Regulating the Built Environment
Issues

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The built environment

- What is a built environment - man-made surroundings - buildings, parks, cities, infrastructure.
- What does society need from a built environment? - Habitable ecosystems for human sustenance and growth.
- The built environment develops in an organic manner, aided by degrees of state intervention.

Need for regulating the built environment

- The rationale for requiring regulation stems from risks posed to the health and life of members of the general public.
- Two roles in which the state is involved:
    - ensuring provision of commons, infrastructure - buildings, parks, dams, roads, highways, sewage systems, etc. Includes PPP, procurement, direct provisioning and other contracting.
    - regulating - ensuring the built environment achieves the right balance between costs, risks, quality.
- The first does not involve regulatory functions as the state is a direct provider/ enabler.

Trends in the development of the built environment

- Regulatory state less relevant when state has a pre-dominant role in providing the built environment.
- However, reliance on third-party skills has increased exponentially.
- Role of state has shifted - from using taxpayer money to using private resources.
- Massive creation of infrastructure using private capacity and both private and public capital from the XIth plan onwards.
- State is becoming more of an enabler:
  - Roads, highways and airports being built on PPP basis.
  - Boom in construction of private residential and commercial real estate.

Emerging need for regulation

- Reliance on specialists such as architects and civil engineers increases risks - diversity in quality of services, (design, construction standards).
- This creates space for market failure the state has a duty to prevent -
  - consumers do not know what they are buying - information asymmetry.
  - propensity for minimising private costs - stems from lack of information.
  - poses potentially incalculable risks to human life and health.
  - Ex-post actions extremely expensive compared to preventive steps.
  - At present, state is not equipped to prevent this failure adequately.

We face huge availability constraints

- The relevant professions- architects (somewhat professional) - professional, engineering (not a profession).
- NASSCOM & McKinsey (2005) - 75% engineering graduates not employable by MNCs. State also requires skilled engineers for monitoring.
- Blom & Saeki (World Bank, 2011) report 64% employers only somewhat satisfied with engineering employees. Also argue that quality went down due to 8-fold increase in number of enrolled students between 1998 to 2008.
- If state has to perform a regulatory function, it is equally handicapped by the lack of availability of professionals.

Puzzles to solve

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- Capacity building critical at local body level.
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- Key ingredients - ensuring quality architects and civil engineers.
    - Increasing quality of civil engineering profession - greater professionalism.
    - Increasing availability of these professionals.

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- Law does not need to recognise most professions: Market creates them.
- Very little success worldwide in state attempting to create professions through regulation.
- Two identifiable risks:
  - is the professional qualified to provide a service?
  - has the professional provided services as per acceptable standards?

What is meant by greater "professionalism"

- Good professional standards based on theoretical knowledge, coupled with experience - Creation of meaningful and relevant entry barriers.
- Bright-line tests that help consumers differentiate between "recognised" professionals and unrecognised ones.
- Clear signals that non-adherence to standards and codes have consequences for errant/ unfit professionals.

Self-regulation is a viable method

- World over, professions have developed self-imposed methods of creating these requirements - professional self-regulation.
- Validation by peers who are collective keepers of expertise and knowledge has proven effective.
- Membership of professional bodies has enabled members to signal quality and expertise.
- Four stages of development -
  - Formation of professional associations. Primary incentive is to service members.
  - Associations formalise designations, codes of ethics and standards, sophisticated monitoring systems, and a discipline process. Incentives change - signalling quality.
  - Associations seek recognition from state through some form of delegation of authority.
  - Last step: State recognises professions and professional associations as self-regulatory bodies.

Issue: Limits of regulation

- State-led development of professions in India has had limited success:
  - Statutory SROs function do not deter misconduct.
  - State creates monopolies of SROs - outsized market powers and disincentives to regulate.
- Should the state do anything?
  1. Designating engineering as a "profession" by law?
  2. Recognise professional associations as keepers of the profession?
  3. Incentivise associations to behave like SROs through a law?
  4. Remove barriers to growth of SROs. Refrain from limiting numbers or creating monopolies?
  5. Education and training?

Ex-post actions

- How does the state ensure professional has provided services as per acceptable standards? - Multiple methods possible.
  1. Deterrence - Fear of expulsion from SRO and consequent loss of business?
  2. Post-service inspections/ audits. Directly by state, or may be mandated by another professional. Consequences for auditing/ inspecting professional if things go wrong.
  3. Direct inspections/ audits by state will require capacity augmentation. - How do we do this?

Issues for discussion

- What is/are the precise market failure(s) regulation of the built environment aims to address?
- How should the state build capacity for improving regulatory enforcement?
- Is greater professionalism of architects and civil engineers a solution?
- If yes, what mechanisms can induce greater professionalism (state regulation/ self-regulation/ hybrid models)? What are the costs and benefits?

Thank you.