

Justifying planning decisions: Institutional response to planning objections in Israel

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Abstract

This paper presents our study of current planning ethics and power-knowledge relations, mapping and analyzing the ethical frames used by institutional planners to justify their decisions in eight central and peripheral Israeli cities. While objections hearings are the main procedure for public participation in Israel, the planning committees are obligated to explain all their positive and negative decisions while explicitly regarding oppositions to new schemes. Studying these answers, we find how the very notion of public interest is defined and articulated in terms of economic, legal, architectural, social and environmental reasoning. Tracing the ethical rationales leading the discourse we also learn how planners conceive their own agency in current urban citizenship. We thus map the incremental justificatory notions by mutually analyzing procedural and substantial terms of distribution, participation, recognition, capability and responsibility. We focus on the following questions: **1. How is the public interest defined and shaped in the institutional response?** Is there a set of hegemonic justifications in the planning institutional discourse? How does government perceive its responsibility to serve the public interest? What types of third-party rights or development prospects are often highlighted? **2. What variations are evidenced in the patterns of planning justification?** Are there variations according to the geographic area or to the socio-spatial status of the objectors? Can we identify patterns of closeness and openness towards particular social groups or demands? **3. What can we learn about the level of discursive communicability in planning institutions?** Do the planners present governmental positions or their own disciplinary frames?

Key words: Public interest, planning justification, urban citizenship, institutional planners, objections

Introduction

In the last years planning proposals have increasingly raised public debates in Israeli cities, over social and environmental justice, identity politics and democratic decision-making, among others. Although of wider public significance, and despite recurrent claims on the need to democratize planning, most debates have been effectively channeled through the institutional procedure of objections' hearings. In this framework, the Israeli Planning Law mandates all planning committee professionals to justify their decisions following the

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hearings, with a detailed written explanation to each objectors' claims. The proceedings of the Committees are now all available to public scrutiny on the web, thus offering a unique opportunity for the empirical examination of current planning ethics and power-knowledge relations in the Israeli planning field.

In researching this data we focus on identifying what constitutes the public interest in Israeli institutional planning practice today, and critically analyze how planning choices and decisions correlate with the varying socio-spatial positions of the projects and actors at stake, and how the committee members perceive their own social role in serving different publics in Israel. We argue that adding a sociological dimension, that takes into account how ethics in planning interlink with socio-spatial inequalities, is crucial for engaging with the larger debates on urban citizenship animating current social struggles.

The growing academic interest in urban citizenship reflect increasing social unrest and mobilization addressing urban issues and increased demand for democratization and deliberative planning practices (Held, 2006; Heally, 1996; Inns and Bohr, 2004). Notions of urban citizenship, we believe, are especially relevant regarding the ethics of institutional planners whose role is to both promote the public interest, and advance growth and real estate activity simultaneously. In this capacity, their conceptions and decisions inevitably impact many spatial, social, cultural and environmental aspects. Questions of responsibility, pluralism, fairness, social justice and equality connect their daily decision making to grand social narratives at the heart of urban citizenship (Campbell & Marshall, 2000). We thus suggest that planning justifications in objection hearings offer a prolific arena for examining institutional views of urban citizenship in action, as they define who is considered a citizen, on what grounds rights

and obligations should be accorded, and how distributive and redistributive justice are to be attained promoted.

Urban citizenship and the "Public Interest" justification

As research on urban social movements shows, claims on the right to the wide variety of demands such as the right to affordable housing and environmental justice, as well as the right to participate in planning the city, and ultimately, the right to be in and make use of urban space itself (Clarke and Gaile 1998; Holston and Caldeira 2008; Mayer 1994). Such contestations touch upon basic issues of urban citizenship, reflecting deep-seated conflicts between local communities and residents and the political and economic interests driving urban development (Ellis, 2004; Kemp, 1990; Lake, 1993; Burgess et al, 1988; Burningham and Thrush, 2001). In this manner, planning institutions are compelled to explain and justify their choices in ways that resonate with the wider issues mobilized by urban contest.

In this context, the idiom of the "public interest" serves as key concepts for justifying planning decisions. Critical scholars have documented how planners' choices and justifications frequently conceal the unfair distribution of rights and obligations and reflect narrow understandings of what consists the public interest (F. Plöger, 2001; Richardson, 1996; Alfasi, 2003; Yiftachel and Huxley, 2000). Yet since the 1960s, "public interest" has been defined in relation to procedural democracy and distributive justice norms (Innes et. al., 2004), and planning institutions articulate specific notions of it in their quest for professional and institutional legitimation (Alexander, 2002; Campbell & Marshall, 1999). In fact, conceptions of the public interest are tied to the very validation of planning as public institution. The institutional history of planning points to hard-won debates from which the profession drew its legitimacy to become an inextricable part of state bureaucracy and a form of scientific expertise at the service of the public

benefit (Klosterman, 1985; Friedman, 1987). The institutionalization of planning was indeed due to welfare states' conceptions of a normative and shared "public interest" (Campbell and Marshall, 2002), perceived as an "objective of duly authorized governments carrying out activities necessary to the welfare of the community" (Grant, 2005, page 48). Thus, the legitimacy of planning as an institution and a form of rational knowledge was re-opened with the decline of rational- welfarist frameworks since the 1970's (Klosterman, 1985), while substantive and procedural questioning regarding the nature of "good planning" aligned with the demise in planner's legitimation as professionals "healing" society (Friedman, 1987). The current credibility crisis relates first and foremost to planning criteria and to planning institutions. In the urban field, scholars showed how intensified neo- liberal strategies, privatization and divestment of many government responsibilities brought up growing procedural and ethical concerns (Harvey, 1989; Heally, 1992; Tasan- Kok, 2008; Fainstein, 1991, 1994; 2013; Sagalyn, 2007; Teitz and Chapple 2013; Krumholz 2013; Brlow, 1995; Rydin, 1999; Brenner, 2003; Hasson, 1997). As "a collective goal is not a sufficient justification" for according or denying individuals rights (Dworkin, 1984, p, xi), increase of objections by local NGO'S, neighborhood committees and third- right parties was evidenced. These agents tackled not only specific planning issues, but also the institutional accountability of planners in serving the public (Ellis, 2004; Lake, 1993). At a deeper level, by objecting planning decisions they questioned the legitimation of the planning institution as a fair or just arbiter of conflicts operating in the name of [hared citizens' right or public interest .

These legitimation crises provides the context for our analysis of planning justification in Israeli cities. Yet our preliminary tracing of current planning hearings in Israel shows that the notion of "public interest" still underlies much of the discourse produced by planning authorities when explaining their decisions. The terminology has

been also traced in other recent studies of planning debates in Israel, showing the supremacy of legitimating arguments adducing the common interest over self-interest or special interest (Alfasi, 2004; Carmon, 2007). It is n planning. According to Ernest Alexander, "for planners and the planning profession, the public interest has always remained relevant as a legitimating principle and a norm for practice, even while philosophers and political theorists debated its existence" (Alexander, 2002: 227). Despite the growing uncertainties in regard to its meaning, the idea is still vital in legitimating planning as state activity (ibid; Campbell and Marshall, 2002), as a norm for professional institutions and planning practice (Campbell and Marshall, 2000) and as a criterion for evaluating policies, projects and plans (Alexander, 2002).

With "the public interest" thus currently conceived as a "flexible construct for the articulation of disparate views (Grant, 1994, p. 73) we claim that tracing the p ethical schemas planners draw to legitimate their decisions when invoking public interests is crucial for unraveling wider notions of urban citizenship and related debates. In line with current understanding that urban space itself has become the subject for claims to citizenship' rights (Jessop, 1997; Brenner, 1997; Kearns, 2000), we thus examine how the notion of public is currently defined, how planners claim it is to be served and on grounds; what lines of urban development are to be pursued, etc.

Research questions

The paper presents preliminary findings of our study of the justificatory logics underlying the institutional world of planning and how they link to different socio-spatial correlates. Planning objections in Israel have been the subject of earlier empirical research. In their study of planning objections hearings for the years 1999-2001 Carmon (2007) and Carmon and Alterman (2011) compared the legal procedure in Israel, England and the Netherlands, and focused the procedural aspect of planning hearings and the degree of

democratization in the Israeli system. Others have carried out substantive discourse analysis of specific planning debates that pays attention to the content of planning rhetoric and its dynamics (Alfasi, 2004; Portugali and Alfasi, 2008; Fenster and Yacobi, 2005). We looked at the national scale. Our analysis traces both substantive and procedural contents of planning hearings, explanations and decisions and aims at grasping hegemonic notions as well as varying framing of planning justifications.

Drawing on an empirical analysis of more than 2500 justification claims handed by institutional planners in five central and peripheral planning committees and regarding eight Israeli cities between the years 2010- 2013, we ask two main sets of questions:

- 1- How do planning institutions define what the public interest is? What is the frequent balance between their aesthetic, historic, economic, legal and environmental values? Is there a set of hegemonic justifications? How do institutional planners perceive their professional expertise, their commitment and attachments?
- 2- What variations are evidenced in the patterns of planning justification? Is there a correlation between the ethical frames justifying planning decisions and the socio-spatial position of the cities and neighborhoods where planning projects are taking place, the type of actors submitting the objection (public-private), and the timing of the decision (before/after social justice mass protests)?

Given the changes taking place in the Israeli public discourse in the last years regarding socio-spatial debates and urban protest, we also hypothesized that planning justifications discourse might reflect a move towards different notions of democratic and substantive aspects of urban citizenship. In this manner, we also compare socio-spatial affiliations associated with its variations (for example, in central vs. peripheral areas) and see how the justification frames and framing were used to impact substantial planning conflicts.

Methodology

The selected committees cover most of the national area and a majority of its urban sites, and the selected cities were sampled due to comparatively intensive planning activity and building activity in recent years, and to represent a variety of sizes, centrality and marginality, locations, ethnic and socio- economic arenas.

	Population*		Socio-economic ratio\	marginality ratio ratio**	Number of schemes issued 2010-2013	Regional planning committee
	residents	Ethnicity				
Tel Aviv- Jaffa	418,590	Mixed	8	10	244	Tel Aviv
Petach Tikva	219,303	Jewish	6	9	209	Center
Beer Sheeva	199,334	Mixed	5	5	112	South
Holon	186,399	Jewish	5	9	59	Tel Aviv
Ashkelon	123,478	Jewish	5	6	59	South
Lod	71,642	Mixed	4	8	57	Center
Kiryat motzkin	39,228	Jewish	7	6	25	Haifa
She'faram	38,717	Arab	3	5	103	North

* according to the Israeli central Census, 2013 **accessibility & distance from Tel Aviv.

Table 1: selected cities and planning committees

We believe that this sample covers the various notions of Israeli urban citizenship, and enable a thorough outline of the hegemonic legitimating features as well as the social meaning of their variations. We used quantitative and qualitative tools:

1. We identified all planning schemes that had registered objections in the 8 cities under study in the relevant years
2. For each scheme, we traced the following independent variables: the planning components (size, height, relation to the urban context, land use), the location of the project according to the marginality ratio and socio-economic ratio of the city and of the project within the city; ethno-national affiliation of the objectors.
3. We identified the ethical frames underlying each justification handed by the institutional architects and planners to explain their decisions. The ethical frames were identified in two-stages: first, we conducted a pilot analysis and inductively singled out the main ways in which the committees justified their decisions. Second, we built a list of 9 main

substantive or ethic frames.

Justification frames

Analyzing the justification claims we found the following main substantive or ethic frames:

- 1. Aesthetic Justification:** refers directly to Architectural features, urban typology and urban beauty.
- 2. Historic Justification:** refers to preservations and local legacy
- 3. Environmental justification:** sustainability, traffic and other infrastructure needs.
- 4. Social justification:** refers to distribution of housing, public buildings and public spaces, to residential density, community, neighborhoods' socio- spatial standards, to social unity, regeneration and encouragement etc.
- 5. Property Rights Justification:** refers to such rights of the projects developers and the assets owners involved.
- 6. Economic Justification:** refers to economic goals, leverage and accountability in the project, to developers' exactions, finances and economic public benefits.

In addition, we realized that many of the planners claims do not provide concrete substantive justification of the type listed above, but rather emphasize the planners' disciplinary' knowledge, education and institutional framework. We thus defined three "expertise" frames:

- 7. Substantive expertise:** focus the supremacy of the inner disciplinary knowledge, for example: The committee feels that the influence of the plan, once realized, will be minimal. , Neither this nor that cause an invasion of privacy excessive in any case exists in the dense development of a metropolitan urban center. The committee was thorough in its analyze and consulted several experts".

8. **Procedural expertise:** focus the institutional planning practice and terms.

9. **Standards and codes:** relates to existing plans, laws and codes.

In the analysis we will re-code the PSE (Procedural and Substantive Expertise) and SD (Standards and Codes) as an overall frame called: Institutional self-justification.

Preliminary Empirical Findings

We classified each one of the justificatory claims in each one of the projects according to this list of framings, and according to each one of the socio-spatial independent variables above mentioned, and counted their frequencies.

1. *Number of justifications per city:*

We computed the number of schemes objected, the number of objections, and the number of justifications handed down in each city.

The number of schemes are mostly related to the size of the cities. As for the number of objections: we found that it does not always correlate with the number of schemes. For example: Holon, a small city in the Tel Aviv metropolitan first ring, has almost the same number of objections as Tel Aviv while it has a 1/6 of Tel Aviv's schemes. Interestingly, in Arab towns and areas we surveyed, the ratio between number of schemes and of schemes with objections was substantially lower.

	Population*		Socio-economic ratio\ marginality ratio ratio**	Total number of schemes issued 2010-2013	Number of schemes objected (% of total scheme)	Number of Objections handed (relative to objected scheme)	Number of Justification claims (relative to objected scheme)	Regional committee
	residents	Ethnicity						
Tel Aviv- Jaffa	418,590	mixed	810	244	46 (18.8%)	115 (X 2.5)	1550 (X 33.7)	Tel Aviv
Holon	186,399	Jewish	59	59	8 (13.5%)	104 (X 13)	527 (X 65.8)	Tel Aviv
Petach Tikva	219,303	Jewish	69	209	13 (6.2%)	57 (X 4.4)	454 (X 35)	Center
Lod	71,642	mixed	48	57	7 (12.2%)	27 (X 3.8)	150 (X 21.4)	Center
Kiryat Motzkin	39,228	Jewish	76	25	5 (20%)	6 (X 1.2)	48 (X 9.6)	Haifa
Ashkelon	123,478	Jewish	56	59	6 (10.1%)	8 (X 1.3)	14 (X 2.3)	South
Beer Sheeva	199,334	mixed	55	112	12 (10.7%)	13 (X 1.1)	27 (X 2.2)	South
She'faram	38,717	Arab	35	103	13 (0.12%)*	43 (X3.3)	45 (X 3.5)	North

Table 2. Schemes, objections and justification claims per city

*Several reasons can be hypothesized on this regard such as the lack of trust of members of an ethno-national minority on institutional authority and/or their fairness, especially regarding highly volatile issues such as land use and planning; or that members of disadvantaged minorities will tend to refrain from

objecting to projects developed by their co-ethnics in their areas of residence.

Regarding the number of justification claims we get another interesting picture: The

committee in dealing with the central area (Tel Aviv) raised many more justification

claims than other committees. We can fairly see correlation between the affluence and

centrality of a city- and the effort put by the committee's to justify their planning

decisions.

2. *Justification frames in general and per city*

In general, the most frequent concrete justification frame is the environmental. Yet, when we combine the PSE and SC, we get twice as many as the environmental frame and half of the entire sample.

Justifying by social, property, aesthetic historic or financial claims is less common. The latter three are the last in number, but indeed the main components around which neo-liberal planning in Israel revolves nowadays. This means that planners are highly invested in urban beautification, preservation and financial partnerships they justify their doing by "wider" public interests.

When we break justifications by city, we didn't find a consistent correlation of frame and the location of the city. But the distribution of frames frequencies according to the location of the project in the socio-economic index nation-wide, we found that the PSE and SC frames are more common in justification regarding the lower ranks of the SES.

3. *Justifications by land use (type of project)*

In each one of the categories of land use, we find as expected justifications taken from the substantive area of the project (environmental, historic, etc).

Yet, in regard to land uses that are controversial but not part of local daily life (like: tourism, historic preservation and industry), the appeal to institutional power is less

frequent. The same goes for large projects that incur a major change in the urban context. We interpret this finding as reflecting planners' awareness of the need to give considerable substantive justification regarding projects that are likely to be more contentious.

4. *Type of justification per year*

As already mentioned, our study spans the years 2010-2013. We now pay special attention to the patterns of social justificatory frame and whether its use changed after the so called social justice protests that took place during summer 2011. During this time, unprecedented social protests took hold of the streets and the social media, starting in Tel Aviv with tent camps and then virally expanding nation-wide. The tent camps came to symbolize one of the main issues contended in the Israeli public sphere, namely the lack of affordable housing for the younger generation of the middle class and the lack of public housing for low class, all of which were attributed to rampant neo-liberal policies and politics taking place in Israel since the early 1980s.

We found the following: first, the most significant shift was the drop in the use of the financial and property frames in general and the rise of the social, historic and aesthetic frames. When we compare between cities, we find that in the large cities there was a drop in the institutional expertise self-justification, clear drop in the use of the property and finance frames but this did not happen in smaller cities, regardless of their location in the SES and the marginality ratio index. This longitudinal dynamics regarding the social frame is most clear in TLV where we find a dramatic increase in its use in 2013 when compared to 2010 alongside the dramatic reduction in economic laden frames. We assume that the justificatory framing of the planners are in clear disconnect from their actual deeds meanwhile as the expensive and large size projects continue to be the forefront of urban development in TLV.

Concluding discussion

Our preliminary conclusions raise some interesting insights regarding common arguments raised in critical scholarship on planning.

First, unlike arguments regarding the ongoing democratization of planning institutions as a form of institutional and professional adaptation to current critiques and social changes, we find that institutional planners still use considerable institutional symbolic power when it comes to justifying their choices. At the same time, the use of power is not done in a uniform fashion as it has clear correlation to socio-economic variables. In this context, we found that the degree of marginality of the city and the location of the project in the socio-economic map are correlated to the number of justification given by planners and to their type. Meaning that in less affluent areas the city planners are less likely to expand their justifications and they are more likely to use their institutional power as we come closer to the lower ranks of the socio-economic map.

Second, we found a clear gap between what planners say to the public in committees and the plans they make and approve "on the ground". This comes out very strongly in cities like Tel Aviv that in daily life lead clear and outspoken entrepreneurial development policies based on the triangle of urban beautification, historic preservation and PPP, but in planning committees refrain from talking about them.

Finally, we found that the rhetoric in planning institutions is tuned to shifts in public discourse. This is especially visible in large cities such as Tel Aviv where we found a clear shift towards the use of social talk following the so called in Summer 2011, despite minor actual socially-driven planning actions.

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