The Capital City

Discursive Dissonance in Law and Policy

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Public policy analysis has traditionally focussed on an instrumental examination of performance of various initiatives to secure 'progress' towards identified goals of 'development'. Such research has spawned a large literature which explores a variety of goals, objective and frames of disparate approaches of public policy.

However, these traditional approaches do not lend themselves to understanding the mechanisms through which the goals/ targets for public policy interventions are set and the role that a variety of viewpoints have in determining the frame within which public policy operates.

To unravel this process, one must turn to what has come to be known as discursive turn in policy analysis, wherein the question of

> relevance to policy analysis … [are the] central questions of truth and power. If analysts' ways of representing reality are necessarily selective, they seem as necessarily bound up with relations of power, agenda setting, inclusion and exclusion, selective attention, and neglect. If analysts' ways of representing policy … must make assumptions about causality and responsibility, about legitimacy and authority, and about interests, needs, values, preferences, and obligations, then the language of policy and planning analyses not only depicts but also constructs the issues at hand.[2]

It is within such a frame of analysis that the proposed paper will examine the extant policy and legal framework for governing cities in India, with a special focus on the National Capital Territory (NCT) of Delhi. This mode of analysis attains greater salience with respect to the NCT Delhi on account of its peculiar location in the constitutional scheme wherein it is both a Union Territory and a State leading to powers and functions being fractured across multiple agencies and competencies. Needless to add, such unique constitutional and politico-legal location of the city creates multiple lines of contradiction in which a number of competing interests, actors, institutions and processes interlink to generate 'a truth' as basis for public policy. Such an exercise of prioritising a particular balance between competing demands as 'truth' is both embedded as well as generates power to determine the goals, mechanisms and presses of public policy.

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[2] Frank Fischer and John Forester, 'Introduction' in Fischer Frank and John Forester, eds., *The Argumentative: Turn in Policy Analysis and Planning*, London: UCL Press for Duke University Press, 1993, p. 1.

Locating migrants in such a frame of analysis becomes even more pertinent on account of the fact that while the policy and legal frame are determined by those who have an institutional or processual location in the policy process, the implication of such decisions are invariably most stark for the migrant populations and workers. The representation and legitimacy deficit thus generated has an important role to play in both, compounding the problems of the city as also in creating a vision of a desired future for the city in which dissent and plurality of approaches has an increasingly declining space.

It must be underlined that the migrant populations are the engines of the city's economic (and service) requirements but owing to the above-mentioned representation and legitimacy deficits, are ignored as a central concern of policy and the law. Consequently, measures taken to address issues with respect to such migrant populations suffer from a degree of *adhocism* as well as policy inertia and irrelevance. The paper will locate all these issues within the discursive turn in policy analysis for analysing a variety of empirical experiences of migrants in the city of Delhi.

An analysis of the diverse social landscape of Delhi requires operationalisation of an analytical lens of social justice which must at once involve

Social Justice, the Capital City and the Migrant

Discursive analysis of law and policy in Delhi required a focus on three central issues: (a) the conception of a city; (b) the question of poverty/ livelihood; and, (c) the ways in which migrants are constructed in these policy spaces. The interstices of these three concepts forms a crucial discursive space of a zone of suspension that allow construction of a city that fails to address crucial questions facing its denizens. The grey areas thus constructed are at once sites of contention of the city by various interests and groups while also allowing for law and policy to subvert these contests.

It must be recognised here that in such policy and legal construction, the organic nature of the growth of cities is ignored. Cities have traditionally served a three-fold function, which is central to impart it a peculiar character which makes them different from other human habitation conglomerations. First and foremost, cities are centres of political power and thereby, military 'structures' or encampments. While the capital city may not perform the same military functions as in the past, it continues to serve as the nerve-centre of political contests and decision-making. This imparts to Delhi a peculiar discursive character, which structures and delimits the policy and legal options that may be available to the decision-making processes.

In addition, Delhi, like all major cities, has also been a centre of trade of produce and artefacts; besides being a centre for production and manufacturing. In fact, it may be argued that it the changing technologies of production over the past 200 years that have imparted much of the character to contemporary cities with large-scale industrialisation spurring the processes of urbanisation in its multidimensionality. This process created the rationale for viewing cities as containers of wage-labour (which can only be provided by migrants from non-industrial hinterlands), as also a container for issues of social justice (both, by interrogating the conception as well as contest for its pursuit). It may be recalled here that imagery of industrialising cities of the UK such as London, Manchester and Glasgow are often seen as fusing both, extreme expressions of the process of primitive accumulation as also, the sites for contests of emancipatory politics — universal suffrage, social rights, labour organisation, socio-cultural plurality, cosmopolitanism, and socio-cultural equity. Delhi is arguably a similar site of multiple processes, which need disaggregation and analysis at a discursive level. The latest stage of evolution of technologies of production in terms of deployment of e-technologies and the growth of 'service economy' adds another layer to this process.

In a discussion of this process of evolution of cities in the process of economic change, cities have been a part of and a site of acute political contestation and have played a central role on the evolving centralised modern state. Cities as nerve-centres of administrative control and thereby, the discipling power of the state which structures the legal and administrative framework within which battles for social justice are fought and contested.

This crucial multidimensional role of cities, especially in the context of issues of social justice and livelihood of marginalised sections such as migrants, is often been lost sight of when imagining Delhi as an urban socio-political organisation. Furthermore, the multiple contests located in a city like Delhi are also contests over meanings of modernity, which anchor much of the liberal discourse, and are rooted deep in the idea of a modern city and must provide the interrogative frame for conceptualisation of cities and an analytical frame within which policy and law needs to be examined, analysed and critiqued. Of central importance in this analysis remains the question of governmentality of urbanisation. Contemporary cities are thus arenas of construction of state power and disciplining of populations within which the migrants must be understood as primary targets of such state initiatives of the premises of such construction of state power.

Urban planning is the primary instrument of the construction of such governmentalisation of cities and is clearly the chosen instrument of much of state intervention. Prioritising the

technocratic aspects of urban planning, public policy and the legal framework with respect to the city brooks no interference in its objective to reproduce the city spaces in the image of technically determined requirements for reproduction of capital. Such an approach is rooted in the perceived need to discipline the unruly unruly pre-colonial Delhi, never mind the organicity of older popular and imperial cities. Complex issues of social spaces being reordered and disciplined are thus thrown up in which multiple ways in which cities are imagined by is various social actors are sought to be disciplined into an organised (and homogenous) space amenable to such technocratic modelling:

> While ostensibly a scientific-rational process that is free from politics, urban planning has always been about the exercise of power ... the disciplinary aspects of creating and controlling subjects and spaces shaped the process of boundary-making. Crucial for the project of effective control was the generation of information: the enumeration of populations though the decennial census was supplemented by their classification into various economic categories. These were then mapped onto separated zones partitioning work and residence, industry and commerce, education, administration and recreation. Regulatory systems such as licensing, tax collection, labour and pollution inspection, and so on attempted to keep tabs on a burgeoning economy.[3]

Such efforts to discipline all aspect of Delhi using legal and administrative regulatory structures must also content with its self-induced peculiarity: that of Delhi's special status — as the visibility as national capital (requiring addressing the question of international visibility in a particular frame) as also a State (with implications about citizen's rights and social justice). Such dual character of Delhi feeds into the state's anxieties around the management of urban spaces making them all the more acute. Delhi must therefore be constructed into the the state's own image of the nation-state, embodiment of India's modernist ambitions.[4] Delhi has thus been diligently planned since 1962 when the first Master Plan for Delhi was drawn up with American expertise obtained with the assistance of the Ford Foundation. Ever since, the effort has been to mould Delhi's landscape - physical as well as social — into a statement of the ideas and ideals contemporary state's liberal modernism within the frame of Nehruvian socialism of enlightened state control. This has created a peculiar multilayered city which is at once located in the past and struggles to deal with plethora of issues thrown up by the present.

The functional separation (and division) between the Union government and the government of NCT of Delhi is but one axis of such tensions. Delhi HDR 2006 declaims that "[a]ccounting for Delhi's uneven human development are two features of governance: complex administrative structures and the limited opportunities that people have enjoyed

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[3] Amita Baviskar, 'Between Violence and Desire: Space, Power, and Identity in the Making of Metropolitan Delhi, in *International Social Science Journal*, Vol. 55, No. 175, March 2003, pp. 91.

[4] Ibid.

until very recently to participate in shaping public decisions affecting their lives."[5] This participation in decision-making appears to be more of a policy construct than a practice, especially with respect to migrants and poor sections of Delhi.

Parts of Delhi are sanitised as slot for history with its emphasis on protection for monuments deemed archaeologically important[6] but what is chosen for protection is once again a question of crucial importance, interpreted as it is in the pursuit of global image of the national capital in which heritage is commodified for consumption as befits the pursuit of global capital. Similarly, agricultural lands are acquired from the fast diminishing villages to create zones appropriate for a modern capital; reinforced by concerns about the physical and social welfare of concentrated human populations.

Such modernist vision is derived from the belief in the unlimited malleability of space (mainly, land but also nature). This has given rise to what has been lately called "bourgeois environmentalism [which] converges with the disciplining zeal of the state and its interest in creating legible spaces and docile subjects".[7] The net impact is thus a reproduction of a decontextualised images.

Derived from this liberal modernism is the policy and legal consensus on the technicalisation of cities, it does not matter if the parameters of such technical assessment are skewed. Public policy in the city, ably assisted by the legal framework, pursues the mirror image of the 'perfect' Western city to embody the 'national' capital although lately, East and Southeast Asia is constructed as ideal types, which in turn is copying the West. Therefore, the emphasis remains on 'beautification' of the city by apeing (often without due 'technical' diligence) processes and projects reported to be 'successful' in cities other countries. One only needs to recall the infamous BRT corridor should proof for such a process be required. However, this is the peripheral of the many implications of such policy initiatives. Of greater significance of such 'beautification' efforts is a manifold increase in gated areas and de-culturalisation of urban spaces — what was known earlier in the common parlance as *mohalledari*, has been reported to have died an ignoramus' death in Delhi and is not lamented!

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[5] *Delhi Human Development* Report, New Delhi, 2006, p. 8.

[6] Sunil Khilnani, *The Idea of* India,London, 1997.

[7] Baviskar, Op. Cit., p. 90. See also James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed,* New Haven, CT & London: Yale University Press, 1998.

This process also returns the discussion to the issue of migrants. The modernist city has no space for such social spaces which cater to a mobile, seasonal and difficult to discipline populations as they are not easily amenable to modernist categorisation and slotting. The cherished wish of such a liberal modernist restructuring of the city is the invisible migrant who provides the labour for the many such requirements in the city — domestic work to construction work, but does not lay a claim to social justice to hold the city back from pursuing its modernising dream . There is no space for 'unruly' and 'undesirable' migrants in such a city, who are therefore banished to interstices of the city: 'urban villages' and peripheries. Troublesome questions that dealing with such population groups are barely acknowledged, let alone addressed: who are these migrants seen as a 'problem'? Do most cities not grow owing to migrants? Who is a 'native' of the city?

This issue becomes far more complex once the class dimensions are factored in. In the modernist dream of Delhi (and perhaps, most cities in India), those employed in the modern sectors — middle class, modernising, aspirational sections — are seen as adding value to the city's economy and society. Their labour is not only recognised but suitably rewarded by membership in the cityscape of gated *elite* colonies and beautified urban spaces serving of aspirational consumer goods and services. The poor and (mostly poor) migrants are seen as a drain by creating disorder, squalor and stress on the city. It appears that the technocratic city planning alluded to earlier has no conception that these 'undesirables' are the economic sinews of the city and without their brawn power, the glittering city would soon be submerged on garbage and squalor and not 'growing' through infrastructure construction. One instance of this policy myopia is the fact that the 'planned colonies' have no conception of or space for the poor who service them.

The issues of social justice thus thrown up are vast, which this paper will use as the framework to undertake a discursive analysis of law and policy. In this context, it is important to also problematise the consensus around deployment of space for various purposes in the city. The modernist planners imaginations of the deployment of space for the urban landscape for the reproduction of capital must be contested by deploying that of the community. The urban planner aspires to flyovers, malls and road which the communities may demand alternative conception of space. In this struggle, it is perhaps no surprise that issues of social justice are reduced to mechanisms of supply of services: schools, health centres, infrastructure, and possibly, remotely located settlements.

Such construction of the city is however not merely an imposition of the state's will and disciplinary power on recalcitrant populations. It is important to recognise and unravel the

hegemonic dimensions of the policies that anchor this vision of a city. In this context, it is crucial to ask: how is consent for such transformations generated and sustained, which leads us to a discursive analysis of policy. The objective of this analysis is to ask the following central questions:

- mechanisms through which the goals/ targets for public policy interventions are set

- role that a variety of viewpoints have in determining the frame within which public policy operates.

- to examine:

  - policy and legal framework for governing cities in India, especially NCT of Delhi

  - implications of the peculiar location of NCT Delhi in the constitutional scheme: both a Union Territory and a State

- powers and functions being fractured across multiple agencies and competencies.

  - multiple lines of contradiction in which a number of competing interests, actors, institutions and processes interlink to generate 'a truth' as basis for public policy.

  - A particular balance between competing demands prioritised as the 'truth' which is both embedded as well as generates power to determine the goals, mechanisms and presses of public policy.

- Migrants are analysis pertinent in such a frame of analysis owing to the following factors:

  - policy and legal frame are determined by those who have an institutional or processual location in the policy process

  - impact of such decisions are invariably most stark for the migrant populations and workers.

  - representation and legitimacy deficit for migrants

  - compounding the problems of the city as also in creating a vision of a desired future for the city

- dissent and plurality of approaches has an increasingly declining space.

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