

Court Visits and Learning Pedagogies: Access to sites of justice

Rukmini Sen

Abstract

This paper intends to extensively engage with a pedagogic practice as part of a course on Law and Society at Dr. B. R. Ambedkar University Delhi. Visiting courts in Delhi is an intrinsic component in this course, with an aim toward making students from a nonlegal background encounter the seat/site of justice. Students are expected to make at least three visits to the district courts of Delhi, observe and maintain field diaries on what happens inside the court premises as well as the socioeconomic site of the court in the specific context. They are also expected to write a reflective piece on what kind of socio-legal questions they consider worth exploring within the spaces of and adjacent to the court. This pedagogic endeavor is an attempt to popularize courtroom ethnography among students of social science who engage with the legal processes and systems. I would explore the following questions in the paper:

1. What is the transformative experience/consciousness that occurs through this (feminist) pedagogy?
2. What forms of multiple meanings of law, court and justice does this pedagogy evoke?

Author Profile

Rukmini Sen, Professor, Sociology at the School of Liberal Studies, Ambedkar University Delhi rukmini@aud.ac.in

Court Visits and Learning Pedagogies: Access to sites of justice

Rukmini Sen

Introduction

This paper is built on experiential and reflexive practices around transacting a course titled, Law and Society, as part of the Master of Arts in Sociology programme in a public-funded university in Delhi. The singular argument or exploration in the paper is to locate the classroom as a site of pedagogy and transformation. For this paper, the understanding of the classroom is discussed through an assignment in the course, which happens outside the classroom. But the ideas explored are the interaction between what transpires in the classroom and how is that carried forward in the ‘field’—in this case, the field is a court complex in Delhi. How are questions of democracy and access to justice explored through the readings in law and society, as well as witnessed in the court premises through real people who inhabit these spaces? The reason behind raising such questions is to understand the impact of politics on knowledge and the ‘negotiations’ that the students make with that knowledge—these issues will be addressed in this paper through reflections on ‘court visits.’

The Course and its Expectations

It is not a common practice to do a course on law in a sociology programme. My own realization of the lack of knowledge in law as a sociology student as well as my teaching experience at a law school had prompted me to develop a Masters elective on Law and Society. It is important to note that unlike the United States, where there was a conscious law and society movement in the law schools and an academic effort toward creating a subfield on the same, nothing similar happened in India. However, there have been research interests which have prompted sociologists in India (Patricia Uberoi, Nandini Sundar and Pratiksha Baxi) to engage with law and legal studies, and also develop courses on sociology of law within the Master of Arts in Sociology curriculum in India. This course at Ambedkar University Delhi is designed as an elective and is taken up by the students of Development Studies, Economics, English, History and Gender Studies, besides those studying Sociology, and has the following learning outcomes:

1. Providing theoretical insights to the sociological and philosophical approaches to the interdisciplinary study of law and society.
2. Providing exposure to knowledge where sociologists/anthropologists and legal scholars have worked on the interface of law and society on issues related to family, caste and labour.
3. Making students aware that any law or judgment has a history/politics/involvement of civil society groups and social movements behind its formulation.
4. Exposing students to sites of justice dispensation—role of courts and quasi-courts.
5. Introducing students to the methods of reading legal statutes, judgments, law commission reports—multiple kinds of legal documents.

With the above as the main objectives of the course, the assignments are designed keeping in mind what the student is expected to learn from the course. Three kinds of assignments form

the basis of the expectations:

- a) Reading a legal document and historically analysing it.
- b) Reading literature on law and through a group presentation, discuss how legal issues/lawyer-judge/ordinary people, who access the law, are represented/discussed through the fiction.
- c) Court visits diary entries and reflection on the court premises, profile of people who come to court and cases witnessed in the court. The diary reflections need to use articles from the course outline as well as focus on how difficult it is to do legal research. Through the semester make at least three to four court visits—one of which will be with the entire class and course co-ordinator—and focus on one aspect that is repeatedly ‘seen’ in the visits and what kind of research questions could be asked around that theme for a law and society course.

There are visits to district courts in Tis Hazari—oldest district court in Delhi, located in the northern part of the city and very close to the Ambedkar University Delhi—and in Saket—located in south Delhi, has the newest infrastructure and the court premises look like an airport, according to a student who visited it. Students are expected to read up on these courts, their histories and the kind of functioning they have from their respective websites. There is a walk around the court premises, usually conducted by someone practicing in these courts—in both cases it is a former student of mine from my law school days. I have always accompanied students on this first court visit. The students are expected to then conduct two or three more visits to the court, individually or in groups. They have to keep detailed diary notes of each of these visits as well as write a reflexive essay on court as a space of legal practice by using the readings that the Law and Society course has used. It is this third assignment on which I elaborate now. One part of the elaboration is quoting directly from the field notes submitted by the students and making certain pedagogical observations on law, court and justice as experienced by them, and the second part is to argue this exercise as a feminist pedagogic practice aiming toward transformation.

From the Field (Diary Notes by Students)

Each of the following five entries are the actual student field notes, which they are expected to maintain other than writing a reflexive essay on the actual exercise itself. However, the title to the entries has been created by me trying to weave together the images that come in the diary observations.¹ One student had commented on this exercise of court visit and its objectives and outcomes in the following manner:

1. To gain first-hand knowledge about the subject matter that we are going to deal with.
2. Another important objective is to expose us to different type of social situations.
3. Field trips are a great way to bring excitement and adventure to learning. They are a substantive way to expand students’ horizons and allow them to learn experientially.
4. It is a wonderful way to extend a learning experience in a way that the students learn the concepts and how it connects to their world.
5. It provides real-world experiences and long-lasting learning among the students.

What has been an interesting matter to read and reflect upon as pedagogic exercises are:

- What is seen in the field—in this case the court premises, building, toilets inside the

¹ Mesha Murali and Sumit Mandhwani are two students whose field notes have been used and they consented to their names being disclosed.

building, or courtroom? There are different spaces even within one site and those multi-sites and people are marked through the broader morals of the society.

- How is power perceived and observed in the field? Having engaged with socio-legal scholarship of thinkers like Marx, Foucault, MacKinnon, Upendra Baxi in the class, what is seen in the actual legal landscape—in the case proceedings and in other forms of interaction in the court.
- What is the language of the court—is it the same as the language of the law? How do language, legal language and silence co-exist in the court premises?
- What is the importance and dominance of the lawyers in a court premise, especially, as the first point of contact for the ordinary person in her access to justice?

Entry 1: People, Papers, Power

We went to the District Court at Tis Hazari, where nothing was happening. The use of different designations—justice, judge and magistrate in decreasing hierarchy makes me wonder if the person matters, because there is a neutral title, yet we say we have a judge centric system. The room (Court 1 of Supreme Court) is done in such a staged manner. In other words, there are judges sitting right in front as you enter. There were five of them, including the then-newly appointed Chief Justice. Then there were lots of papers next in order, piles and piles. In fact, a lot of times I noticed people were carrying the papers in trolleys which we use for luggage at airports. So, next there were some lawyers, who bow so disinterested[ly] when they enter the room. Then there is the lawyer who is arguing, who faces the judges, refers to them as ‘lordships’ (seems so apt since they decide everything based on their moralities and observations). Then there are two blocks on either side for the public, surrounded by books. That is apt too. The difference between ‘us’ and ‘them’ is the law books, the reports that give them the tools to zero down my case to a certain section. Then we go for lunch. A notice is intriguing in the Supreme court canteen—“Interns/clients/staff are not allowed to enter the cafeteria during lunch hours, 1-2 pm.”

Entry 2: Law’s Structure, Law’s Profession

When I entered Tis Hazari court, the atmosphere at the gate was not really of a district court meant to deliver justice. What is/should an ideal atmosphere in a district court be? The touts and paid workers of the advocates stood right at the gates seeking visitors whom they could grab and take directly to their respective advocates and, hence, draw commissions. The condition of the place at the back gate of the court, where the advocates were provided a space to sit with a chair and table was more than worse. The whole idea of law as a profession reaches the doom the moment one sees that the space is completely messed up and littered, with no sense of discipline, but only a space to earn money as much as the workers and the advocates can manage in a day.

It was the wall of fame, in the Supreme Court Museum, which belonged to the chief justices of the country and the judges of the Supreme Court. To my surprise, I found only two women judges in the history of the court and no woman as the Chief Justice of India. One could reflect upon as to why is it that we have so few woman justices in the court. Is there something in the

structure of law which discouraged women or is it the wider structure of the patriarchy which was much more profound in the history of India?

Entry 3: Language(s) and Stereotypes

The interiors of the family court, inside the Tis Hazari court, glorified the family “bond” through the walls of the courtroom which were plastered with drawings, made by children, of an “ideal family.” The images seemed to suggest a family of a heterosexual couple and one child, with a few exceptions depicting two children. It was interesting to observe that the family court logo, with a young couple and a child in between, itself promoted a ‘one child’ family where the child depicted in the logo is a boy.

Language, both spoken and unspoken, and the manner of its use within the court were quite fascinating. The first observation under this theme would be that of silence. The presence and promotion of silence inside and outside the courtroom were quite explicit. From signs around the courtroom asking people to remain quiet to the presence of the judge, silence seemed to be a language in its own right.

Spoken language too had its own hierarchy in play. Most of the argumentation and case presentation was done in English; Hindi as a language of articulation was seldom used. The use of English as a language of articulation projects the court as a site of modernity and, hence, rational thinking. However, when it comes to the written word, notices and signage put up around the court complex were bilingual, written both in Hindi as well as English. Legal language was observed to be mostly factual.

Entry 4: Space Within a Site

The second time I visited Tis Hazari, I was determined to blend in and avoid the questioning gaze as much as possible. Wearing dark semi-formal clothes, I visited the complex by myself, armed with a notebook and pen, constantly moving, trying to look as ‘purposeful’ as I could. One of the first things I noticed as soon as I entered was that how overwhelmingly male-dominated the space felt. There were hardly any women to be seen, with most of them concentrated around the family courts. In addition to the skewed gender ratio visible in the people present (or not) in the court complex, there were also some infrastructural factors that reflected the heavily gendered nature of the court, the most significant of them being toilets. While there were equal number of doors—five each—labelled “Gents Toilet” and “Ladies Toilet,” it was interesting to note that the toilet facilities for gents were equipped to accommodate more people than the toilets meant for ladies. It is important to note that while the court complex only recognizes two genders, when it comes to toilets, they do provide a gender-neutral alternative that a transgender person could access, in the form of toilets for disabled persons. The signs for these toilets read, “Toilets for Disabled Persons” with a gender-neutral stick figure of a person in a wheelchair. They are interestingly found not just on the doors of the toilets but also at the beginning of every staircase along with helpful pointers about where to find them on each floor. These toilets are large, equipped with anti-slip floors, wide doors, steel bars on the wall to hold onto, multiple urinals as well as closed stalls.

Entry 5: Lawyers and Labyrinth

The court complex is itself labyrinthine, very Kafkaesque, an outsider could easily get lost without a guide. Moreover, it didn't help that the distance between lifts and courtrooms was painfully long. One could only cover the court complex on foot. Throughout the visit, I was constantly thinking how difficult accessing this space must be for a person with walking disability.

From a very superficial vantage point, it seems that everyone present in the court has an agenda, which is mostly centred on litigation; mere observation is a deviation from the normal functioning of the court. Observation is normal, for a law student though. What I was struck by, most significantly, was the arrogance and bravado with which lawyers claim an ownership and entitlement to the court as a space. The court, paradoxically perhaps, is a public service centre, in its conception at least, which citizens approach to access justice. The sense of entitlement, for the lawyers, perhaps emerges from claiming the space as a workspace, which we as citizens cannot have a claim to. However, this still makes one wonder whether other employees of the court complex, from the people working in accounting sections to the people working in sanitation, can lay claim to a similar sense of entitlement?

Engaging with the diary notes as the sociology instructor

The power of/from the field is uncontested. Even at the level of masters, I have found high levels of observation and a sociological engagement with the question. It is necessary to record that for most, if not all, this exposure would be the first time inside a court premise. Like a hospital, the court is also visited only on purpose, either through profession or because of a future profession in law. One of the chief enquiries that people in the court premises have of a group of people 'visiting' the court is whether these are law students. They are amused, amazed, shocked, or even disapproving of 'non-law' students coming to court premises without really any purpose. The purposefulness of the space of the court and who all legitimately can access it is nearly set as protocols, that the mere "purposeless" presence of students from social science, mainly women students, disrupts the space in multiple ways. Also, most students in their diary reflections do write that this was their first visit to a court and how they find the premises to be overwhelmingly masculine. The purposefulness makes it even more questionable for a MA social science student as opposed to a law student to visit a court site.

The court visit assignment attempts toward interrogating this fundamental question itself—who can be a part of the court premises? And, through raising this question addresses transformation:

- a) To really visit a court without being connected to law academically is in itself unimaginable and not commonly practiced.
- b) Being present in the court premise in a group of 30-40 makes it a sight of curiosity for others.
- c) Reflection on the probabilities of what law and justice could start to mean.

Feminist Experiments And Journeys

This field activity is intended to look at law where it happens, and it is in its foundational sense

that this reflects of a feminist pedagogic practice. Looking at and knowing the context is a deep ethnographic experience. While three-four days of court visits is definitely not ethnography, yet it gives the taste and interest of being in the field—what the field can ‘tell’ as well as the tales of the field. This is also to a large extent an exercise in knowing the city through its institutions and the people who are part of them.

The Tis Hazari district court we visited as a part of this assignment is merely 1.3 kilometres from Ambedkar University Delhi campus—we have walked the distance or used the metro (one station) and it is also a journey toward navigating the city. Any feminist pedagogy is a practice of empathetic knowing and given that courts play an important role in our everyday lives, engaging with the histories of these courts and their contemporary states is important through a course on law and society.

Over the years the kind of questions students have found interesting to explore in their reflexive essays, which complements the field diaries they write, have been around: a) mediation centres and the ways of ‘settlement’ of family matters in these centres; b) presence of and domination by lawyers in a court premise—which usually is represented by a ‘body of men;’ c) what kinds of class-caste-gender privileges or marginalities ensure or prohibit or create hesitation in accessing the court premises; d) washrooms in the court premises and the insistence on bi-gendered ones, where transgender people access the washroom which is meant for persons with disability; e) what are the processes of archiving the court; or f) the language in which court proceedings take place—the silences that are evident in these proceedings.

These visits always make students more conscious and aware of a life beyond the classroom – of a life which carries on in the courtroom every day, led by the other (a professional other, or a litigant other) and never by these students. There is an interesting way in which the court and those who access it are always otherized by the social science students, by which it also means that dispute is distanced from oneself. The purpose of these visits is, therefore, to come close to disputes, but then also understand the multiple legal meanings through which dispute is negotiated or resolved—which gives one a sense of justice. Courts represent democracy in all its complex existences—both in its power as well as the promise that it holds—to access them is an indication of a desire for transformation. The court visits enable the creation of feminist knowledge, as well as lend meaning to the feminist knowledge that was transpiring in the classroom, by engaging with questions of voice, silence, evidence and testimony. There is a raw/real way in which power is felt in the court premises, which although necessarily experienced in one’s own life is yet not? always reflected upon. The journey to and from the court lends a transformative feminist experience toward modesty—a reflexivity on the self as well as on the structures through which the self is mediated.

Acknowledgments

I wish to express my gratitude to all the MA Law and Society students at Ambedkar University Delhi whom I have taught from 2013 to 2016. It has been because of their receptiveness and co-operation that I have been able to attempt and evolve the pedagogic experiment that I discuss in this paper. Thanks are due to Prof. Krishna Menon, who discovered something interesting in this courtroom exercise to be reflected upon and written about.

Works that have influenced this essay

Basu, Srimati, 2015. *The trouble with marriage: Feminists confront law and violence*: University of California Press.

Baxi, Pratiksha, 2008. Feminist contributions to a sociology of law: A review. *Economic and Political Weekly* 43(43): 25 October, 79-85.

Baxi, Upendra, 1986. *Towards a sociology of Indian law*: Satvahan Publications, Delhi.

Chaudhuri, Maitrayee, 2002. Learning through teaching the ‘sociology of gender.’ *Indian Journal of Gender Studies* 9(2).

Rayparol, Aparna, 2011. Teaching gender in Indian universities: Reflections on feminist pedagogy. *Sociological Bulletin* 60(1): January to April.