

Examining the Response of Resident Welfare Associations During the Covid–19 Pandemic and its Ramifications for Urban Governance in India

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Abstract

Urban decentralisation in India's major metropolitan cities has seen a proliferation of Resident Welfare Associations (RWAs), which are representative organisations of and for residents of planned neighbourhoods. Middle-class residents participate in the city's affairs and their own neighbourhood through this form of organisation. This article attempts to critically examine RWA responses to lockdowns and other measures introduced by central and state governments in India to check the spread of the Covid–19 pandemic.

The article builds upon existing scholarship that is critical of the government's delegation of city management to entrepreneurial governance in the form of RWAs. RWAs often exhibit exclusionary politics, and the expansion of their roles in the social sphere has serious ramifications for city governance. These ramifications stood severely exposed during the lockdown period. While there were instances of state officials working productively in collaboration with RWA functionaries regarding contact-tracing and dissemination of practical information, there were also reports of discrimination, with the RWAs denying entry to health workers and other service professionals. Existing class and caste biases were also exacerbated by RWA rules that prohibited the entry of domestic workers and self-employed professionals.

While the central, state and city-level officials had their zones of influence, RWAs too emerged as very important actors. Government authorities worked in tandem with the RWAs to enforce and observe pandemic-related restrictions. While this collaboration is useful in extraordinary periods, it compromises the relationship between RWAs and individual citizens as it tilts the long-run balance of power in favour of RWAs. The article

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attempts to put this behaviour in perspective by contextualising it with literature on RWAs, arguing that the state co-opts RWAs for administrative and political ends and, as a consequence, RWAs emerge more powerful and with expanded scopes of influence. Developments that lead to the amplification of RWA power need to be critically examined, for they reveal the paradoxes inherent in the idea of civil society.

Introduction

In earlier accounts, civil society was conceptualised as a homogeneous entity distinguished from the state and encompassing ‘everything that is benign and virtuous in public life’ (Chandhoke 2003). Some scholars endorse an unambiguously romantic view of civil society, predicated on its pluralism, communitarianism and autonomy from the state (Putnam 1993). The enthusiasm associated with the idea seems to be waning, however, as the normative expectations of civil society are increasingly being disentangled from its reality (Chandhoke 2007).

A concept like civil society cannot be captured by the essentialist notion that it is an inherently democratic space; it is difficult to apply a single concept to describe ‘its’ diverse practices and institutions. B.G. Verghese (2008) notes that it is impossible to develop a definition that applies equally to all of the heterogeneous actors that comprise ‘it’. Not all renditions of civil society are democratic or practise inclusion. While there are activist traditions that include social movements and collective grassroots organising, so are there compliant ones, described as the ‘third sector’ in the neoliberal version endorsed in public management literature; this new public governance paradigm ‘posits both a plural state where multiple interdependent actors contribute to the delivery of public services and a pluralist state, where multiple processes inform the public policy making system’ (Osborne 2006: 384).

In this context, where civil society organisations participate in governance ever more extensively and intensively, it is important to delineate the various actors and study them individually because the undifferentiated conception of civil society cannot account for the heterogeneity of discourses that are in play. In this article, I demonstrate the value of unpacking the different actors and interests within civil society as I examine how Resident Welfare Associations responded to the challenges of living through the Covid-19 pandemic. Resident Welfare Associations (hereafter RWAs) are private member

associations that represent the interests of the residents of well-defined and usually urban areas.

To understand the specific category of institutions under study, I employ Kaldor's (2003) differentiation of civil society into four ideal types: social movements, non-governmental organisations (NGOs), social organisations, and nationalist and religious groups. This differentiation does not always indicate distinction, for there are times when characteristics of these different types are observed within a single institution. RWAs resemble NGOs inasmuch as they are voluntary and not-for-profit, yet they have enough differentiating characteristics to justify their own classification. Instead, RWAs most closely resemble the form of civil society Kaldor calls social organisations, which she defines as 'organisations representing particular sectors of society defined in social terms rather than in cultural or religious terms'. They are also economically self-reliant, and their goals are concrete and represent the interests of their members (Ibid.: 18).

Additionally, state-capacity literature, which endorses the role of an institutionally robust state in developmental activities, supplies the framework used to assess city governance (Evans 1995). Here, the scale of the 'state' is Delhi, or, more expansively, the National Capital Region, which encompasses bordering townships that jurisdictionally fall under other state governments. An appreciation of 'embeddedness' has drawn attention to the usefulness of interactive ties between apparatuses of the state and those of civil society (Evans 1995). Perhaps a broader conception of embeddedness is required before it can be applied to the terrain of urban governance (Heller 2017: 311). Heller conceptualises an ideal type of democratic urban governance in which the local state has bureaucratic, fiscal and coordination capacity (Ibid.: 313). He argues that in Indian cities, the local state falls severely short in delivering services in every sector, due mostly to overlapping powers and the intergovernmental conflicts that ensue. Consequently, cities appear to be stateless (Ibid.: 316–18). The local state appears to be selectively embedded in civil society: it is susceptible to the power and influence of elites, even as it provides little room for participatory engagement in a holistic sense (Ibid.: 322).

This crisis of local governance was made visible in the management of the Covid-19 pandemic in Delhi, where the city's infrastructure and services struggled to manage the incidence of the virus in the second wave; the crises were so acute that the judiciary had to intervene to resolve conflicts between the local state and the central governments over the allocation of oxygen, amongst other things (*UOI v. Rakesh Malhotra & Ors SLP*

(*Civil*) *Diary* no. 11622/2021, 5 May 2021). In this landscape, where the local state was flailing, RWAs tried to step in. This article uses publicly available information reported in newspapers and media outlets to assess their responses. It discusses the ascension of RWAs as stakeholders in urban governance and contextualises their growth against the participatory governance initiative that the Delhi government implemented. Building on scholarship that examines the deficiencies of the initiative, its analysis of the management of the pandemic in the city of Delhi then reveals the paradoxes of both civil society and the fragmented local state in Delhi.

Ascension of RWAs in Delhi's Governance

The National Capital Region of Delhi is a vast territory in which complicated state machinery governs some 30 million people. The pandemic's spread in the city was among the worst in India, both in the summer of 2020 and in April–June 2021. The state's capacity to regulate social conduct and provide health services equitably was tested in these trying times. In the complicated structure of governance in the National Capital Territory of Delhi, which is a union territory with an elected legislature and a municipality, three levels of government intersect as the region's affairs are regulated (Chakravorty 2021:17). In addition to a diverse set of institutions distributed among the three tiers of government, a wide range of parastatal institutions and private associations are involved in planning, infrastructure development and provision of public services. Urbanisation tends to encourage alliances based on class, location, housing, and other consumption trends; hence, some social cleavages have become less pronounced in the NCR, although housing and segregation have played a mediating role (Badrinathan and Kapur 2021: 246).

Delhi is a highly differentiated region with stark socio-economic and spatial inequalities (Dupont 2004). Most of the population resides in 'unplanned' or 'unauthorised' areas, but such areas are also a product of planning (Bhan 2013). Delhi's differentiated categories of settlements are based on tenure security, which also serves as a proxy for the quality of life, and scholars have identified a pattern of differentiation based on the quality of service delivery and argued that the 'classification grid is in effect a map of highly differentiated citizenship' (Heller, Mukhopadhyay, et al. 2021: 97). As an outcome, moving from one category of settlement to another is equivalent to moving up (or down) the scale of citizenship. However, most RWAs under study in the article represent the residents living in the planned areas of the city.

In India, the decentralisation policy was given constitutional status in 1992, when the idea of local government for rural and urban areas was formally conceptualised. The 74th constitutional amendment created a space where elected councillors, bureaucrats and CSOs, collectively, could attend to the affairs of the local community; this space includes many urban local bodies, including ward committees. The city of Delhi, however, became a site for a different kind of partnership between state and civil society. A scheme called *Bhagidari*, launched in 2000 by then-Chief Minister Sheila Dixit, facilitates interaction between RWAs and the bureaucracy.

As an outcome of urbanisation and inspired by developments in new public management (Rewal 2013: 213), 'planned development' coupled with decentralisation, the city has witnessed a proliferation of RWAs, which notionally are representative organisations of citizens living in the same neighbourhood or housing society. Through RWAs, individuals connected by geography and often economic class organise collectively to participate in both the affairs of internal neighbourhood governance and larger issues related to city governance. While these associations are legally incorporated under the Delhi Cooperative Societies Act or the Societies Registration Act, they are private associations of citizens with limited powers over the housing society or the apartment complexes they seek to represent. The *Bhagidari* scheme consisted of organising thematic workshops where RWA members and state officials would come together to discuss issues related to urban services, amongst other things.

The scheme's operation has been criticised on various accounts, chiefly for being 'the vehicle of a neo-populist strategy whose goal is to reinforce the leadership of the Chief Minister rather than promote participatory democracy' (Rewal 2013: 219). The class character of RWAs too has been called into question: it is argued that the institutions are composed mainly of the urban middle class and their politics do not represent the views of city dwellers as a whole (Lemanski and Rewal 2013) or even of the people who work there, or non-property-owning residents. The other problematic aspect of their growing assertiveness is their lack of internal democracy in practice. The executive body of each association is a product of a democratic process among members, but membership itself is contingent on ownership; residing in the area as a tenant often does not qualify a person to vote for the executive body. Hence, while elections are held for executive positions of the associations, they are far from competitive or representative (Rewal 2013: 217).

RWA tendencies to make expansive claims at both neighbourhood and city levels have been linked to a rising and newly emboldened middle class in the aftermath of India's economic liberalisation (Fernandes 2004, Fernandes and Heller 2006, Chatterjee 2004). Ghertner argues that the claims and desires of the middle class should not be confused with the 'institutional' mechanisms through which their aspirations are given meaning and realisation. He makes this argument in the context of a discussion of how *Bhagidari*, as a scheme run by the government, provided the middle classes with an exclusive platform to become involved in the city's affairs (Ghertner 2013: 188–9). This lens brings attention to a reconfiguration of state structures that has led to the rise in middle-class power (Ibid.).

In this understanding, the *Bhagidari* scheme created an avenue through which RWAs were elevated above ordinary individual citizens and connected to the state apparatus through 'an active strategy of reaffirming the chain of command and re-tuning bureaucratic responsiveness, and thus the class configuration of the state' (Ghertner 2013: 191). By allowing RWA representatives to discuss concerns directly with government officials, the state effectively created a parallel governance mechanism that is outside the realm of electoral politics and largely not available to ordinary individual citizens.

Examining *Bhagidari* between 2000 and 2012, Diya Mehra (2013) argues that, despite rhetoric to the contrary, the scheme was not a statutory devolution of powers but rather a feeble attempt by the state to recognise voluntary community neighbourhood groups as stakeholders in local governance. She suggests that the programme was introduced amidst middle-class critiques that emerged in the mid-1980s, expressing their dissatisfaction with the state and especially with the management of the city. RWAs had filed many public interest litigations in the Supreme Court of India and the High Court of Delhi, claiming their fundamental right to more efficient service delivery and better maintenance of public civic infrastructure (Mehra 2013: 820).

Mehra (2013: 827) argues that 'From the RWA perspective, *Bhagidari* and its attending effects on Delhi's landscape show how the popular aspiration to engage in governance in resurgent India has been innovatively harnessed, both administratively and politically.' The middle classes were clamouring for an aesthetically pleasing and modern Delhi, but a fair assessment of the *Bhagidari* scheme reveals that it seems to have neither ensured more systematic service delivery nor provided the RWAs with a more participatory role in the affairs of the city. As Mehra suggests, RWAs remain open to the critique that their presence 'domesticates community groups through decentralisation, devolving responsibilities

and soliciting compliance, rather than providing a systematic forum for redressal and participation' (Ibid.: 832).

While the *Bhagidari* scheme has been discontinued due to changes in Delhi's political dispensation, the space created for RWAs as institutions remains. Interestingly, in recent years, RWAs have formed in areas that fall outside the planned neighbourhoods; residents of *jbuggi jhopri* clusters (the official term for slums) and unauthorised colonies in Delhi have also made representations to the state through their RWAs. Whether they shall be equally successful in accessing the state and translating their demands into policy remains to be seen.

Examining the Behaviour of RWAs During the Pandemic

In 2020, as the number of Corona cases began to rise, the Union Government imposed a national lockdown that, amongst other things, enforced strict restrictions on the movement of citizens. In other measures to control the pandemic's spread, the Ministry of Health and Family Welfare, state governments, and district offices of the collector and the municipalities acknowledged RWAs as important stakeholders who were expected to cooperate with and facilitate surveillance and contact-tracing activities.

Some guidelines advised the RWAs to monitor the entry of outsiders into their premises and allowed for thermal screening of outsiders. Without doubt, pandemic management necessitated cooperation between state and non-state actors, and the advisories and guidelines were merely an official acknowledgement of RWAs as actors who could streamline the management. The Ministry of Health and Family Welfare released guidelines that encouraged RWAs to establish makeshift Covid care centres for patients with mild to asymptomatic infections. State capacity was tested during the second pandemic wave in the summer of 2021. Delhi was affected so severely that hospitals and other facilities faced oxygen shortages and medical facilities were stretched beyond their capacities. During this time, RWAs and their federations became intermediaries and facilitated access to medical care by creating care centres and collectivising caregiving for patients (Singh 2021; Behl 2021).

Activities where the state and the RWAs worked in tandem to control the spread of the pandemic by working collaboratively on contact-tracing and Covid recovery manifest the advantages of 'coproduction' (Ostrom 1996), which in this case refers to an arrangement

where citizens help to produce their own services (Brandsen and Pestoff 2006). In this regard, the government proposed the involvement of RWAs as key stakeholders in the management of a Rs 7000 Crore (€~850,000) public health initiative (Ghosh 2020).

Arguably, some RWA actions undermined rather than buttressed the public good. For example, some RWA activities interfered with the rights of both residents and workers in the neighbourhoods they ‘governed’. They tried to use Covid as a cover, but these actions exceeded the authority delegated to them by the government. According to credible reports, some RWAs harassed health professionals, including doctors and nurses who were on duty. Many RWAs threatened these people with eviction, fearing that the professionals would spread the virus into their neighbourhood compounds (Jha 2020). Similar harassment was meted out to airline crew members who, between flights, lived within an RWA’s jurisdiction. The RWA actions stung especially hard because some of the flights they objected to involved the rescue of Indian cities from countries that had been even more catastrophically affected by Covid–19. Air India, the national carrier, felt compelled to issue a statement requesting that law enforcement agencies ensure just treatment:

It is alarming to note that in many localities, vigilante Resident Welfare Associations and neighbours have started ostracizing the crew, obstructing the crew from performing their duty or even calling the police, simply because the crew travelled abroad in the course of their duty. (Achom 2020)

In addition to these measures, the RWAs regulated their neighbourhoods’ entry and exit, an issue that also affected online food delivery services, which became much more popular during the pandemic (Patgiri 2022). While it is easier to enforce these restrictions in apartment complexes, RWAs whose area of influence was larger and comprised bungalows limited entry into the area by gating the points of access to the neighbourhood. Entry was regulated so strictly that the residents themselves complained to the RWA of the inconvenience caused to them by the extra-legal restrictions it had imposed.

As per the Municipal Corporation of Delhi policy, while the gates of a colony can be closed between 11:00 PM and early morning, residents are still allowed entry and exit, and such gates are always to be manned by security personnel. The RWAs, in utter defiance of the policy, closed gates during the daytime and prohibited everyone, including residents, from using them. An aggrieved resident filed a case in the Delhi High Court, stating that close to 100 residents were affected by the closure of five out of his colony’s six gates and

seeking the opening of the gates. As a result, the colony agreed to reopen one more gate (*The Hindu* 2020).

Other drastic measures included restricting the entry of domestic and informal workers such as electricians and plumbers into the premises well after the government revoked the lockdown (Sirur 2020; Patel and Lakhani 2020). Some allowed entry only after the resident-employer signed a declaration stating that they shall be liable if the associated worker transmits the disease to someone in the neighbourhood (Pandey 2020).

While the government viewed the RWAs as important stakeholders, it had to acknowledge the complaints lodged against the overreach. Residents and self-employed informal workers protested to the government that even though the government had relaxed the lockdown measures, RWAs had refused to permit workers to enter the housing societies (Shandilya and Kumar 2020). In response, the Disaster Management Authority of the Delhi government issued a specific order (8 May 2020) instructing RWAs to limit their actions to the mandate given to them and to allow economic and social activity to resume. An RWA federation strongly opposed the decision to lift the restrictions and, in a letter, urged the government to reconsider its decision.

It is important to contextualise the discriminatory activities undertaken by RWAs during the pandemic with their previous claims on city-making and urban governance. The rise of RWAs and their consequently emboldened voice in city governance was aided and abetted by other institutional and socio-economic changes. Without question, the behaviour displayed by RWAs during the pandemic interfered excessively with the rights of citizens to pursue their livelihoods, and unreasonably curtailed the residents' enjoyment of property rights. The argument presented here is that these excesses are not new: RWA policies during the Covid era are a continuation of their politics in the past, which focused unevenly on issues that are relevant for residents of a certain class, which, almost by definition, undermined the effective representation of the interests of city dwellers as a whole.

Paradoxes of Civil Society

The middle-class activism that is emblematic of RWAs has in the past seemed to be concerned with the environment, but in a way that has been described as 'bourgeois environmentalism' because it divorces 'the environment' from issues of justice and

ecology (Baviskar 2021). Hence, some RWAs invoked misplaced environmental rationales as they organised against street vendors and effectively used the judicial prohibitions of ‘encroachments’ to evict slum dwellers (Ghertner 2012; Bhuwania 2018).

Having established that institutional and policy developments have incentivised RWAs to emerge as important stakeholders in city governance, it becomes imperative to interrogate whether adequate protections exist to protect citizens in cases of overreach and outright violations of their rights. While all housing societies and apartment associations have by-laws that prescribe codes of conduct and duties of all ‘owners’ in the society, RWAs often enforce norms that are way beyond the by-laws, as demonstrated through the examples of overreach during the pandemic presented above. More importantly, they remain associations of, by and for a well-bounded community of private individuals. Other persons whose fundamental rights have been compromised by an RWA’s activities stand on a precarious terrain when it comes to accessing legally prescribed respite after suffering from an RWA’s extra-legal actions. Increasingly, research on civil society is confronting questions related to accountability failures of organisations. While NGOs have rightly occupied more space in this scholarship, other social organisations – especially those whose voice in urban governance is growing – should be subjected to the same scrutiny. For RWAs, there is some degree of procedural accountability in the sense that they are legally incorporated under domestic laws and must fulfil certain procedural requirements, including rising to meet quantifiable measures of internal democracy. Nonetheless, questions can be raised as to the extent to which the scorecard of quantifiably democratic associations is acceptable when it comes to ‘moral accountability’ (Kaldor 2003).

RWA activities during the pandemic give us important insights into the discourse surrounding civil society. These activities reveal the paradoxes within the idea of civil society that make it both ‘a friend and a foe of democracy’ and underscore the limitations of associative democracy (Gutmann 1998). This case also raises significant constitutional questions with regard to the duty to apply the principle of non-discrimination to private actors and institutions when their roles as office bearers of the RWA assume an increasingly public character, or if they trample upon an individual’s freedom to access social or physical infrastructure (Khaitan 2015). Duty bearers in this framework are bodies that carry out public functions, namely, the state, charities, employers, landlords, and providers of goods and services (Khaitan 2015: 202–3).

Cognisant of the developments in Indian cities, i.e., the increasing outsourcing of public functions to private parties such as RWAs and the issues of access in terms of physical access and facing housing discrimination and collection of public money for maintenance, the law has many issues to resolve. These developments affect the enforcement of fundamental rights, for, in Part III of the Indian Constitution, the addressee remains the State (*Indian Medical Association v Union of India* 2011; 7 SCC 179, *Charu Khurana v Union of India* 2015 SCC 1 192) It is worthwhile to note that the Supreme Court had the opportunity to curtail the discriminatory practices adopted by housing societies and RWAs in the case of *Zoroastrian Cooperative Housing Society Limited v. District Registrar Cooperative Societies* (2005) 5 SCC 632, but instead endorsed a vertical approach and refused to read a restrictive covenant of the society in harmony with the constitutional necessity of requiring public policy to adhere to religious non-discrimination. The court chose to overlook the constitutional conflict and prioritised the voluntary nature of the compact and located public policy within the ambit of the local act and by-laws (Bhatia 2016). It should be emphasised that the court on other occasions has read down or struck down discriminatory provisions of by-laws of private associations but based on a scrutiny of Article 21 of the Constitution of India, which guarantees the right to life (*Charu Khurana v. Union of India*).

Conclusions

These paradoxes and ambiguities present within civil society should be seen adjacent to the lack of local sovereignty in Delhi, where planning and control are heavily centralised and out of the reach of state and municipal governments. While Delhi residents have elected a representative government, key areas of legislative competence are not under its control. In response, there have been calls for full statehood and devolution of powers to the state government, but the central government has repeatedly resisted ceding power over land and police (Sahoo 2018). Historically, pandemics have rigorously tested governance and have divulged the incapacities of governing institutions, despite their technological expertise to design and implement policies that pit the interests of elites against those of the masses. (Slack 1995). The paradoxes of state capacity are visible in India, where a state can conduct large-scale elections yet cannot do everyday quotidian tasks like effectively distributing welfare payments (Kapoor 2020). The fragmented governance structure in Delhi contributed to the mismanagement of the pandemic in the city. This analysis of Covid-19 pandemic in Delhi lays bare the ambiguities associated with both the state and the civil society. The aim of the article is not to dismiss the unsavoury tendencies of civil

society, but rather to acknowledge them and advocate for urban reforms that are cognisant of the paradoxes inherent within the idea of civil society.

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