5. The movement of sand to neighbouring states increased.
6. Permit laws were extended through legal orders.
7. Lease periods were extended by the same means.
8. Protests from the local community were crushed.
9. Officials were given their due share and they, in turn, faithfully served the interests of the contractors.
10. The nexus between the politicians, contractors and officials grew so much stronger that the regime change from AIADMK to DMK did not alter any elements or relations in this system other than the replacement of politicians.

During these eight years, from 1993 to 2001, sand emerged as a perennial source of cash for the ruling party (irrespective of whether it was the DMK or AIADMK). The sand contractors organised the work, collected the money and gave a major share to the ruling party chief. The law was blatantly violated and a massive revenue stream was appropriated and diverted from the state exchequer to the ruling political elite.

However, the extension of a contract was not entirely within the domain of the state government. Contractors could go to court and apply for an extension with the connivance of the ruling party. Yet since many players were competing for more *benami* contracts, rivalries among the contractors intensified and inevitably some were marginalised while others emerged victorious under both AIADMK and DMK regimes. Fort St George came to feel the marketing system needed fine-tuning and tightening to
confer absolute control over the sand sector. With the firm hold of the top political boss, a single-window system for cash flows would increase the efficiency with which money was extracted from the contractors.

Exposure of blatant misuse of special power by the state

In invoking the special power of Rule 39 of the Tamil Nadu Minor Minerals Concession rules, the state administration hardly bothered with its duties vested in the law as the custodian of public property. In awarding such leases to the sand contractors, it had systematically flouted all the regulatory law. This was amply demonstrated in the judgment on a set of writ petitions filed in the High Court of Madras in 1997, judgment on which was delivered in 2001. The petition by Mr Kuppusami, a leading lawyer and social activist from Karur, challenged the granting of a contract by the PWD to Mr K. Ramaswamy and questioned the very basis of invoking Rule 39. The court, while conducting the trial on these writ petitions, summoned files and records. After perusing the material filed before the court, it found that there was no reason for the contracts to be awarded on the basis of Rule 39 because, since no grounds were mentioned as to how the contractor would develop the mineral wealth of the state, no public interest was involved. The contractor had not been selected based on tender or auction. The state had arbitrarily used its powers to bestow this special privilege on the contractor in an act said by the judge to be ‘whimsical’. The government had decided on the lease apparently based on the recommendation of a high-level committee. But while the committee had recommended a lease for 10 hectares, a lease of 25 hectares was proposed in the government order. And later, the recommendation of the committee had been altered retrospectively to 25 hectares of land. When the land was leased out, no plan of the leased area was either attached or approved. This strategic omission was to enable the contractor to mine in the survey area mentioned in the government order to a total extent of 334,140 hectares of riverbed. Using this loophole, the contractor had obtained several orders from the court for the change of plots during all of which the original plot was never surrendered. The ‘consideration’ or rent for the lease was INR 1 lakh in the first year, with a 20 per cent enhancement over the next four years. However, from the one quarry alone, the weekly earnings from sand were estimated by the court to be INR 1 crore, thus fetching an annual income of INR 50 crore for an investment of INR 1 lakh. Even more blatant was the non-registration of the lease deed.
The judgment clearly indicated the corrupt motives behind the process of granting the original lease under Rule 39 of the Tamil Nadu Minor Minerals Concession Rules. The judgment observed that:

(b)esides, the materials available on the file disclose that the exercise of power is not *bona fide* but it had been resorted to for *a priori* considerations. It could even be suggested as born out of corrupt motive, and corrupt obligation had advanced the cause of individual to the detriment of the state exchequer. (W.P. No.16010/97 and 6712, 6713 of 1998 p 50 of the Judgment dated 30.4.2001 in the High Court Judicature at Madras.)

The judgment quashed the lease and also ordered the quashing of 35 other grants that had been made invoking Rule 39. It further commented that ‘the State government should have ordered investigation by the CBI … if it had not been done so far’. Obviously, the state government bureaucracy refrained from ordering any investigation by any agency as they were aware of the involvement of the Chief Minister and her friend.

The state as a camouflage for looting: the direct entry of the state as a fair player in sand mining

In 2001 the AIADMK was returned to power. In July 2002 another judgment was pronounced by the Madras high court which paved the way for the AIADMK government to assume the moral high ground and take over sand mining as a state monopoly. Filing a contempt petition, Mr Janardhanan of Chennai contended that the state – represented by the bureaucracy – had failed to enforce the order of the high court of Madras regarding illicit mining in the Kosasthali river, located north of Chennai city. The high court had appointed an advocate commissioner, Mr Ashok Chakravarthy, to assess conditions in the riverbed during an earlier hearing and had passed a set of orders. None of the earlier orders had been honoured and another contempt petition was filed by the same petitioner. The state argued that it had complied fully with the earlier orders and that the illicit mining was under control – which was vehemently contested by the applicant. The same advocate commissioner was appointed once again to assess the situation on the ground. The latter vouched for the contentions of the petitioner and the high court ordered the government to constitute a high-level committee consisting of scientists, geologists and environmentalists to conduct a survey with reference to sand quarrying and the damage caused. The state was also ordered
to follow the recommendations of the committees and to pass necessary legislation.

The judgment blamed the local political leaders who ‘anchor the whole operation as the conduit for the huge bribes fuelling the well-oiled network’. It added that the ‘contractors are extracting many times the permitted amount of sand, as enforcement agencies turn a blind eye … Government officials who are supposed to check illegal sand quarrying join hands with sand smugglers’. Acting on the directions of the high court, the state constituted a high-level committee, which submitted its report in June 2003. The committee found that rivers and riverbeds belonging to the state had been seriously damaged. The river ecology had also suffered due to indiscriminate and unscientific mining. The committee also assessed the damage caused over time by heavy machinery to the riverbeds, banks and electrical and hydraulic structures.

The main recommendations of the high-level committee include:

1. Entrusting the mining of riverbed sand to a single agency.
2. No roads to be constructed in riverbeds.
3. No heavy machinery.
4. Quarrying time to be restricted between 6 am and 6 pm.
5. Maintaining proper accounts for the quantum of sand quarried.
6. Disseminating information about the lease.
7. Severe penalties and punishment for violations.
8. Prevention of quarrying in patta (legally owned) lands located within 250 m of the riverbank.

In its instructions, the high court clearly stated that the government follow the recommendations of the high-level committee. So the government accepted the recommendations of the committee and issued Government Order M.S. No 95, dated 1 October 2003, based on them. From the following day, it cancelled all the contracts and leases for sand mining in public land as well as on patta lands. From then on, the state became the sole miner of sand in the state. This was done ‘in the public interest’ to ensure:

1. The elimination of indiscriminate and unscientific sand quarrying.
2. The uninterrupted availability and supply of sand in a regular and orderly manner to the common public.
3. The availability of sand at affordable prices to common public, thereby effecting a reduction in the cost of construction.
4. The augmentation of the state government’s revenue. (Government of Tamil Nadu, G.O. M.S. No 95 dated 1.10.2003, 1)
Following this government order, the Tamil Nadu Minor Mineral Concession Rules 1959 were amended with the addition of a new clause, 38A, which gave the state the monopoly right over sand. The amended rule has survived all challenges in the high court and the supreme court and, to this day, the State of Tamil Nadu is the sole agency entitled to mine sand in the state.

The questions as to why the state chose to take that recommendation of the court seriously and to appoint a high-level committee to look into the ill effects of sand mining by contractors, and – more importantly – how parties making huge amounts of illicit money through their contractors from 1993 onwards would countenance the possibility of foregoing it and diverting this flow of funds to the state exchequer deserve further discussion. Demand for sand was growing daily and money was pouring in to the Chief Minister and her friend Sasikala through the contractors. No reprimand, mild or strong, from the judiciary or press reports could make the ruling party relinquish the use of income from sand for political purposes. Until then, even in court affidavits, the AIADMK government repeatedly swore that sand was mined as per the guidelines. It is a puzzle why the government took the advice of the high-level committee and went in for a state monopoly system controlling huge cash flows hitherto the domain of the party and private coffers.

It is certain that civil society activists and the media considered the decision of the state to take over sand mining as a victory against the illegal sand industry. ‘The state had assumed the role of guardian angel. The fragile ecology of the entire river system in the State, we believed, would be restored and rejuvenated and would remain there safe in its hands,’ said Mugilan, an environmentalist (Rajasekaran 2015). ‘While hailing the government’s action, Ossie Fernandez, one of the conveners of the Campaign for the Protection of Water Resources – Tamil Nadu, described the government’s action as a “step forward” in protecting water resources’ (Viswanathan 2003). This euphoria was short-lived. The Public Works Department was selected to be the sole agency for sand mining in Tamil Nadu. It started mining operations and managed them for about three months. The state’s own sand mining operation led to chaos. The PWD managed to load fewer than 200 lorryloads of sand from each quarry against requirements for over 10 times more. Consequently, sand was in short supply and its price skyrocketed throughout the state. Whether this was caused by the inability of the department to manage the logistics of sand, or whether the shortage was deliberately designed at the behest of the erstwhile contractors to dislodge the department from sand mining was, at first, anybody’s guess. Be that as it may, the PWD had to bring back the contractors to handle the logistics of sand.
The re-entry of the contractors and restoration of cash flow to Fort St George

Subsequent events clearly indicated that the chaos was engineered to enable the re-entry of contractors into sand mining. Loading operations were contracted out through the tendering process – all falling into the hands of ‘O.A.’, the large sand contractor of the earlier system, chosen by Jayalalithaa to be the sole contractor. While in the paper records, many ‘lifting contractors’ were named as working in different quarries in the state, all were O.A. *benamis* and O.A. became the de facto owner of all the state’s sand. Department officials did not even supervise sand mining. They received monthly cash packets directly from O.A. The new rate for the state-level bribe was INR 25 *crore* a month and to be paid in cash directly to Jayalalithaa through named *benami* contracts for all O.A.-controlled quarries. Although PWD constantly claimed that as an arm of the state it has been judicious in exploiting sand, it neither undertook sand mining nor had any control over mining operations. Unlike in the past, a smoke-screen had now been created that withstood any paper scrutiny. The department claimed in all affidavits filed before the court that it mined scientifically and thus did not harm the ecology and environment. But underneath this facade, a brilliant scheme of perennial looting has been established with an efficient system of single-window negotiation, where only one contractor remits the agreed sum at the designated location and is responsible for all other costs, payments and cuts.9

The economics of sand mining by the lifting contractor (LC)

While PWD is the formal operator of sand mines in Tamil Nadu, the entire operation is actually controlled by the lifting contractor (LC), who chooses the appropriate sites for the sand pits or quarries and notifies the PWD. The district collector then permits the quarry to be developed. The LC mobilises machinery and labour. Poclains10 scoop the sand and the lorry fleets transport it to roadside yards. The LC paves motorable roads in the riverbed for the smooth and quick extraction of sand. Every day the LC produces about 100 demand drafts (a negotiable instrument issued by a bank directing another bank or branch to pay a certain sum to the payee) drawn in favour of the PWD and the PWD officials issue permits to quarry 100 loads of sand. One load of sand is 2 units (1 unit is 100 cubic feet). Although the permit is restricted to 100 loads every
day, the LC continuously scoops and transports to the yard as many loads as required, using its own vehicles. Whoever wants to buy sand has to go to the yard and pay for it in cash. As of 2015–16, sand transactions were measured using the unit of the bucket. The machine that loads the vehicle scoops the sand into a bucket. Each bucket costs INR 500. Sand lorries range from ordinary trucks to large ‘up-to-date modern’ dumpers. A normal lorry can take seven buckets of sand. Thus, a lorry-load of sand is worth INR 3,500. Larger lorries can take 10 buckets with a total value of INR 5,000. The number of lorry-loads of sand sold per day varies from yard to yard – between 1,000 and 5,000 loads each. Estimates of the number of loads sold daily vary enormously. If there are 50 quarries and if 3,000 loads are packed from each quarry, 150,000 loads of sand could be loaded every day throughout the state. If INR 3,500 is paid for each load, the total amount collected per day could be INR 525 million. Extrapolating, the annual amount collected would be INR 19,162.50 crore. The annual proceeds from the sale of sand that are remitted into the government’s treasury account total just around INR 200 crore, as per the demand for grants on PWD presented in the assembly (Rajasekaran 2015). All the rest (in the region of INR 19 lakh crores) is shared between the contractors, the politicians, the bureaucracy and others. The main contractor bears the costs of operation.

In an investigation by Frontline, the current affairs magazine, into sand mining (Rajasekaran 2015) the notional loss to public finances due to the unofficial lifting of sand per annum was estimated at INR 2,300 crore. This calculation is premised on the fact that quite a substantial amount of sand sold in the yard is not reported, and the estimate of loss to the exchequer is based on the actual number of loads of sand sold. So the actual prices at which sand is sold at the yards are as crucial as the quantities involved. Sand prices at the yard are four to five times higher than the price fixed by the state. Thus, there is gross under-reporting both of sand sold and of the price at which sand is sold. If the calculation is reworked based on the actual price of sand in the yard, it would also come to our estimate. Three thousand loads of sand per quarry from 50 quarries amounts to 150,000 loads and each load at the rate of INR 3,500 per load works out to INR 525 million. The annual accrual could be estimated at INR 19,162.5 crore. The DMK treasurer (by 2017, also executive leader) M.K. Stalin has also estimated the magnitude of the loot in sand at INR 19,000 crore, which corroborates our estimate. Stalin’s estimates are grounded in his experience as the deputy Chief Minister from 2006–11, when the same arrangement was functioning during the previous DMK regime as well!
The current system is reported to involve the lifting contractor ‘S.R.’ paying INR 10 crore in cash every day to the Chief Minister. This contractor controls the operation of all the sand and soil quarries in the state. The state and district administration cooperates with S.R.’s agents and employees. His business partners include the Finance Minister (‘O.P.S.’) and another cabinet minister who both share the collection – unlike earlier when they received a fixed monthly payment. The sand quarries functioned under this same arrangement during the previous DMK regime as well, but O.A. had to confine himself to the northern region leaving the Cauvery segment to K.C.P., a prominent DMK industrialist from the Cauvery region. When the AIADMK returned to power, O.A. regained complete control and lost it to S.R. only in 2015. Then S.R. outbid O.A. and got the deal in his favour mainly due to his proximity to O.P.S., who was the Chief Minister in 2015 when Jayalalithaa was out of power and imprisoned.

Democratic politics and illegal money from sand

In Tamil Nadu, electoral-democratic party politics involves armies of local party functionaries or cadres. The lifting contractor (LC) uses money systematically to co-opt each one of them.

While the chief of the ruling party receives about INR 300 crore every month (a daily stream of INR 10 crore (US$ 1.5m)) from the sand LCs, other lower level representatives of the people also receive sand contractors’ money every month. Every village panchayat president in whose territory a quarry is located is reported to be paid INR 100,000 ($1,500) by LC every month; village councillors receive INR 10,000 ($150) monthly. The local member of the legislative assembly is reportedly paid INR 500,000 ($7,500) per month for every sand quarry located in his constituency. The union secretaries of the ruling party and the main opposition party are also paid monthly by quarry managers. High-level payments to other political functionaries are handled by the representatives of the LC. It is not only the elected representatives of the people who are on the LC payrolls. Officials of all the departments concerned are paid on a monthly basis depending on their status and power: the highest paid at the district level are district collectors and the police superintendents. All relevant officers further down in the hierarchy are on the LC payrolls. There are a few exceptions that refuse to accept money and are shunted out at the earliest opportune moment. Local representatives of the press are also paid every month. The media coverage of sand mining
by the local representatives of the state and national media is minimal and uncritical compared with other stories they cover.

Sand money and the response of the state

From various reports submitted by the court-appointed advocate commissioners, it is evident that when the relevant officials are paid generously by the LC on a regular basis, the official machinery works entirely in the interests of the LC rather than fulfilling its mandated role. The advocate commissioner documented the indiscriminate mining in Kosasthalai river in 2000 and 2002. Indiscriminate and unscientific mining was also extensively documented by the expert committee appointed by the high court to examine the Tamiraparani river. All other subsequent findings have indicated the perpetuation of unscientific and indiscriminate sand mining. The claims of the PWD in all the above cases were found to be blatant lies. Its officers claim with impunity that the mining was scientific despite the findings of the experts and advocate commissioners. Important violations that are recorded as evidence in these cases and that continue unabated include:

1. The mining area is not specified.
2. The mining area is not demarcated and identified.
3. A mining plan is not prepared.
4. The quantum of sand to be mined is not specified.
5. The quantum of sand mined so far is not specified, recorded or disclosed.
6. The sand loaded is hugely under-reported (100 loads reported versus 3,000 loads unreported per quarry).
7. Money collected for sand is seriously diverted.
8. Sand is enormously over-charged.
9. Cash is collected for all the sand sold. All transactions thus happen outside the formal system and generate huge flows of black money.
10. Sand is scooped from the entire depth of the deposit (whereas the permitted depth is only 1 metre).
11. Far more machines than permitted to scoop are used.
12. Unauthorised roads are built in the riverbed.
13. Permanent structures are built in the riverbed.
14. Water courses are diverted.
15. Unauthorised quarrying takes place near the water supply works, bridges and irrigation heads.
16. Bunds are broken.
17. Scant regard is paid to the boundaries of villages where a quarry is permitted.
18. Sand is moved to the yard and sold from there though the court has banned the operation of yards in the past.
19. Sand is quarried round the clock while as per the court order mining can be done only from 9 am to 6 pm.

The monitoring committee meetings at the taluk (district sub-division) and district levels are routinely passing identical minutes verbatim, meeting after meeting, indicating the level of their seriousness. Environmental assessments are done by non-experts and are sometimes granted without evidence from field conditions. All these violations are reported in various advocate commissioners’ reports and in the expert-committee reports submitted to the courts.

Thus the enforcement systems that have been established have all been corrupted by the sand contract system. Enforcement is on paper alone. The relevant officials collude with the LC. The servants of the people are now the slaves of the contractor.

Democratic protests and the sand contractor

Flouting all rules and norms, the entire state machinery works for the smooth functioning of sand mining and transport. However, indiscriminate sand quarrying and transport leads to enormous ecological and social problems in the vicinities of the riverbed quarries. Water tables are depleted. Irrigation is affected as wells run dry; profits decline as crops dry up. Drinking water becomes scarce. With the stagnation in agriculture, crop-production and employment are both in jeopardy. Roads and pathways are destroyed. Fatal accidents on paths and roads are on the rise with the continuous movement of heavy vehicles laden with sand. This ecological destruction and social danger is not taken passively. People resort to dharnas (strikes), hunger strikes, road blocks, representations, petitions, exhibitions and so on. In response, the sand contractor deploys multiple methods to negotiate such protests, including:

1. In extreme cases, assassinating the person protesting.
2. Maiming and injuring individuals to terrorise them.
3. Physical assault by private armies hired by the contractor.
4. Using the police to fabricate false cases, arrest and harass the protestors.
5. Entangling protestors in prolonged litigation.
6. Manipulating caste identities to divide protestors.
7. Directly bribing protestors with money.
8. Offering work to compliant villagers on a regular basis.
9. Employing small-time local leaders as supervisors.
10. Funding temple festivals, sports events and annual village festivals.
11. Funding the construction of temples.
12. Organising medical camps.
13. Offering cash loans to buy assets.
14. Hiring local vehicles to move the sand from the riverbed to the yard.
15. Prioritising local vehicles to transport sand from the riverbeds.
16. Issuing parking and access tokens to local leaders who can cash them by selling them to lorry drivers from outside the region, thereby helping the latter to jump the queues.
17. Making regular payments to local leaders.
18. Awarding scholarships to students from the villages where quarries are located.
19. Bribing litigants who go to court to drop their cases.
20. Buying the lawyers who appear for the litigant.

There are few exceptions where the community has defied this barrage of ‘carrot and stick’ tactics and with the help of the courts has stopped the contractor. To illustrate, through a court order, Nallakannu, the veteran CPI leader, succeeded in stopping sand mining in the Thamiraparani river for five years. Kuppusamy of Karur managed to get the court to quash the lease granted under Rule 39 of the Mines Act. Shanmugam of Anbil won a court order to close certain quarries in Cauvery and Kollidam that had been functioning illegally for more than five years. Raju, a lawyer, managed to have mining suspended in the Vellar riverbed in Vriddachalam (for details, see Ilangoovan Rajasekaran 2015). In these exceptional cases people were mobilised to struggle against the designs of the LC and the state machinery. But in a large number of other instances, with the active connivance of the state government machinery, the contractor has successfully neutralised the democratic protests of the victims.

Judicial interventions and sand mining in Tamil Nadu

The Tamil Nadu judiciary has intervened in important ways to address the disastrous effects of sand mining activity. It put an end to the private contracting system and led to direct mining by the government department.
It banned sand mining in certain quarries for a specified period of time whenever it took note of indiscriminate mining. However, the judiciary has turned a blind eye to the massive corruption in sand. While it had provided patchy relief to certain villages, it failed to ask, or shied away from addressing, the basic question as to how a government department could flout all norms and continue functioning since 2001, while claiming to the contrary. Who is behind this audacity? In a democratic system how can such massive corruption continue so blatantly? The victims have knocked at the doors of the court on several occasions for verdicts and the court has, on some occasions, appointed its own fact-finding commissions. All the commissions have reported that there is no account of the quantity of sand mined but confirmed its blatant and indiscriminate extraction. The courts have suggested new methods of monitoring but the government has never implemented any of them. Instead of scrutinising the failure of the state machinery and the bogus affidavits, the court keeps suggesting even more regulation. Committees appointed by the courts have repeatedly shown the falsity of claims in affidavits submitted by the departments to the courts. Despite this, the courts continue to have faith in the departments of the state and assign more and more responsibilities to the very departments that are the principal violators of the law. No court has ever demanded evidence of the beneficiaries of this malfunctioning system.

**Conclusion**

The case of sand clearly indicates the close link between democratic politics, elections and crime in exploiting natural resources. The existing scholarly consensus about Tamil Nadu’s politics overwhelmingly ignores the complex web of welfarism, corruption and clientelism at its core. Our case study of criminal enterprises in sand reveals the ‘money-for-votes’ politics that has spread through the election process and is now firmly entrenched not only in electoral democracy but also is an indispensable part of the democratic polity of the state. Black money is generated in sand mining by siphoning substantial sums to the ruling party’s private coffers, thus diverting potential tax revenue from the state exchequer. A part of this money is deployed during elections to pay voters for their votes. Thus money that should have found its way from state investments into development schemes is used for cash payments for votes.

Corruption used to be understood as a by-product of Dravidian politics. The elected party used the state exchequer to expand its populist
schemes so as to retain an electoral base. However, a new politics has developed in which money is disbursed during election campaigns to voters throughout the state, resourced through the crime of extracting natural resources, like sand. In the new arrangement, populist disbursements from the state exchequer are spliced during elections with pork-barrel transfers of cash to most of the voters throughout the state – practices that now define the democratic process. Our examination of natural resource crimes has resulted in a radically different and new interpretation of politics in Tamil Nadu. It also warrants more case studies (such as on criminality in granite, liquor and beach sand) to establish the entrenchment and institutionalisation of other ‘convection systems’ of criminal accumulation, bound to the democratic process.

Notes

1. Arm-twisting by the Congress party for more seats, the 2G scam, a formidable opposition alliance, the acute electricity shortage, food inflation, land grabbing and brazen corruption by lower-level DMK functionaries and the extraconstitutional power wielded by the first family (that of Karunanidhi, the then Chief Minister) are some of the reasons for the DMK’s defeat in those assembly elections.

2. We interviewed politicians, officers, contractors, journalists, law officers and middle-men. All of them shared with us details about sand mining and politics on the condition of anonymity. Hence, the evidence in this chapter is not attributed and has to be taken at face value alone.

3. The mining of beach sand is outside the scope of the research reported here; see Suresh 2015.

4. Based on information collected through interviews with persons associated with this process and whose identity cannot be revealed.

5. At 8.5 per cent per annum in real terms from 2004–14 and at 6.5 per cent in the 1980s and 90s; see Government of India 2015; Kohli 2006.

6. Contracts disguising the identities of transacting parties.


8. These cash flows were not spent entirely on elections. Massive properties were acquired over time and because of such accumulation both Jayalalithaa and Sasikala were sentenced to four years of imprisonment by the supreme court of India. Sasikala is serving her prison sentence; Jayalalithaa died in 2016. See Ravishankar 2017 and Subramanian 2017 for an attempt to unravel the wealth accumulated by Jayalalithaa and Sasikala.

9. This brilliant plan introduced by Jayalalithaa was not a new concept to emerge after the PWD takeover of sand mining. The system had been conceived and implemented earlier, during her previous regime between 1991 and 1996. TAMIN is a state-owned corporation involved in mineral mining, including granites. During the early 1990s, granite exports boomed; an engineer-turned-civil service official (I.A.S.) was directing TAMIN. In collaboration with a small-time contractor in Madurai, he conceived the idea of lifting contracts and showed the private profit matrix that makes it possible for the ruling party to use public wealth. The small-time contractor who began as a lifting contractor for TAMIN in Madurai eventually grew into a multi-billionaire who came to control all of TAMIN’s granite mines. He is the king-pin behind the granite scandal of present day Tamil Nadu (for more details, see Rajasekaran 2015).

10. A poclain is a mechanised digger with buckets and grabs to move rocks, rubble, earth and sand.

11. This estimate is based on interviews with former sand yard managers and employees in Tiririchirapalli district. For an all-India estimate, see Rege 2016.

13. Order of the High Court of Madras in WP.NO.11562/2010. The court found that most of the rules of the Mining Act were flouted in the Kollidam riverbed (order dated 3 August 2012 in WP(MD) NO.4699 of 2012). Indiscriminate and unscientific mining was reported by the advocate commissioner in the Cauvery riverbed (WP(MD) NO.9336 of 2015) in Trichy district.

References


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