
Case Study Paper

Fixing the wrongs against 'rights' in Kalyani (India)

A story of sanitation, two slums, their land tenure, a municipality
and the state

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Abstract

The paper explores the informal 'means' or approaches adopted by the Kalyani municipality in the state of West Bengal (India) to challenge the unconstitutional limiting of its powers by the state government. It unfolds with a community-based sanitation project; resulting in a dilemma over legitimacy of land tenure in two slums. By understanding the limitations of the municipality, the nature of the sanitation project and the informal 'links' or networks among people, groups and organisations; that were developed to support the programme, witness the degree to which an urban local body can impact the established land administration system in Kalyani and its resultant effect on the understanding of land tenure system in the two slums. It is found that not only did informal means of the municipality help instil faith in the slum communities; it also triggered voluntary slum development initiatives and a strengthened perception of legitimacy of their land tenure. This has further led to implementation of other state-funded projects in the slums, that in the past, required legal land ownership. From a planner's perspective, it imparts a new facet to the land administration of the city and the way land tenure might function in the informal settlements. With sanitation being a human right and a national priority, the study provides an insight into how sometimes informal means are adopted by formal agencies to safeguard formal functions and challenge limiting regulatory environments.

Keywords

Land tenure, Radical Planning, Coproduction

1. Introduction

In response to the weak and ineffective nature of the urban local bodies, the Indian Parliament voted for the 74th Constitutional Amendment Act (CAA) in 1992. It was considered a firm step towards decentralisation (Rai, 1999) and empowerment of the grassroots viz. municipality. The Act suggested mandatory and optional reforms to be brought in the municipal governance by the respective states. More importantly, it recommended transferring the responsibilities of land use development and socio-economic planning to the municipalities, adding another dimension to extending democracy at grassroots and urban planning.

In terms of implementation, West Bengal emerged as a frontrunner in democratic decentralisation and among the 'star' states (WBDMA, 2017). Not only did the state execute

the mandatory reforms in record time but achieved greatly in terms of those that were optional under the Act also (*Ibid*).

However, even after two decades, the urban local bodies continue to remain weak. Despite the Constitutional support, the municipalities could not improve their governance and service delivery (Aijaz, 2007). Although inefficiency and corruption within the municipalities have contributed to the failure (Aijaz, 2007, Sharma, 2011), researches also indicate a greater issue. This issue pertains to the lack of support from the respective states (to the extent of reluctance) and an uneven devolution of power between the state legislature and the city council (Sharma, 2011). Despite the constitutional mandate, the state enjoys an upper hand in municipal matters; partially owing to certain provisions in the 74th CAA that were left *optional* to grant flexibility to the states in designing their individual reforms (74th CAA, 1992) and partly due to 'deep-rooted' socio-cultural perceptions of the citizens (Vidyarthi, 2004).

The paper revolves around this reluctance to share power and legislative 'upper-handedness' of the state. In actions that can only be termed desperate, the Kalyani Municipality adopted 'informal' approaches in leveraging a sanitation project in two informal settlements, to challenge the undue land administration system in the city by the state legislature. This triggered actions and events that developed new understanding of land tenure among the slum-dwellers and impacted the established land administration system in the town.

Ironically set in West Bengal, the author re-examines the methods adopted by a formal agency (the Kalyani Municipality) to claim its formal rights guaranteed by the Constitution and thereby challenge the tenure-based service regulations of the state. To uncover this phenomenon, the paper would try to understand (i) the factors that drove the Municipality to challenge the state; (ii) the approaches adopted by the Municipality and (iii) the consequences of their action.

2. Background

The story owes its roots to the Parliament's rejection to the 64th amendment (Bill¹) to the Indian Constitution in July 1989. Although it sought to reform and revitalise local governance, the lawmakers opined that the Bill limited the freedom of the state to design local government reforms. Since, functions of local governance was in the State List² (Col, 1949), the decision remained unchallenged.

Giving due cognizance to the objection, the Government of India proposed a new Bill. It was kept 'flexible' in design and provided a greater autonomy to the states. Consequently, two kinds of provisions were introduced in it. Certain reforms were mandatory in nature which every State had to initiate within a year of passing the Bill. These were indicated by the word 'shall' in the new Bill. The second type of reforms were more discretionary, indicated discreetly by the word 'may' in the law (74th CAA, 1992). While the mandatory reforms were

¹ Every law before ratification by the Parliament and the President of India is a proposal or Bill.

²Section Seven of Indian Constitution grants greater autonomy over different domains to Union Government (Government of India) and respective States. Items like law and order, public health, agriculture, wealth taxes, land tenure, land reforms, and functions of local government are included in the State List.

aimed at giving financial, compositional and tenure-related autonomy to the local bodies, the discretionary provisions were conceived as a tool for innovative reform of grassroots governance, *optional* for the states (*Ibid*).

The Bill became the 74th Amendment to the Constitution of India. This conferred a constitutional status to the urban local bodies and entrusted critical functions of city management and service delivery. It was seen by some as a firm step in strengthening democracy in the grassroots (Rai, 1999). It redefined how urban areas were to be managed by linking the lowest levels of democracy to the higher legislative apparatus of the country.

However, some researchers have theorised that the real idea behind the Amendment was to provide greater constitutional protection from irrational decisions of state against the functioning of the municipalities (Misra et al., 1999) and not to substantially change the way the local government was administered (Vidyarthi, 2004). Coincidentally, its Article 243(W) implicitly makes the State Legislature responsible for deciding the extent of powers, jurisdiction and responsibilities that 'might' be enjoyed by the urban local bodies as institutions of self-government (74th CAA, 1992). The State agencies (different departments) and parastatals allegedly retain their power over matters under 12th Schedule³ by calling for 'specialised' knowledge and expertise in projects; that the municipalities largely lack. In addition, citing 'effective communication between the state politicians and bureaucracy' for expediting implementation of schemes, the departments often side-line the municipalities (Vidyarthi, 2004).

With regards to the municipalities, it has been claimed that the inefficiency of the municipal system, corruption, lack of experience among the staff etc. are impediments to the implementation of the 74th CAA provisions (Aijaz, 2007, Sharma, 2011). However, beyond the conventional criticism of slow government procedures or administrative apathy, Vidyarthi (2004) presents a third kind of perspective that draws from people's perception. He claims that citizens mostly see the municipalities as corrupt, powerless and operating with 'vested interests' and consequently invest their faith in technocratic officials.

3. Theoretical underpinnings

From the discussion above, it can be concluded that owing to some legislative clauses, operational tactics and popular perception, the State often perpetuates a restrictive political environment in its urban areas. It is characterised by complicated and perceptibly unjust exercising of power over critical urban domains. In such a situation, for a municipality, to claim its constitutional powers and address some of its issues requires it to stand in *opposition* to the established state laws and warrants a move towards social transformation through radical planning (Friedmann, 1987).

3.1. Radical Planning

Radical planning has been theorised as deliberate efforts for the transformation of "*social, political and economic structures that create and maintain status-quo*" within one's zone of influence to combat unequal and unjust power relations (Beard, 2003, pg.16). The efforts are a response to long-term, careful critique of the present situation and institutional

³ Under the Article 243(W), a list of eighteen fields related to city management in the 74th CAA, 1992, that the State has the option to delegate to the urban local bodies.

constraints, informed by *social learning* culminating into practical and operational solutions (Friedmann, 1987). The central characteristic of radical planning has been *opposition* or *conflict* (Beard, 2003). Radical planning is known to exist in many forms (Sandercock and Bridgman, 1999, Harvey, 2000) and is mostly in opposition to the state. However, for the purpose of this paper, it is important to learn about the fact that states (or state machineries) are also capable of engaging in radical planning (Rangan, 1999).

Radical planning is popularly perceived as being *overt* (Beard, 2012, pg.715) and grand in nature, though there are arguments against it (Sandercock and Bridgman, 1999). However, in a political and administrative environment, where open challenges are either admonished, vehemently suppressed or conveniently ignored, radical planning cannot lead to social transformation (Beard, 2002, 2003). It is in such circumstances that Covert Planning makes its contribution (*Ibid*).

Covert planning is a mode of planning that features non-confrontational efforts; marked by subtlety and undetected ways to impact power relations. These "under the radar" strategies are found to be incremental in nature and produce undercurrents of change without antagonising the authority (Beard, 2012). It is claimed that covert planning comes closest to the tradition of social mobilisation because it involves the strongest desire for emancipation (Beard, 2002).

It should be noted that the theories of radical and covert planning acknowledge the necessity of economic, political and social capital for escaping oppression. However, they do not discuss the means to achieve them (Beard, 2003). Interestingly, Coleman (1988) has established social capital as 'means' in itself; to achieve a certain end. More than a tool, social capital has been seen as *durable networks* (Bourdieu, 2011) that are required for *purposive action* (Lin, 2017). From a collective and community-based perspective, Putnam (1995) suggests that it is the networks, norms and trust that "enable participants to act together more effectively to pursue shared objectives". In marginalised communities, where people suffer from *deprivation of capabilities*, social networks hold great significance. These networks are formed between key people, known as 'agents'. According to Sen (2011), the degree of poverty is directly related to how well an individual can use these 'agents', known colloquially as a 'connections' who works on his behalf and aids in bringing change.

The discussion so far has created a framework that was necessary to critically examine the case of CLHI project in Kalyani. The theory provides a logic through which it is now possible to understand the peculiarity of the actions of the Municipality, the driving force behind them and the results.

4. Context

4.1. Kalyani township

Kalyani is a planned township, 65 km towards north of Kolkata with an area of 29.21 sq.km. It has a population of 1,00,575 people with approximately 24,492 households (Census of India, 2011). The population of the town has increased by 15,072 people since 2001. It has most of the services of planned townships but is presently seen as a satellite town for Kolkata. It benefits from its proximity to Kolkata; the largest employment centre of the region, political capital and expanding rapidly into the suburbs. Its proximity to Kolkata with

industries and other institutional facilities, Kalyani proved to be a desirable place for migrants from rural areas and Bangladeshi refugees (between 1947-1971). These, predominantly poor, households settled in large underserved areas that were vacant or conveniently close to job centres and railway stations. Researches have revealed that over the last fifty years, open unused spaces in peripheral wards (predominantly wards 1, 2, 3, 4, 5, 14 and 15) have increasingly come under unplanned and underserved slums (colloquially called *Colonies*) (Choudhury, 2011). However, certain slums can also be found in more central wards (6, 9, 10, 16, 18 and 19). In 2001, there were 16 recognised (enlisted with the Municipality) slums in Kalyani with a population equal to 48% of the total population of the town. The number of such slums grew to 52 by 2012, and were recognised by the Municipality (Tarafer and Islam, 2012) and their location and other features recorded digitally.

4.2. Political Backdrop

At the time of the project, CPI(M)⁴ or Left Front ruled the state of West Bengal and the Kalyani Municipality. Being a planned industrial town with reputed educational institutions, Kalyani has always occupied a prominent place in state politics. This had its fair share of disadvantages also. Although the West Bengal government was hailed as a pioneer in the decentralisation of power, it continues to hold the urban area in Kalyani as a Notified Area (a special legal status for areas that are making a transition from rural to urban character). As a result, the state continues to deprive the Municipality of its constitutional functions and appoints an Estate Manager (Kalyani Municipality, 2007, Chaudhuri, 2016) (a senior civil servant-cum-administrator) as a custodian of all land in and around the municipality (barring the defence and railway lands) even after two decades of the latter's formation (circa 1995). This meant that the Kalyani Municipality was reduced to maintaining infrastructure in the town and depend on the state machinery for all land-related matter, including infrastructure development, matters related to development in informal settlements etc. This inability of the Municipality is compounded when certain programmes approach the Municipality directly for infrastructure development in informal settlements. It is because the State prohibits the Municipality from taking any decision regarding land and leaves little ground for it to apply for land acquisition because slums, by definition, are not officially recognised/notified⁵ settlements in Kalyani and hence, hold no legal land tenure.

4.3. The CLHI Project

Development in Kalyani is guided by the Draft Development Plan; that was prepared in 2007. However, it does not address the issues of land tenure in the town. In 2006, at the behest of the DFID⁶, the Municipality took up the task of making Kalyani an 'open defecation-free' (ODF) town under a flagship programme, KUSP⁷. The total investment by DFID in West Bengal under KUSP was close to USD 5.4 million, aimed at improving infrastructure of cities by encouraging household toilets (Kar, 2006).

Looking at the deplorable sanitation situation in the slums of Kalyani, fifty-two slum settlements were identified by the municipality to be included under KUSP. Since, subsidies to selected poor households to encourage them to build in-house toilets (especially in slum

⁴ Communist Party of India (Marxist) ruled West Bengal from 1977 to 2011.

⁵ Notification of slums are carried out by the State government; it is the first step in their legal recognition.

⁶ Department for International Development, Govt. of United Kingdom

⁷ Kolkata Urban Services for Poor (a joint programme of DFID and Government of West Bengal)

areas) had proved ineffective, an alternative method of Community-Led Health Initiative (CLHI) was launched to test the Community-Led Total Sanitation approach (CLTS). CLTS was chosen *"...as an entry point strategy to build community capacity and to strengthen internal social solidarity of slums for initiating collective local action."* (Ibid).

Under CLHI, the health-department organised information meetings with the community to understand the existing situations and probable solutions regarding sanitation, along with the experts. "Doable" solutions (economic, durable and scientific) were deliberated upon. In addition, behavioural changes were addressed and local community formed groups to stop open defecation in their surroundings (Lüthi et al., 2010). This led to a movement where people from all the slums got together to choose natural leaders among them to spearhead CLHI in their locality. Within a year of its inception, all 52 slums were ODF and had built household toilets voluntarily without any kind of government support. The project was exceptionally successful in two slums, Vidyasagar Colony (295 households, 1218 people) in the periphery and Harijan Pally (89 Households, 359 people) near the town-core. While Vidyasagar Colony is a refugee colony that came into existence when Bangladeshi refugees fled war in 1971, Harijan pally was settled by migrants from various parts of India (especially Medinipur in West Bengal, Bihar and Uttar Pradesh). Vidyasagar Colony is located on land earmarked for industrial development and Harijan Pally occupies Kalyani University land. Although no BPL families are registered in the settlement, the residents are considered largely poor.

5. The Study

This section gives the details of how Kalyani Municipality engaged in covert planning. The data and information for this study was collected in the summer of 2015. It involved extensive interviews with people associated with the project. These included the erstwhile municipal Chairman, the municipal officers, state officials, members of the 'expert' team and people from the two slums. Observation and transcripts from community meetings were reviewed, coupled with checking of household survey records.

In the early years of 2000s, the West Bengal government set health on high priority. Consequently, all urban local bodies were given the mandate to take actions to improve health of its citizens by improving the condition health facilities in their respective jurisdictions.

Kalyani Municipality utilized this opportunity to address the longstanding issue of poor sanitation services in slums. From its earlier studies, it had found that almost all slum-dwellers were defecating in the open in absence of individual or community-level sanitation services. With its prior experience in community-level sanitation services elsewhere, getting trapped in maintenance issues, the Municipality targeted development of household-level toilets in all slums. However, providing household toilets in slums were not an easy task. According to Chairman, there were a host of problems:

- i. Building sanitation services would require land, the acquisition of which was beyond the purview of the Municipality.

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- ii. Application for land acquisition for developing sanitation for improving health would not be entertained because none of the slums in Kalyani are notified by the State.
 - iii. Kalyani being an industrial town had large expanse of vacant lands that were being used for open-defecation. The solution of household toilets might not find takers and reduce into a wasteful expenditure. Prior experiences had suggested that toilets provided by governments had been increasingly used for purposes other than sanitation.
 - iv. Municipality-aided toilet construction would invite the ire of the State for going against its established management system.

Considering the delimiting condition, the Municipality designed a unique strategy. The Chairman roped in its health department and a team of experts to design a community-level health project. In tandem with the mandate of the state, the project sought to impact the health of the people living in the slums of Kalyani by targeting behavioural change. On surface, the project was directly relevant to the state's larger objective and was given a green-signal by the state without any objection. However, underneath, the project served a two-fold purpose. In lieu of the project, the municipality got the funds required to conduct an exhaustive survey of all the slums within its city-limits. It was informed that this helped in the later stage of the project as a symbol of recognition by the government. In addition, health provided a convenient point of entry into the settlements (that considered every state agent with suspicion) rather than sanitation that involved discussion of risky topics like land tenure.

During implementation, common diseases were constantly linked to open-defecation and absence of sanitation in the area. In doing so, the Municipality set a stage for spatial intervention in the future. However, any sudden building activity could have alerted the state. Therefore, the project was progressed in phases. These phases involved people designing small interventions with deadlines and keeping records of their achievements. An example would be setting-up of children vigil groups that would blow whistles at people defecating in the open. It was gathered, this not only deterred the people to defecate in the open during the day but also gave a sense of unity in the groups.

Numerous meetings and group-discussions were held by the experts and the municipality with the community. Stage shows were organised on necessity of health of vulnerable groups like women, children and old people. Sometimes, the municipality invited state officials to these discussions. It was claimed that such events not only encouraged the community in pursue their goal vigorously but also provided a shade of legitimacy to the process.

Convinced by the efforts of the health department and their own people, the community expressed the intention of building private toilets, close to their houses in both the settlements. It was informed that the Municipality had been able to generate demand for sanitation services in the settlements, as they had truly desired. However, they could not apply for construction funds from the state. Hence, the Municipality pitched the idea of simple designs of toilets that would be developed by the people in consultation with the experts. The Chairman confessed that it was a 'gamble' because in absence of formal land

tenure, investment in toilets was unconceivable. Yet, the Municipality went ahead with the plan because (a) the demand came because of "legitimate" processes of community participation, at a scale that the state had never seen and (b) the Municipality had passed the onus of design and development of sanitation in the slums to the community (voters) and the team of experts (paid by the state), thereby technically not challenging the land laws of the state.

Real sparks of covert planning on the part of the Municipality were visible in the construction phase of the toilets. Interviews revealed that investment in household toilets made people think about the extent of land being held by individual families. This triggered spatial reorganisation of settlements and informal delineation of plots by community-heads in presence of Municipal staffs. According to a Municipal officer, this was not only the first spatial imprint of a health initiative, the event also highlighted the capability of communities to plan for their settlements. The Municipality availed this opportunity and provided small grants for constructing a Club house in the settlements "for holding cultural events". The establishment of a club (funded from state money) renewed the zeal of the people and they started mobilizing private funds for building toilets.

The Municipality cunningly extended water pipelines and rainwater drains to the boundaries of these informal settlements. This was done to respect the state norm of providing urban infrastructure services to only formal land holdings and at the same time, making them accessible to the informal settlements. Simultaneously, the Municipality encouraged the women in the settlements to form savings groups under various central and state government programmes. To fast track their application process, the Municipality set up a special cell. With the additional corpus, available at the discretion of the community women, the Municipality encouraged to use the funds in developing roads, drains etc. in their respective slums. It was told that instead of suspecting anything, the state appreciated the women's role in forming savings groups. This further added to the legitimacy of the project and kept the real intentions of the Municipality hidden.

In case of Harijan Pally slum, the Municipality strategically negotiated with the Kalyani University to obtain a 'No Objection Certificate' for informally developing its land to make it "fit" for human habitation. It is important to note that the Municipality was aware that the NOC held no legal relevance as land vested under a university is controlled by the state education department in West Bengal. However, this created renewed vigour among the people and motivated the community to pursue its spatial development and a deeper faith in the Municipality. For the Municipality, the NOC would create a moral barrier between the State and the slum dwellers, considering that the University owned by the Government of West Bengal.

6. Impact

It is from the impact that the true success of the covert planning method by the Municipality can be assessed. The results of the CLHI project can be divided into two categories- spatial impact and institutional impact.

The CLHI project has contributed to the development of the two slums considerably. Under the reorganisation efforts of the community, the land under the slum was divided

(informally) into parcels of 134 sq.m. (approx.) for every resident family. Provisions of roads and drains were kept in the master plan that was developed. The domestic animals have been provided with a community-level shed that is mutually maintained. A primary school was constructed in an excess piece of land for children of the slum and reportedly, it is partly funded by the Municipality. All these have given Harijan Pally an *appearance* of a planned neighbourhood. In Vidyasagar Pally, the drains and roads have been recently redeveloped from the expenses of the community.

Cultural club buildings in both the settlements have been made permanent and are now used as multipurpose halls for marriage and religious festivities. The success and popularity of community-led activities has resulted in voluntary garbage collection groups that collect garbage from door to door on a regular basis. The vacant spaces, earlier being used as grounds for open defecation, have in case Harijan Pally been planted with trees and in Vidyasagar Colony, lay vacant. Some households have invested in making their living quarters more permanent, citing their participation in a "municipal project" has strengthened their tenure status.

It should be noted that all the above developments happened without a formal legal tenure. The Municipality having involved the state, tactfully into the project has limited the state's opportunities of vehement opposition. Also, in absence of overt and disruptive demands during or after the project by the Municipality or the community, the state administration never felt threatened.

Regarding the Institutional impact, it can be said that the state has also come around its stance of denying service provision in informal settlements. It has been reported that under a state-funded project of building individual toilets (Sobar Souchagar), with permanent materials, twenty-two toilets have been built in Harijan Pally. These toilets are registered in the name of the owner. This can be interpreted as the state's effort to provide some sort of tenure security to the slum dwellers and a commendable success of the Municipality in softening the stance of the State with regards to land administration in Kalyani.

7. Conclusion

From the case presented above, it is quite clear that the municipality was aware of the necessities of the marginalised section of the town and adapted a larger project to respond to a host of issues plaguing their settlements. At the same time, its actions exemplify the capability of grassroots agencies to become agents of change and circumvent policies to usher development. The discussion also highlights the confused state of urban management in India and the necessity of comprehensive policy reform.

8. References

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