

Democracy and Justice

Dunu Roy

Is “democracy” a “good thing”? As the general elections approach, there is a concerted push to answer ‘yes’. Whereby, it is conveniently forgotten that for civil liberties to become a rallying cry, it was also necessary for the Emergency to be imposed! And, as one generation gives way before the next, another Emergency slowly creeps up onto an unwary nation. In many ways, the recent drive to clear the banks of the Yamuna in Delhi of slums and to convert the area into a national tourism-cum-cultural complex raises significant questions about the nature of Indian democracy.

Encroachment

A properly functioning democracy depends on the extent to which citizens have access to information. Over 3 lakh citizens of Delhi are presently being evicted on the grounds that they have “encroached” on to the Yamuna. But few ask why the Delhi Development Authority (DDA), that was mandated to build 16.2 lakh residential units between 1982 and 2001, has, at best, provided only 10 lakh units (including 4.5 lakh units built before 1982 or in the resettlement colonies!). The lack of adequate and affordable housing leads to “encroachment”. Why then, is the culpability of the DDA not being recognised?

What about “encroachment” on the Yamuna? A study of Delhi indicates that the samadhis of national leaders, the Asiad Games’ structures, the thermal power stations and their ash-ponds, numerous religious establishments and housing colonies, are all built on the flood plain. Compared to the 100 hectares occupied by the slums, the Akshardham Temple alone has been illegally given 30 hectares, while the Metro headquarters is built on 65. Why, then, is there a strong prejudice against the poor alone? What does that tell us about the quality of Indian democracy?

Resettlement

“Resettlement” itself is made out to be an attractive democratic proposition but, in fact, it violates all norms. The rules stipulate that the urban density should not exceed 600 persons per hectare (pph), but the plans reveal a density of 1290 pph at the Molarbandh resettlement site, and 1160 pph at Bawana. These densities are made possible by arbitrarily reducing the plot-size from 80 square metres to 12.5 through executive order. There is also the issue of living conditions at the site, highlighted in 2001 by a Coordination Committee set up by the Delhi High Court, which recommended that all such sites be immediately provided with all civic amenities.

Yet, in January 2004, the Union Minister for Culture is reported to have declared that Rs 25 crores had been deposited by the Ministry for resettlement. What this conceals is that for 19,000 plots the total amount required, according to policy, comes to over Rs 55 crores. It should, therefore, come as no surprise that at all the resettlement sites, there is no electric supply, potable water supply is largely absent, and provision of toilet complexes is hopelessly below the norm. The anomaly is that the Court chooses to ignore this evidence and believe the assurance given by the municipal authorities that all facilities are in place.

Judicial Activism

It has been maintained that the entire eviction is under 'court orders'. It was in 2002 that a Bench of the Delhi High Court was hearing two cases clubbed together, both filed by industrial associations (of Wazirpur and Okhla) praying for the removal of slum encroachments in industrial areas. The judgement in November held that, "such a (resettlement) policy without any social criteria, is illegal and arbitrary and we hereby proceed to squash the same which requires alternative sites to be provided to slum dwellers". What is bizarre is that another Bench hearing a clutch of 65 cases had earlier designated this first Bench to give a hearing to petitions by slum dwellers!

There was a public uproar, and the Union Government was forced to approach the Supreme Court which granted a stay with the proviso that the Union of India could "proceed with the impugned policy". However, the Wazirpur case came up for hearing again in March 2003 and this time the Bench arbitrarily turned its attention to the pollution of the Yamuna. It directed all authorities "to forthwith remove all the unauthorised structures, jhuggies, places of worship and/or any other structure which are unauthorisedly put in Yamuna Bed and its embankment, within two months from today".

Development

The Culture Minister has currently proposed a 220-acre complex in the vacated area, something like "the South Bank of the Thames in London". In fact, this is a small part of a 1989 channelisation project incorporating 3,500 hectares of the riverbed. Still later, in 1998, DDA submitted a development plan for 9,700 hectares of riverbed. This Plan provided for an investment of Rs 1,800 crores (at 1994 prices), in a public-private partnership, with 'benefits' from 'remunerative uses' (utilities, transport, racecourse, clubs, convention centres, Secretariat, Assembly, museums, and a financial district) being shared by both.

The latest news is that the Commonwealth Games Village is also going to be constructed on the flood plain near the Akshardham temple. This Village will have housing for 8,500 participants and officers, dining facilities, clinics, theatres, conference rooms, press rooms, facilitation centre, restaurants, and shopping mall – all of which are in violation of the Master Plan. It is also proposed that the Village would be turned over to Delhi University for hostels after the Games, but it is important to recall that the Player's Building, built for athletes during the Asiad, now houses the Delhi Government.

Systematic Prejudice

The democratic principles of natural justice require that every person affected by a decision has the right to be heard, and that the authority deciding the matter should be free of bias. But in matters concerning the Yamuna and its pollution, both these principles have been systematically violated for the last four years. At the same time, Constitutional authorities have allowed their prejudices to prevail over law, evidence, and reason while taking decisions that favour the wealthy and the powerful. As India shines, darkness looms over the horizon.