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The Right to Know, The Right to Live:
Grassroots Struggle for Information and Work in India

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Thesis Submitted for the Examination of D.Phil in Development Studies

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I hereby declare that this thesis has not been, and will not be, submitted in whole or in part to another University for the award of any other degree.

Summary

This study attempts to develop an understanding of the iterative and multi-scaled process involved in transforming the state from below by examining the relationship between two of the most politicised rights-based legislations in India: the Right to Information Act (RTI) and the Mahatma Gandhi National Rural Employment Guarantee Act (NREGA). Based on one and a half years of ethnographic and interview based research, and five years of working with the RTI campaign, I examine the reciprocal relationship between the rights to information and work, and the multi-scaled activism necessary to instantiate both. First, I trace different phases of the struggle for the right to information, beginning with the creation of alternative public spheres, *Jan sunwais* (or rural public hearings) that responded to demands for the right to work in rural Rajasthan. Second, as this demand culminated in a broad-based advocacy network, I examine the role of actors from diverse institutional arenas that succeeded in passing the national RTI legislation. I also look at how the same national network of activists introduced the public accountability mechanism of social audits, inspired by the *Jan sunwai*, into the new right to work law or NREGA. Finally, bringing the process full circle, I look at the ongoing efforts of the MKKS and the *Suchna Evum Rozgar Adhikar Abhiyan* (The Right to Information and Work Campaign) to implement the right to work on the ground in rural Rajasthan. In contrast to existing studies, I provide a more comprehensive analysis of the interdependent struggle for rights to information and work as one long iterative process to transform the state from below. I conclude with some reflections on the different vision of “transparency” and “accountability” emerging from rural grassroots struggles and what the RTI and NREGA experiences teach us about the possibilities for their realisation.

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List of Abbreviations

AP	Andhra Pradesh
ADB	Asian Development Bank
BDO	Block Development Officer
BJP	Bharatiya Janata Party
CM	Chief Minister
CMP	Common Minimum Programme
CSD	Campaign for Survival and Dignity
DoPT	Department of Personnel and Training
FRA	Forest Rights Act
IAC	India Against Corruption
IAS	Indian Administrative Services
IFI	International Financial Institution
IIPA	Indian Institute of Public Administration
JIS	Janata Information System
KSSP	Kerala Sasthra Sahithya Parishad
MKSS	Mazdoor Kisan Shakti Sangathan
MLA	Member Legislative Assembly
MoEF	Ministry of Environment and Forest
MP	Member of Parliament
MoRD	Ministry of Rural Development
NBA	Narmada Bachao Andolan
NCPRI	National Campaign for People's Right to Information
NREGA	National Rural Employment Guarantee Act
OSA	Official Secrets Act
PAEG	People's Action for Employment Guarantee
PCI	Press Council of India
PDS	Public Distribution System
PESA	Panchayat (Extension to Schedule Areas) Act
PIL	Public Interest Litigation
PMO	Prime Minister's Office
PUCL	People's Union for Civil Liberties
RTI	Right to Information
SA	Social Audit
SDM	Sub-Divisional Magistrate
SR	Suchna Evum Rozgar Adhikar Abhiyan
SSAAT	Society for Social Audit, Accountability and Transparency
SWRC	Social Work Research Centre
UPA	United Progressive Alliance

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Chapter 1. Introduction

State...the vexed institution that is the ground of both our freedoms and unfreedoms.

– James C. Scott (1999: 7)

It is a dry hot day in central Rajasthan, and I am in Bardliyas panchayat, with a team of ten other volunteers. We are carrying out a social audit of public works funded by the new Mahatma Gandhi National Rural Employment Guarantee Act (from here on NREGA). The Act guarantees 100 days of manual work a year at minimum wage to rural households. This social audit is organised by the state government in collaboration with a grassroots organisation, *Mazdoor Kisan Shakti Sangathan* (MKSS), and the Rajasthan-based Right to Information and Work campaign (*Suchna Evum Rozgar Adhikar* or SR Abhiyan). For five days prior to the final hearing of the social audit, an unused classroom in a primary school in Bardliyas has served as our office and living space. Every morning before school starts, we leave the premises to do the rounds of Bardliyas inspecting works undertaken in the previous year in the panchayat: gravel roads, wells, and trenches for storing rainwater.

We have with us copies of official NREGA records, such as construction *muster* rolls (a list of labourers), measurement books, and bills and vouchers for materials like gravel and cement. Until recently we would have had to use India's Right to Information Act (2005) to access such records. In order to curb corruption and ensure transparency, however, the intervention of MKSS and NCPRI activists helped to insert the right to information into the new employment guarantee scheme. NREGA guidelines mandate that all information necessary to conduct a social audit must be provided within seven days of a request.

Government records in hand, we physically inspect works and verify their quality. We match our findings with entries in the official records. We then identify individual NREGA workers from the muster roll and go door to door asking workers how many days they worked, the name of the worksite, and the total wages they received. The testimonies are tallied with entries on the *muster* roll, and we record any discrepancy. We also look for evidence that the panchayat staff and block level public officials have followed the proactive disclosure guidelines mandated by the Act: transparency boards, displayed at all worksites, must contain information related to the details of public works undertaken: the names of workers, the funds allotted to them, and the details of expenditures on labour and material. These boards, painted in bright yellow, are supposed to help villagers identify ongoing works in their panchayat and force panchayat officials to publicly disclose the details of each work. We also visit the local material supply shops, from which gravel has been purchased, and inspect invoices and entries registered in their bill books. After five days of talking to villagers and gathering data, we are ready for the social audit. A social audit principally entails placing the findings from the preliminary investigation into the public domain where it can be publicly confirmed and/or challenged by villagers. On 10 October 2009 we assemble under a tent in an open *maidan* (field).

Public officials and elected representatives from the panchayat sit on a raised platform at the front. Upper caste men of the village sit on chairs to the left of the platform. They have no role in NREGA but have come to voice their frustration with the state of affairs in their village and, in particular, the poor functioning of the panchayat office. The middle caste, lower castes (mostly members of the *Raegar* sub-caste), and especially the women who have worked on NREGA sit on the floor facing the public officials. The supporters of the elected representative, or *sarpanch*, and the

panchayat secretary or *gram sewak* are scattered amongst the crowd. Below the platform, on another table on the right, next to a microphone, stands the social audit team. An experienced social auditor and member of SR Abhiyan from Chittorgarh district in Rajasthan leads the social audit proceedings. He reads out the names of NREGA funded public works, the quantity of material used, the names of workers, and the wages received. After each reading, he pauses and asks the villagers: ‘is this correct?’

This is a new event for most villagers, and things begin slowly. There is some discontent over delays in the payment of wages and the quality of works. This is expressed not individually at the mic, but in a chorus-like manner from the floor. Public officials take written notes of the complaints. As the details pertaining to road works are read out, the exchange begins to heat up. Within days of laying gravel roads, villagers claim, the roads turned into dust tracks and the gravel disappeared. They look at the *gram sewak* and ask: ‘what happened to the roads?’ The NREGA Director for Rajasthan, a senior civil servant from Jaipur, immediately takes the microphone and summons the *gram sewak* to the front of the tent, demanding a response. In chorus, the villagers shout back: ‘he can not tell us anything, he never went to the worksite’. The *gram sewak* ignores the allegations. He tries to explain himself, suggesting that the findings of the social audit team are misleading. He insists that the team did not visit the particular roadwork under dispute. Immediately, the director sends a senior engineer (from the public works department in Jaipur) to the disputed worksite. The *gram sewak*, two villagers who worked on the road, and two members of the social audit team accompany the engineer. Meanwhile, the social audit proceedings continue.

The executive engineer returns from the worksite and confirms the allegations made by villagers. The *gram sewak* however, persists there is no discrepancy. Doubtful

of the *gram sewak*'s intent, the director visits the worksite himself. He returns without the *gram sewak*, who reappears a half-hour later carrying a cheque for one hundred and thirty one thousand rupees, which he hands to the director. Next, the director summons the junior technical assistant who certified the roadwork. We learn that the junior technical assistant has fled from Bardliyas. The director asks me to draft a first information report (FIR) against the junior technical assistant, quoting the relevant sections of the Indian Penal Code. He signs the FIR and hands it to the police officer. The *gram sewak* is suspended until further notice. The social audit *gram sabha* comes to an end.

This remarkable process and outcome in Bardliyas panchayat stands out as an uncommon inversion of the pattern of citizen-state relations in rural India. It illustrates a new mode through which ordinary citizens, in this case, rural peasants and workers, are opening up or transforming parts of the Indian state: the social audit. The foundation for the social audit was laid with the creation and use of the *Jan sunwai* (public hearing), which eventually led to a demand for legal right to information. I argue that in addition to a national law guaranteeing a citizen's right to know, the ability of ordinary citizens to ensure state accountability is significantly enhanced when accompanied by the use of decentralised deliberative platforms, such as the *Jan sunwai* and social audit. In this study, I will show how this emergent form of citizen-state engagement that I describe above has been made possible by the multi-scaled activism for rights to information and work.

The vision of transparency and accountability that has informed this activism contrasts with the more middle class activism against corruption embodied in the recent India Against Corruption (IAC) campaign. Fanned by the Indian media, IAC leaders cast grave doubt on existing institutional avenues and tools, including the right to

information law, available to remedy endemic corruption in India. According to the IAC Campaign, which emerged in response to the financial scandals implicating the Congress-led United Progressive Alliance (UPA) coalition government, curbing corruption demands a central ombudsman, or 'lokpal,' that would have unlimited powers to pursue corruption in government. In this vision, an all-powerful authority is needed to purge the state of its sins.

In contrast, MKSS and the National Campaign for People's Right to Information (NCPRI), pioneers of the Right to Information and NREGA social audit, see transparency and accountability as inextricably linked to social justice and seek to democratise the state for those who need it most. Transparency and accountability do not have the same meaning to all classes of citizens. As expressed in the most widely used RTI slogan—'the right to know, the right to live'—MKSS and NCPRI understand the right to information as a right to have other rights, such as rights to work, food, and education. For poor peasants and farmers working on drought relief works, their vision of transparency and accountability is directly linked to their daily struggle to earn a livelihood. That is, denial of information is synonymous with denial of minimum wages and their right to work.

Existing studies have focused on the initial stages of the struggle for the right to information, its relation to the struggle for the enforcement of minimum wages, the role of MKSS, its innovative strategies to confront the state administration (Jenkins and Goetz 1999a, 1999b, 2003; Mander, 2003; Mishra, 2003), and the organisational strategy of the NCPRI to enact a national RTI law (Baviskar, 2007; Singh, 2007, 2011). In contrast to these existing studies that focus on isolated sequences of the struggle for the right to information, this dissertation focuses on the *entire* trajectory of the rights to information and work, drawing attention to the iterative and multi-scaled process

involved in trying to achieve enduring transformation of the Indian state. Such a focus suggests that these isolated sequences have meaning in the ‘long arc’ (Houtzager and White, 2010) of activism that can only be captured by extending observation over time (Burawoy, 2009). Based on sixteen months of ethnographic and interview-based research conducted after five years of working with the RTI campaign, I examine the reciprocal relationship between the rights to information and work, and the multi-scaled activism necessary to instantiate both.

This dissertation views the rights to information and work as interdependent rights and examines the struggles for them both as a single trajectory of activism aiming to “open up” the Indian state. This activism is shaped by the pragmatic difficulties posed by an Indian state that is multi-layered and whose different layers are differentially embedded in society. As I will show, the interdependent struggle for rights to information and work evolved through iterative attempts to engage and resist different levels of the Indian state, strategically shifting levels at crucial moments to overcome blockages at one level or take advantage of openings at others. The trajectory of this ‘long arc’ of activism, taken as a whole, illustrates both the possibilities and challenges that face grassroots groups as they try to bring about a more democratic, accountable, and egalitarian Indian state.

THE ‘LONG ARC’ OF MULTI-SCALED ACTIVISM

Writings about the right to information in India have MKSS and the National Campaign for People’s Right to Information (NCPRI) as their focus. What has been told has come in journalistic accounts (Dogra and Dogra, n.d.; Bakshi, 1998; Mishra, 2003; Khaitan, 2009), documentaries, and writings of prominent activists (Roy and Dey, 2001, 2002; Roy, 1996; Kidambi, 2008; Sampat and Dey, 2005; Mander and Joshi, n.d.;

Singh, 2007, 2011) as well as scholarly work. The early analyses draw attention to MKSS's innovative campaign strategies, which include: 1) the development and use of 'popular audits' (i.e., the *Jan sunwai*) to combat corruption and to confront the local level of the state (Jenkins and Goetz, 1999a, 1999b; Mander, 2003; Mishra, 2003; Corbridge et al, 2005) and, 2) NCPRI's strategy of seeking out state actors to build a broad-based coalition for a national law (Baviskar, 2007).

These existing studies on the right to information can be categorised under two broad theoretical approaches—the accountability framework (Jenkins and Goetz, 1999a, 1999b, 2003; Mander, 2003; Mishra, 2003) and the social movements framework (Singh, 2007; Baviskar, 2007; Mander and Joshi, n.d.). The first approach (accountability and transparency) draws out the implications of the MKSS-led struggle for human rights, participatory development and anti-corruption (Jenkins and Goetz, 1999a). For instance, Jenkins and Goetz (1999a) first analysed MKSS-led *Jan sunwais*, which they call 'popular auditing'. They note that the *Jan sunwai* was an effective tool to combat corruption, and it contrasts sharply with other participatory development techniques that are less confrontational.¹ Further, they explain why MKSS, unlike other civil society actors, has been successful in combating forms of corruption that impact the poor (Jenkins and Goetz, 1999b; see also Jenkins, 2006, 2007). While I agree with Jenkins and Goetz, about the implications of MKSS's right to information struggle for human rights, participatory development and anti-corruption; my goal is somewhat different. In the case of local-level activism I am interested in explaining how the *Jan sunwai* and, more specifically, MKSS's communicative action leading up to the *Jan sunwai* converted it into what I call an 'alternative public sphere', a contentious site

¹ Additionally, Jenkins and Goetz (1999a) note that the MKSS led struggle for right to information draws attention to the 'false dichotomy' between civil political and other resource rights, such as to basic necessities: healthcare, shelter, food, and education (1999a: 608-612).

where a connection between denial of minimum wages and information was made through deliberations between villagers, government officials and activists. I build on Jenkins and Goetz's (1999a) observations and examine how the *Jan sunwai* operated as an alternative public sphere that articulated the demand for right to information. Further, I am interested in explaining what the trajectory of right to information and work tell us about the limits as well as possibilities for groups of poor people to transform everyday practice of state agencies (rather than simply combat corruption), and in turn what that tells us about the nature of the Indian state. As such, the *Jan sunwai*, as this study shows, was the first stage in a much broader campaign to democratise the Indian state in the service of greater distributional justice.

When it comes to explaining the legislative trajectory of the right to information Baviskar's (2007) analysis of the National Campaign for Right to Information (NCPRI) offers a point of departure. In an important article, Baviskar (2007) explains the success of the national RTI law as, in part, a product of NCPRI's unusual organisational strategy—namely, of 'cultivating links' with state actors—and its effective mobilisation of the 'intelligentsia'.² This NCPRI strategy, Baviskar notes (2007:16), was inspired by a similar MKSS strategy to seek out state actors during its struggle for the enforcement of minimum wages. I share Baviskar's (2007) focus on NCPRI's broad-base coalition strategy, but conceptualise it somewhat differently. While Baviskar (2007) identifies NCPRI's organising strategy to seek out state actors, I elaborate on Baviskar's argument by giving attention to an aspect of this strategy that has not received significant attention in studies of rights-based campaigns in India that prefer to focus on subaltern agents: the role of what I call, "eminent activists" and their symbolic capital.

² Additionally, she identifies other factors: an evolving international trend for enacting transparency laws, and a paradoxical domestic context, where expansion of citizenship rights has occurred alongside the rapid expansion of neoliberal economic policies that call for a reduced state role (2007:17-21).

This dissertation builds on Baviskar's (2007) useful analysis of NCPRI's organisational strategy first by further developing the important role of "eminent activists" and their symbolic capital in the campaign for a right to information legislation. More broadly, however, it places this stage of the campaign into the larger arc of activism of which it is a part, beginning with the local *Jan sunwais* (public hearings) that the MKSS organised in the rural villages of Rajasthan in the 1990s and ending with the social audits of the last few years. Examined within this larger arc, the legislative campaign for the RTI appears as one stage of a multi-pronged strategy that begins and ends with grassroots local organising. It is only the difficulties encountered at the previous stage of activism (the *Jan sunwais* examined in Chapter 3) that one can make sense of the decision to embark on a legislative strategy (Chapter 4); and it is the limits of this legislative strategy that have prompted the subsequent return to grassroots organising to implement social audits at the local and state level (Chapter 5).

In analysing the way in which the campaigns for the rights to information and work have evolved in this way, this dissertation also contributes to our understanding of the Indian state. In contrast to Marxist and Weberian views of the Indian state as unitary (Vanaik, 1990; Chatterjee, 1998; Kaviraj, 1991; Bardhan, 1984, 1989; Kohli, 1987, 1990a, 1990b; Rudolph and Rudolph, 1987), in chapter 2 I build on two different approaches that recognise the fragmentation and complexity of the Indian state (Migdal, 1994, 2001; Fuller and Harriss, 2000) to illuminate how the state appears to social movements trying to "open up" or transform the Indian state. This dissertation shows that when you examine concerted bottom-up efforts to challenge existing state practices, what comes into view is a stratified state whose different levels are differentially embedded in society. It is this differential embedding of the various layers of the Indian state that has forced the iterative multi-scaled activism pursued in the inter-connected

campaign for the rights to information and work. By studying the latter through all of its stages, this dissertation calls for a more nuanced and disaggregated view of the Indian state—one that is better able to elucidate the levers and strategies available to social movements that are trying to transform it.

Empirically, this dissertation traces three distinct phases in the campaign for the rights to work and information and shows how they evolved strategically in relationship to different levels of the Indian state. Drawing on Habermas's (1998 [1989]) notion of the public sphere, I first examine how the MKSS's efforts to implement drought relief schemes in rural Rajasthan led to the creation of the *Jan sunwai* (public hearing), which acted as an 'alternative public sphere' that produced the initial articulation for the right to information. Second, I show how MKSS tried to overcome blockage at the local and state level by broadening out of central Rajasthan to form a national network of diverse individuals and organisations to advocate for a national RTI law. Applying Bourdieu's (1986, 1991) notion of symbolic capital, I examine the specific role of the national network—called the National Campaign for People's Right to Information (NCPRI)—and, in particular, its “eminent activists” in achieving legislative success. Finally, I direct attention to the most recent—and as yet unstudied—phase of the campaign: the attempt to institutionalise the *Jan sunwai* as a “social audit” mechanism within the National Rural Employment Guarantee Act (NREGA), and to enforce its implementation at the local level. I thus examine the entire trajectory of the right to information, beginning and ending with the right to work, and traversing multiple levels of the Indian state beginning and ending at the local state. An understanding of the entire trajectory of the multi-scaled activism that led to the partial realisation of rights to information and work, can, I believe, contribute not only to our scholarly understanding of transparency, social movements, and the state, but also to the strategic understanding

of many groups in civil society. In particular, the lessons illuminated in this dissertation can benefit those movements who aim to strengthen those parts of the state to which the interests of the poor are closely tied.

MKSS'S MULTI-SCALED ACTIVISM: DEFENDING THE STATE

I draw on Hung (2011) to differentiate between MKSS's 'state-resisting' and 'state-engaging' strategies.³ Operating with a tacit theory of the state, MKSS engages where it finds space, resists where it gets blocked, and opportunistically alternates levels of the state to overcome intractable blockages. This multi-scaled process of opening up the state by combining resistance and engagement, I argue, is in part a response to the fragmented and stratified nature of the Indian state.

At each stage of the struggle for rights to information and work, as I will show, while resisting the (local) state activists continuously looked for openings within the state; where none could be found or pried open, they either switched scales or created parallel institutions. This strategy propelled MKSS to use an iterative set of tactics, basing its multiple maneuvers on the varying responses from different state levels and often successfully playing one part of the state against another. While Hung (2011) categorises movements as either state-resisting or state-engaging, MKSS continuously moves between the two, alternating between peaceful resistance and strategic engagement to extend the welfare functions of the state and expand citizenship rights. This oscillation is not unique to MKSS, and is deployed by other rights based struggles in India; however MKSS differs from other rights-based struggles because what it is seeking to achieve is quite different.

³ Also see, Tilly (1978) for a discussion of reactive and proactive movements.

Similar to other rights-based struggles in India, MKSS is not vying to capture state power (Mohanty, 2010; Nigam, 2005; Kothari, 1984; Sheth, 1983). Rather its resistance and engagement strategy, like other rights-based struggles, entails calling upon the state to guarantee rights and freedoms it is ostensibly committed to; however MKSS's ability to oscillate between tactful resistance and engagement strategies are sustained by its vision for a more egalitarian state and its core demand: to expand good state capacity and make it work for the poor. It contrasts with other rights-based struggles that take an anti-state stance to prevent infringement of existing rights (including armed struggles that seek to overthrow it) and with those that seek depoliticised forms of collaboration via voluntary and non-government organisations as a way to substitute the state. MKSS's focus is achieving new rights, and embedding new legislative gains into actual practices of state agencies. Rather than taking an essentially defensive stance to prevent encroachment on existing rights, or shrink the state by handing over their responsibilities to private and non-governmental actors. This will become clearer in the comparison between MKSS and the Campaign for Forest Rights Act to which I return in the conclusion.

The relationship between MKSS/NCPRI activists and state actors, however, should neither be mistaken as 'trust', 'faith' in, nor 'dependence' on the state; nor is it a kind of 'soft resistance' to the state. Rather as this study will illustrate, because of its radicalising potential, this interaction with the different parts of the state represents a protracted struggle to institutionalise substantive changes inside the different levels of the state. In this process, we will see that, majority of state actors remain unwilling collaborators; but the compulsions of electoral politics and the shifting power relations between different levels as well as parts of the bureaucratic, and political state draw them to seek alliances with reformists and/or civil society actors. Thus, in a

Bourdieuian sense, MKSS views the Indian state as an ‘additional’ site of struggle, and its activism signifies an attempt to ‘defend the state’ (Bourdieu, 1998) from the interests of ruling elites (at the local and national levels) while it steers the state toward more egalitarian interests.

A focus on the MKSS type of activism, then, is not meant to single out a certain type of activism and hold it up as a successful ‘advocacy model.’ Such an exercise would be futile and hopelessly undermine the diverse and vibrant tradition of ‘non-party’-political activism in India.⁴ However, I hope to draw attention to an important distinction between rights-based campaigns that are arrayed against the different arms of the state and are appropriate for their purposes.⁵ While scholars have focused attention on social movements in India that resist the coercive arm of the state and are framed as defensive/conflict struggles (Omvedt, 1993; Brass, 1995; Ray and Katzenstein, 2005; Dwivedi, 2006; Menon and Nigam, 2007; Sundar, 2011; Kumar and Kerr, 2012), rights-based campaigns to strengthen the welfare arm of the state remain understudied.

ENGAGED SOCIAL SCIENCE

The research for this dissertation utilised multiple methods, including participant observation, interviews and archival research. Apart from interviews and archival

⁴ Non-party political formation is a term first theorised by Rajni Kothari (1984), to explain the broad spectrum of people’s movements and rural-based organisations that emerged in the 1980’s, and emphasised ‘the local’ as a key site for democratising the state (see also Sheth, 1983).

⁵ I draw on Bourdieu’s (1998) distinction between the left arm (ministry of social welfare, housing) and right arm (ministry of finance) of the state to distinguish between the different arms of the state that movements in India resist: coercive arm of the state, by which I mean, departments and ministries, including the police and armed forces that infringe upon existing rights of citizens; and the welfare arm or the ministry of rural development and women and child welfare.

research (conducted at the Social Work Research Centre in Tilonia, and the Nehru Memorial Museum and Library in New Delhi) that helped to reconstruct the history of the campaigns, the majority of my fieldwork comprised what is variously known as ‘engaged ethnography’ (Schepher-Hughes, 1995), ‘locally based activist ethnographic work’ (Lyon-Callo and Hyatt, 2003), ‘public sociology’ (Burawoy, 2007), ‘observing politics in action’ (Auyero, 2006) or ‘activist anthropology’ (Maeckelbergh, 2009).

In order to observe first hand and in minute detail the kind of state-society interaction involved in MKSS’s activism, I embedded myself with the campaign for most of my fieldwork. The great strength of this approach was that it provided an up-close look at the iterative and dynamic strategies of the campaign as it responded to successive openings and blockages at different levels of the state. Situating myself in a particular village or trying to reconstruct events solely through interviews would have obscured the intricacies and dynamism of this interaction. Being a participant and observer with the MKSS also had its challenges, particularly since I had worked with the campaign for five years before deciding to research it as a graduate student.

As an activist, I had to balance my research interests with my responsibility to give back to the campaign, having obtained much—both personally and politically—from it. Over the years as an RTI activist, my skills—drafting letters, rules, preparatory notes for meetings with public officials, press releases; filing right to information applications; inspecting official documents to extract relevant papers and culling out relevant portions from RTI responses—had developed in dialogue with, and through a process of mutual education with, fellow activists. More importantly, the complex reality that I was trying to simplify, and the sustained effort at achieving a different vision of transparency and accountability that my PhD seeks to explain, was closely intertwined with the everyday lives of many villagers. Thus, my ‘fieldwork’ required

both ‘personal engagement and political commitment’ (Scheper-Hughes, 1995:419). I felt accountable to the Campaign for RTI, and decided, therefore, to make myself available to the MKSS during the course of my fieldwork.

By the time fieldwork for this study began, in September 2009, the RTI Act (2005) had existed for four years and had acquired a life of its own. Different classes of citizens were using the law actively,⁶ but the law also faced potential threats in the form of government amendments seeking to dilute its strength. In its initial conception, this study was to be focused solely on the right to information, how it was created, and how it was currently being used. Within a month of starting fieldwork, however, the link between right to information and the right to work, or NREGA, became the concrete empirical reality that drove my inquiry in the field as MKSS began to fight for the implementation of social audits in NREGA. Watching the concrete attempts to transform the right to information back into the right to work convinced me that instead of focusing on a particular stage of the campaign, I should focus on the nature of the long-arc of activism that connected different stages of MKSS’s activities.

Following the trajectory of the rights to information and work meant making different choices throughout my fieldwork regarding what to focus on and what methods to utilise. Continuous travel between Delhi and Rajasthan led me to undertake multi-sited ethnography to understand and explain the current struggle over the NREGA social audits in Rajasthan, which became the focus of my activity. Within Rajasthan, my interest in the formation of *Jan sunwai* led me to divide my time between the state capital, Jaipur, and three other districts of central Rajasthan—Ajmer, Bhilwara and Rajsamand. Bhilwara district can be called a default selection. It remains one of the districts where MKSS works. The last *Jan sunwai* of the initial phase between 1994-

⁶ A good source of the early successes and challenges of the RTI Act (2005) is a study of ten states including Delhi. See, RaaG and NCPRI (2008).

1995 was held in Dhapada village (Bhilwara district) in April 1995. Therefore, Bhilwara was one of the districts that I included in my sample. What made it central to my fieldwork however, was its selection for the state sanctioned NREGA social audit in October 2009, in which I also participated. Apart from embedding myself with MKSS, I engaged protesting panchayat functionaries, who candidly shared their predicament with me. I was also able to converse with senior politicians, who keenly explained and attempted to justify the erratic stance of the state government (on social audits) that resulted from trying to appease both its own people and societal pressure groups. Thus, during my fieldwork, I encountered both the ‘pace of political action’ and the ‘plight of political actors’ (Auyero, 2006: 258).

As Maeckelbergh (2009:24) notes, being an activist is ‘taking action...everywhere.’ Thus, during my ‘fieldwork’ as ‘activist’ and as PhD candidate, I often doubled up as a designated notes taker for various government meetings. This facilitated my entry and access to high-level government appointed working groups, such as the working group on improving transparency and accountability in NREGA, constituted by the Ministry of Rural Development, Government of India. On another occasion, I took minutes of meetings of the working group on transparency and accountability constituted by the National Advisory Council (MKSS activist Aruna Roy chaired both working groups). I also remember sitting across from the Chief Minister of Rajasthan in his office taking notes energetically as MKSS and SR Abhiyan activists discussed the contentious developments after the Bhilwara social audit. My furious note taking and silent participation was explained to a puzzled Chief Minister, to whom I was presented as both an activist and a PhD candidate.

As the designated notes taker at various government appointed working groups, and, at the same time, as participant-observer, I was able to study villagers, activists,

reformists, typical civil servants, and engaged academics in ‘their own time and space, in their own everyday lives’ (Burawoy, 1991: 2). Observing and participating in a process through which public policies are informed and changes in law are negotiated, produced and contested, allowed me to soak up the ‘nitty-gritty details of politics’ (Auyero, 2006: 258), of transparency and accountability. I was privy to debates over each clause, coma, and full stop—apart from the obviously more substantive issues like changes in amendment notes, rules, and even legislative texts. At times, however, especially in Rajasthan, it was not easy for me to gain access to high-end IAS officials. As ‘activist’ close to senior MKSS activists, IAS officials were sometimes reluctant to give me an interview.⁷ At other times, I was seen as a transmission belt. That is, protesting panchayat functionaries spoke to me about their predicament because they wanted me to convey to MKSS activists their dissatisfaction over the sustained campaign for the NREGA social audit in the state.

My affiliation with MKSS also facilitated my travel to Andhra Pradesh, where I observed state-led social audits and interviewed IAS and mid-level public officials in charge of overseeing NREGA and implementing social audits. I also travelled to Kerala—on the invitation of the State Planning Board—along with other MKSS activists to help organise a social audit of NREGA works in Trichur district. Curiously, Kerala—with its acclaimed people’s planning process—has yet to implement social audits. Prior to the panchayat elections (held in 2011) the state government organised a social audit training in May 2010 to ‘send a message’ to aspiring panchayat presidents. While I do not attempt full interstate comparisons, observing the more state-led process

⁷ I sought an interview with the Commissioner of NREGA who insisted that ‘I knew more about what was going on with NREGA and social audit in the state, than he could tell me’. I had to convince him that it was important for me to ‘get his (the government’s) perspective’.

of social audits in Andhra Pradesh helped to illuminate the more civil society-led process I was observing in Rajasthan.

My ethnography was supplemented by interview-based research in three states: Delhi, Rajasthan and Andhra Pradesh. I conducted 51 in-depth open-ended personal interviews with activists of MKSS, the National Campaign on RTI (or NCPRI), the state wide campaign for right to information and work in Rajasthan (SR Abhiyan) and villagers from central Rajasthan who participated in *Jan sunwais*. I also interviewed IAS officials in Delhi, IAS and state civil servants in Rajasthan and Andhra Pradesh, politicians in Rajasthan, panchayat staff in Rajasthan, development practitioners, and engaged academics in Andhra Pradesh, Rajasthan, and Delhi. To gather information on the early years of MKSS led struggles for enforcement of minimum wages, living in Devdungri village (Rajsamand district), where MKSS is based, I travelled to neighbouring panchayats such as, KotKirana, Umarwas, Janawad, Dhapada and Vijayapura, in Rajsamand and Pali districts to interview villagers. In addition to these interviews, having observed the ongoing struggle for the implementation of social audits in NREGA, I had to trace back from present struggles to early struggles for enforcement of minimum wages and the development of the *Jan sunwai*. For this, I conducted archival research at the Social Work Research Centre (SWRC) in Rajasthan and at the Nehru Memorial Museum and Library in New Delhi, where I examined old video recordings as well as MKSS and NCPRI reports, journalistic accounts, correspondence and articles about the struggle written by prominent activists.

To the various shared spaces to which I gained access, I found myself ideally situated to observe different levels of the state in action, both with itself and with distinct societal actors. Thus, all that I observed and absorbed over the course of sixteen months of fieldwork, through my various spatial interactions on the ground, as an

activist with MKSS, in my interactions with the ‘everyday state’ (Fuller and Harriss, 2000), and as a PhD scholar at the high level government working groups, or ‘commanding heights’ (Migdal, 2001, 1994), shaped my understanding of the on-going state-society interaction and of the attempt by civil society groups to open up the Indian state from below.

THESIS STRUCTURE

This study shows that the emergence of the right to information and work are closely linked and should be understood as having been profoundly shaped by activists’ creative and pragmatic engagement with an Indian state that, rather than being monolithic, is stratified and differentially embedded at local, state, and national levels. In Chapter 2, I argue that views of the Indian state, as well as views about grassroots activism, can be nuanced by understanding the need for a singular (multi-scaled) strategy that takes into account the stratified nature of the Indian state. Therefore, as noted earlier, I attempt to explain movement choices and strategies in close relation to the nature of the Indian state. Additionally, I draw on the different theoretical concepts—the notion of an alternative public sphere (Habermas, 1998 [1989], 1984a, 1984b), the notion of symbolic capital (Bourdieu, 1986, 1991), and law as an arena of struggle (Thompson, 1975; Hunt, 1993, 2002; Cotterrell, 2007; Epp, 1998, 2008; Houtzager, 2001)—to conceptualise the three elements of the entire trajectory of the right to information. In chapters 3, 4 and 5, using concrete examples from the trajectory of the right to information and work, I illustrate how different levels of the Indian state advance or limit the possibilities for a grassroots group like MKSS to transform it or to open up its different levels.

In Chapter 3, I examine the emergence of the right to information in local struggles over the enforcement of minimum wages or the right to work in rural Rajasthan. The two rights—to information and work—I argue, evolve in a reciprocal relationship to one another. That is, the right to information grew out of struggles for the right to work, and the innovative advocacy strategies—such as the *Jan sunwai*, or what I call the ‘alternative public sphere’—developed as a vehicle through which the demand for right to information was articulated. Drawing on critiques of Habermas’s (1998 [1989]) bourgeois public sphere (Fraser, 1990; Calhoun, 1992; Eley, 1992; Somers, 1993; Chandhoke, 2005), I show how the MKSS created the *Jan sunwai* as an alternative public sphere that led to the collective articulation of the demand for the right to information.

If poor people in rural villages initiated and energised a process that over the course of fifteen years resulted in a national legislation guaranteeing right to information (Dogra and Dogra, n.d.; Khaitan, 2009; Baviskar, 2007; Singh, 2007; Sampat and Dey, 2005; Mishra, 2003; Roy and Dey 2001, 2002; Mander, 2003; Mander and Joshi, n.d.; Roy, 1996), in Chapter 4, I ask, how was this local demand translated into a legislative guarantee? I trace the advancement of the struggle for right to information to higher levels of the state. I use Bourdieu’s (1986, 1991) theory of symbolic capital to examine the role of a broad-based national advocacy network that succeeded in passing national legislation. I focus in particular on how eminent activists, largely from the Indian middle class, advanced the right to information by using their symbolic capital to collectively press forward the demand for national legislation in the national media, the public bureaucracy, political parties, and in Parliament. While such forms of cross-class alliances are a widely recognised phenomenon in social movement activism in India (Baviskar, 2005, 2007; Katzenstein et al, 2001), foregrounding the role

of eminent activists in the struggle for right to information adds to the more studied activities of the MKSS in rural Rajasthan to shed light on the contribution of educated middle class activists in this struggle. It also helps us understand why a multi-layered state, with its legislative and judicial arms, leads societal actors to adopt diverse strategies for engagement and resistance.

Finally, in Chapter 5, I draw on my observation and participation in the ongoing struggles over NREGA social audits in Rajasthan—an as yet unstudied phase of the campaign—to examine the process through which activists try to embed the right to information and work into the actual practices of local panchayats. Such a focus suggests that rights or legislative reforms are not automatic guarantees but only the first step toward transforming or opening up the state and making it work for the poor. This chapter also, however, illuminates the resistance that the efforts to implement national legislation have faced on the ground. Through an account of the counter-mobilisation by the *sarpanches* and *gram sewaks* that followed the first state-supported NREGA social audit in Bhilwara district, in 2009, I analyse how the lower and middle bureaucracy ‘re-interpret’ legislative victories (Houtzager and White 2010: 181), such as the NREGA social audits, in order to resist efforts seeking to open up the local state. By examining the blockages these groups have created to the implementation of social audits under NREGA, I draw lessons about the challenges to institutionalising legislative victories at the local level.

Drawing on ideas from law and society scholars (Epp, 1998, 2008; Hunt, 1993; Thompson, 1975; Houtzager, 2001; Cotterrell, 2007; White and Perelman, 2010), I conceptualise law as an arena of struggle rather than as a site of one-time achievement. This reinforces the dissertation’s central argument that the achievement of legislation must be seen within a larger arc of activism aimed at expanding citizen control over the

state, and which must continually overcome the opposition of those who would restrict it. The dissertation concludes with some reflections on: 1) what the examination of the entire trajectory of the rights to information and work tell us about the nature of the Indian state, and 2) the particular vision of transparency and accountability that the struggles for the rights to information and work signify, and the opportunities and challenges for their more thorough realisation.

Chapter 2. Understanding The Multi-Scaled Trajectory of the Rights to Information and Work

In this chapter, I provide a framework for understanding the multi-scaled trajectory of the rights to information (RTI) and work in India. This trajectory, from MKSS struggles in rural Rajasthan to its partial realisation in national legislation, has been shaped by the interactions of various social actors with different levels of the Indian state. While existing studies on the right to information have examined isolated sequences and strategies of the struggle for right to information—whether the early *Jan sunwais* (Jenkins and Goetz, 1999a, 1999b, 2003) or the national campaign for RTI legislation (Baviskar, 2007)—these studies do not analyse how these various sequences cohere into a larger arc of activism. This dissertation argues that by examining this larger trajectory in its entirety, we gain some additional insight into the character of the activism that has succeeded in partially realising these rights in India. It thus links local, state, and national phases of the struggle to explain how the right to information and work emerged in India through multi-scaled activism that continually oscillates between resistance and engagement. By providing a comprehensive analysis of the full trajectory of the right to information and work, I am able to show the complex and iterative state-society interaction that advanced the rights to information and work in India.

This study, moreover, suggests that this trajectory has been shaped by the fragmented nature of the Indian state itself. I argue that studies of the Indian state should direct more attention to the contentious relations between different parts of the state, and how they interact with (and can be used against) each other. The two-decade old campaign for the rights to information and work reveals that the Indian state is highly fragmented and stratified by class, status, privilege, and power. This stratification has greatly shaped the trajectory of this struggle, as activists have

pragmatically responded to obstacles and opportunities created by this fragmentation. In order to explain how a fragmented and stratified Indian state shaped the trajectory of the right to information and work, I draw on state-society scholars such as Migdal (2001, 1994) and scholars of the ‘everyday state’ (Fuller and Harriss, 2000) in an effort to differentiate between the local and the national state and the *bureaucratic*, and *political* state. Furthermore, within the *bureaucratic* state in India, I distinguish between two contrasting levels: the civil servants from the Indian Administrative Services (known as the IAS), and the middle and lower level bureaucracy in charge of day-to-day functioning that most Indians experience (Gould, 2011; Oldenburg, 2006; Fuller and Harriss, 2000). Similarly, the *political* state has three parts, the members of parliament (known as MPs), the members of state legislative assemblies (known as MLAs) and the local elected representatives at the block-level or *zilla pramukhs* and the *sapranches* at the panchayat-level. These elected representatives belong to different political parties. Like the middle and lower bureaucracy, most Indians access the state through their local-level elected representatives. Each of these different parts of the Indian state are embedded in society—that is, tied into various social classes and interests—to varying extents. This shapes their responses to efforts to transform or open up the state’s different parts. This fragmentation and stratification presents barriers to—while also creating opportunities for—making the Indian state more democratic, accountable, and egalitarian. This dissertation will show how activists responded to this fragmentation through three distinct phases of the struggles for the right to information and work. In what follows, I present a theoretical framework for understanding each phase and its role in the larger arc of activism that it represents. I will then conclude with the implications of this analysis for our understanding of the Indian state.

MULTI-SCALED ACTIVISM: THE THREE PHASES OF THE TRAJECTORY OF THE RIGHTS TO INFORMATION AND WORK

In order to explain the trajectory of the right to information and work, I focus on three main phases: the development of the *Jan sunwai*, which I call an ‘alternative public sphere’, at the local (panchayat) level; the formation of a national activist network that utilises what I call ‘eminent activists’ in a legislative strategy; and finally, the indeterminate social struggle to embed legislative victories into the local state through the use of social audits. In the following sections of this chapter, I develop a framework for examining the three sub-components of the multi-scaled trajectory of the right to information and work in India.

An Alternative Public Sphere

The *Jan sunwai* has been central to existing analyses of the right to information (Jenkins and Goetz, 1999a, 1999b, 2003; Roy and Dey, 2002; Mander, 2003; Mishra, 2003; Corbridge et al, 2005; Pande, 2008). It has been conceived as an effective ‘popular auditing’ tool to combat corruption by exposing misuse of public funds meant for rural development (Jenkins and Goetz, 1999a, 1999b, 2003; Mander, 2003). My first contribution to the existing knowledge on the right to information is in reframing our understanding of the *Jan sunwai* as an ‘alternative’ public sphere, and highlighting its specific role in articulating the popular demand for right to information in India. I advance existing interpretations of the *Jan sunwai* as a an alternative public sphere by distinguishing the five steps of a *Jan sunwai*: obtaining, converting, sharing, auditing and publicly validating information related to rural development. Together these five steps constituted the construction of alternative public spheres in which a new form of deliberation led to the articulation of the right to information and thus led to the second phase of the campaign.

To conceptualise the *Jan sunwai* as an alternative public sphere, I draw on critiques of Habermas's conception of the 'bourgeois public sphere' and its claims to open access, participation parity, and social equality (Fraser, 1990; Eley, 1992; Somers, 1993; Chandhoke, 2005). In contrast to Habermas's conception,⁸ the *Jan sunwai* is an alternative public sphere that fosters what Fraser (1990: 67, 68) calls 'subaltern counter publics,' which challenge (though do not necessarily eradicate) participatory privileges. Unlike, the bourgeois public sphere, an alternative public sphere is open to broader participation⁹ and discursive relations take the form not of ideal (powerless) speech situations (Habermas 1998 [1989]), but of contestations and deliberations that seek to transform social roles and the power attached to them (Eley, 1992: 324).

The notion of the alternative public sphere, then, is useful in understanding the role the *Jan sunwai* played in creating a new kind of deliberation between citizens and state officials, and catalysing the struggle for a new right. While the *Jan sunwais* existed outside formal representative institutions such as panchayats, and thus formed a subaltern or alternative public spheres that Habermas did not acknowledge, Habermas's notion of 'communicative rationality' and its emancipatory ideals remains useful (Habermas, 1984b; see also Calhoun, 1992). For Habermas, communicative action was

⁸ The cafes, (news) papers, reading clubs, coffee houses, and salons of the early Enlightenment that constituted Habermas's public sphere were ideal situations, where power (administration) and money (economy or market) were suspended, and 'people' communicated their ideas to each other in a rational context. With the rise of capitalism and the modern state, however, the public sphere was transformed from a site of rational critical debate 'into an arena for advertising.' Though new publics joined, the public sphere suffered a 'literal disintegration' with the loss of a 'notion of general interest, and the rise of consumption orientation' (Calhoun, 1992: 25-26).

⁹ One of the fundamental historical criticisms of Habermas (1998 [1989]) is that not everyone, but only restricted citizens participated in open-deliberative rationality (as opposed to calculated or purposive rationality). 'The people' were really white propertied men, not women, minorities, or working classes (Fraser, 1990; Somers, 1993). Thus, despite the claim to openness and accessibility, the bourgeois public sphere made it only possible for *some* of the citizenry to hold the state accountable, by partaking in a specific type of unrestricted discussion on public matters (Fraser, 1990). Habermas nevertheless, demonstrated the emancipatory potential of the public sphere as well as critiqued bourgeois society by elucidating the public sphere's transformation and, indeed, degeneration (Calhoun, 1992).

the coordination of human life through speech/deliberation that is free from coercion, and not via norms or rules of efficiency and power.¹⁰ While the *Jan sunwais* in rural Rajasthan were not free from power relations amongst those taking part, they did create a space in which those relations of power—between members of the village, and between members of the village and local state authority—could be challenged through public dialogue. The *Jan sunwais*, then, represented an alternative public sphere that, while not free of power, mobilised dissent against the practices of social and political elites. Chapter 3 will show how these alternative public spheres launched the campaign for the rights to information and work. Chapter 4, however, shows that when this campaign became thwarted at the state level, it prompted MKSS activists to switch scales and move from local and state-level resistance to national engagement.

Scaling Up the Demand for a New Right

At the national level, the trajectory of the right to information went from organising subaltern public spheres in Rajasthan to forming a network of prominent individuals advocating for a national legislation. Baviskar (2007) helpfully identifies the MKSS and NCPRI strategy of seeking out state actors, along with other social actors (especially the intelligentsia), as a widely recognised tactic of social movement activism

¹⁰ Communicative rationality, or mutual interaction, led Habermas (1984b: 344-47) to critique both capitalism and big government. For instance, Habermas (1984b: 361, 262, 363) argues that the Welfare State disciplines people, especially the poor populations, on the basis of procedures that are opaque: care or welfare was highly conditioned, and people being cared for had, literally, no say. Habermas (1984b: 372-373) was not against welfare, but proposed a un-Weberian alternative: that is, the procedures that determine who gets what (under a welfare state) must be based on public debate or communicative action rather than on standardised, predictable, and calculable rules, or instrumental rationality. As Calhoun (1992: 28) notes, Habermas argued not for a return to the bourgeois public sphere, but for a search for forms of ‘democratic public discourse that can salvage critical reason in an age of large-scale institutions and fuzzy boundaries between state and society.’

in India.¹¹ Even though the literature on social movement activism sees social movements as representative of different classes (Brass, 1995; Omvedt, 1993; Ray and Katzenstein, 2005; Menon and Nigam, 2007), it says little about the role of predominantly middle class ‘eminent citizens’ in supporting grassroots struggles originating from more subaltern classes. However, this undertheorised role of middle class activists remains quite significant in helping social movement demands get traction at higher levels of the state.

To fill in this void, I devote analytic attention to ‘eminent activists’: prominent people in public life such as government officials, academics, artists, journalists, judges, and lawyers who support social justice cause. In order to theorise the role of eminent activists, I use Bourdieu’s (1986, 1991) notion of symbolic capital, of which eminent activists, almost by definition, have significant endowments. In the case of RTI, these eminent individuals belong to diverse institutional arenas and have substantial social standing and credibility within their professional fields.

Bourdieu (1986) notes that different types of capital constitute power in different social fields. In addition to the traditional Marxist focus on economic capital, Bourdieu advances the notions of social capital (power exercised through *unequal* individual networks (Harriss, 2001)), cultural capital (power conveyed through education or expertise) and symbolic capital (power derived from honour and prestige). IAS officials as well as journalists, judges, lawyers and academics are well endowed with all three forms of capital. This allows them to enjoy distinction and exercise social domination; but it also can make *sympathetic* elites useful allies in struggles to

¹¹ For instance, Katzenstein et al (2001) fail to recognise this. They differentiate between issue and identity movements by specifying the arenas of the state in which they operate. While identity-based movements operate in the electoral arena, issue movements operate specifically in the bureaucratic and judicial arenas and are connected to national networks that facilitate their access to those arenas (Katzenstein et al, 2001); see also Mohanty (2010).

institutionalise change within the state. Having symbolic capital, which I will focus my attention on, bestows upon these ‘eminent activists’ recognition and legitimacy by other actors in their respective fields, as well as in the political field more generally (Bourdieu, 1991; Bourdieu and Wacquant, 1992). It is difficult for the state to easily dismiss demands backed by these eminent persons because of their symbolic capital, or prestige.

The majority of these eminent activists come from the Indian middle classes. As Deshpande (2003: 144) notes, they are, on the one hand without property, nurtured by the developmental state and dependent on ‘education, cultural capital and professional careers that these promised.’ On the other hand, with the advent of globalisation, a significant section of that class has ‘distanced itself from the state and the task of national building in pursuit of their perceived self-interests’ (Deshpande, 2003:148). Many of the eminent activists that I write about belong to the middle class of the Nehruvian years. With their professional skills and expertise (cultural capital) as lawyers, judges, IAS officials, journalists, and academics, they constitute an important support base of campaigns/movements, and act as strategic messengers that have privileged access to different parts of the state (social capital). They understand the architecture and inner workings of the state and use their skills and expertise—recognised by people inside the state and society at large—to make a space for social movements’ demands inside the state. These eminent activists are valuable allies of movements who would otherwise find it difficult to access higher levels of the state. They are thus called upon from time-to-time to access those parts of the state and build support for movement demands.

The role of urban middle class elites in translating grassroots demands into policy and/or legislation is widely acknowledged and sometimes criticised, but rarely

analysed in a significant way. While many middle class activists constitute the core of several people's movements in India, the *specific role* of many of these middle class activists remains poorly understood. My account of the specific role of eminent activists in the struggle for a national right to information legislation in Chapter 4 uses Bourdieusian notions of capital to advance our understanding of the role of an important sub-set of the urban middle class in India's social movement activism. It suggests that sympathetic individuals within—or connected to—different parts of the state form an important resource and source of leverage for social movement activism, particularly when they seek to pass legislation.

The Ongoing Struggle for Social Audits

Studies of the struggle for the right to information conclude with the enactment of the national legislation (Baviskar, 2007; Singh, 2007).¹² An important goal of this dissertation is to extend the analysis into the post-legislative phase and illuminate the *larger arc* of activism of which the national legislation was only a part. In particular, I analyse the ongoing efforts to instantiate some of the gains of the right to information in the implementation of the right to work (the original concern that gave rise to the RTI). I therefore tell the untold story about the *post-legislative* struggle for institutionalising social audits in NREGA and thus the interconnections between the rights to information and work.

¹² There are also studies undertaken in the post-legislative period, after 2005, that focus on how the RTI Act was enacted and its use to tackle corruption. For example, Webb (2011) examines the use of the right to information in anti-corruption activism in Delhi; Puddephatt (2009) compares the India case with Bulgaria, Mexico, South Africa, and the United Kingdom and explores the role of civil society in formulating and adopting access to information laws. And Calland (2010), like Puddephatt (2009), highlights the role of civil society organisations like MKSS in creating legislation that has teeth.

While the relation between the right to information and the right to work (enforcement of minimum wages) is stated in existing studies, it is not systematically explored and is mostly focused on how the right to information emerged from concerns with the right to work.¹³ After also covering that initial connection in Chapter 3, in Chapter 5, I illuminate the return to the right to work after passage of the Right to Information Act in 2005. I show how activists were able to institutionalise important parts of the right to information into the NREGA legislation and have since then fought to implement it on the ground in Rajasthan, bringing the campaign full circle.¹⁴ A focus on this ongoing (albeit indeterminate) phase of the struggle advances our understanding about the interactions between social movements, law, and social change.

This section of the dissertation builds on debates within the ‘law and society’ literature on the role of law in social change.¹⁵ The tussle or pulling of law in different directions over the implementation of NREGA social audits by *gram sewaks*,

¹³ In turn, writing about NREGA focuses on the political process that led to the passage of the national right to work law (Nayak, 2012; Khera, 2011; Chopra, 2010; Drèze and Khera, 2009), its implementation (Drèze and Oldiges, 2011, 2007), women’s participation in NREGA (Khera and Nayak, 2011; Sudarshan, Bhattacharya and Fernandez, 2010) as well as threats to NREGA activists (Vanaik, 2008; Shah, 2008). There are other studies that do not make an explicit connections with the right to information campaign, but assess the impact of the accountability mechanism of NREGA: social audits (Aiyar et al, 2011; Singh, 2010; Shankar, 2010; Gopal, 2009; Afridi, 2008; Shah and Ambasta, 2007; Aakella and Kidambi, 2007a; 2007b), or the impact of local politics on implementation of NREGA (De Neve and Carswell, 2011; Vivek, 2010). For an anthology of research studies on NREGA, commissioned by the Ministry of Rural Development see, Ministry of Rural Development (2012).

¹⁴ See also, Chopra (2011: 155-165) for an analysis of the four domains: parliamentary, executive, party political and civil society that examines the specific role of different actors in state and society in the formulation and enactment of the National Rural Employment Guarantee Act. My focus however, is the transparency and accountability components of NREGA, or social audits, which I argue is modelled on the *Jan sunwai* that was developed during the struggle for right to information.

¹⁵ Law and society scholars are divided on the impact of law on social change. Scholars such as Epp (2008, 1998), interested in social movements that use litigation strategies, emphasise the effectiveness of ‘judge-made law’ in influencing social change (see also Gauri and Brinks, 2008). Critical legal studies scholars however, argue that litigation is not effective in establishing rights and guaranteeing social change (Scheingold, 2004: 5). On the other hand, the proponents of ‘rights without illusions’ (Hunt, 1993: 228) have actively countered the liberal ‘myth of rights’ as put forward by scholars such as Schiengold (2004). And view rights and accompanying legal strategies as one of many movement strategies (McCann, 2004, 1994; Thompson, 1975; Hunt, 1993).

sarpanches, members of the legislative assembly (MLAs), and societal actors that I analyse resonates with a view of law as an ‘arena of struggle’ (Hunt, 1993: 236) or ‘arena of conflict’ (Thompson, 1975: 245-269). Viewed in this way, actors in state and society negotiate with one another over the ‘construction, use, and experience’ of law (Houtzager, 2001).¹⁶ This relationship between laws, social movements and social change, as Coglianese (2001) notes, is seldom ‘unidirectional.’ My analysis of this final phase of the right to information trajectory suggests that legal mobilisation strategies, whether they involve litigation or drafting legislation, are necessary components of promoting social change; *however, they do not guarantee that legal change will generate that social change*. Legal changes can shift the terrain of struggle, but they do not obviate the need for further struggle.

The attempt to implement social audits of public works under NREGA, as I will show in Chapter 5, unleashed new struggles between those with an interest in “opening up” the state to broad public scrutiny and those whose interests lay in its restriction. The political battle over social audits involved multiple and contending interpretations of legislative guarantees. Different social actors interpreted the NREGA social audits according to their interests. For activists and villagers struggling to access work, the struggle over social audits was a part of a long-term process to counter the unrestrained power of village elites. The counter position, held by *gram sewaks* and *sarpanches*, was that NREGA social audits were undemocratic and “anti-panchayat”: in other words, they ran counter to the constitutional devolution of powers to local governments. These

¹⁶ Cotterrell (2007: 61) also notes that law is influenced by a ‘long-term process of negotiation of attitudes and perceptions of interests. Irrespective of the indirect effects of laws in influencing social change (creating legal duties, providing an institutional framework, shaping social institutions that can influence change, etc.), the contestation over law—between upholders of law as well as those who stand to benefit most from it—further shapes the use and understanding of that law in different ways (Cotterrell, 2007).

two sets of actors strategically and opportunistically invoked provisions of NREGA, which they interpreted to suit their interests in either advancing or restricting the scope of the social audits.

So while successful national-level advocacy resulted in the creation of legal and institutional platforms for opening up the state (such as the RTI Act and social audits in NREGA), the lower bureaucracy has tried to block this opening. In emphasising the barriers that the lower bureaucracy posed to the struggle to open up the state in Rajasthan, I am not necessarily arguing that the local state is more corrupt in comparison to the higher levels of the state in India. More importantly, I highlight the nature of a recalcitrant lower bureaucracy to reveal the contentious relations, not only between state and society, but also *between the different levels of the state* (Migdal 2001: 122). Thus, Chapter 5 shows how MKSS's return to the local level to institutionalise national legislative gains has encountered strong resistance from the lower bureaucracy in Rajasthan, forcing it once again to look for new strategies and levers to overcome this obstacle. It is the nature of the Indian state—fragmented among its branches and scales, and also containing supportive and recalcitrant individuals—that shapes this shifting of scales and oscillation between engagement and resistance.

EXAMINING PERSPECTIVES ON THE STATE IN INDIA

The trajectory of the right to information, as this study argues, has been shaped in contradictory ways by different levels of the Indian state. We must ask, then: what do we understand by 'the State?' Weberian and Marxist scholars alike have tended to view the Indian state as a unitary structure or an ideological project (Kohli, 1987, 1990a, 1990b; Rudolph and Rudolph, 1987; Vanaik, 1990; Chatterjee, 1998; Kaviraj, 1991; Bardhan, 1984, 1989; see also Evans, Rueschemeyers and Skocpol, 1985; Mitchell,

1999; Abrams, 1988). The consequence is that they fail to recognise the significance of looking at different levels of the state when assessing its relationship to, and degree of “autonomy” from, society (Migdal, 1994, 2001). Anthropological studies of the Indian state (Fuller and Harriss, 2000; Gupta, 1995; Jeffrey, 2000; Robbins, 2000; Parry, 2000; Oldenburg, 2006; Corbridge et al, 2005; Webb, 2011), meanwhile, have critiqued such approaches and turned their attention to the everyday experience of corruption at the local level.

This study consequently builds on two different approaches to the Indian state that recognise this fragmentation and complexity. The first is that of Joel Migdal (1994: 15, 2001: 116-123), who aims to disaggregate the state by speaking of an ‘anthropology of the state.’¹⁷ The second is that of Fuller and Harris (2000), who call for further analysis of the ‘everyday state,’ thus focusing attention on what the state ‘variously means’ and ‘does’ for ordinary people in India.

The trajectory of the campaign for the right to information and work helps to illuminate the inner-working—competing rationales, logics, and set of practices—of different levels of the Indian state. In a similar vein as Migdal, I call attention to a disaggregated view of the state, which rejects deterministic assumptions such as that there exists a ‘smooth interlocking relation’ (Migdal, 2001: 16) between different parts of the state. I will illustrate, rather, how the absence of a “smooth interlocking relation” between different parts of the state helps to explain social movement activism that seeks to transform it. And how it is the very tensions and differences between various parts of the Indian state that have most profoundly influenced the trajectory of the right to

¹⁷ For Migdal (2001:116) a differentiation between different parts of the state seeks to draw focus away from top echelons of the state, and the ‘all-pervading will’ of state elites to explain state activities or conduct. As Migdal (1994, 2001) observes, each of these different levels of the state performs different functions, they interact and conflict with each other, and with other social forces. Thus, the state embodies an ‘on-going dynamic of changing set of aims, as it engages social forces’ (2001: 112).

information. I argue, consequently, that in contrast to the view of a unitary state where all power and authority flows from a central core (Migdal 1994, 2001), *we have to view different levels of the state as potentially in contradiction with each other; and that this contradiction creates opportunities for social movements.*¹⁸

In this study, as noted earlier, I differentiate between the bureaucratic and political state. By the political state I mean elected representatives of the Parliament, state legislators, elected members of the *zilla parishad* (district councils), and the panchayats (village based local bodies) as well as the roles of political parties. Within the bureaucratic state, I differentiate between the elite civil services, or the Indian Administrative Service (IAS), the middle level bureaucrats, and the *karmacharis*, or personnel that constitute the lower level bureaucracy. Pedersen (1992: 620) notes that many accept ‘the strength, independence and self-serving nature of Indian bureaucracy that places it on par, if not above, the propertied classes in the private sector.’ However, I argue that there are two sharply contrasting faces of the Indian bureaucratic state. At

¹⁸ This is in contrast to Weberian, Marxist and modernisation theorists that view the Indian state as unitary. Focused on the elite bureaucracy and political parties, as if they alone are the state, modernisation theorists were preoccupied with, and sceptical about India’s ability for achieving economic and social change. For example, scholars such as Rudolph and Rudolph (1987) and Kohli (1990a, 1990b, 1987) in their attempts to assess the state’s autonomy and responsiveness conclude that the post-independent Indian state ‘failed’ to pursue the twin tasks of being responsive to its citizens and achieving socio-economic development. This inability to accommodate the demands of fragmented societal forces ‘weakened the capacity of the state’ (Rudolph and Rudolph, 1987) and over the years led to a ‘crisis of governability’ (Kohli 1990a) that, made the Indian state ‘incapable’ of directing economic development as it tried to accommodate the various societal demands. On the other hand Marxists such as, Chatterjee (1998), Kaviraj (1991), Vanaik (1990) and Bardhan (1984, 1989) view the Indian state as an ‘instrument’ of the dominant classes—typically industrial capitalists, large farmers, the elite bureaucracy, though now also the Indian middle classes. This view of the state implies a collusion of interests between top political leadership, the bureaucratic apparatus and the existing social order that is embedded in structural inequalities of caste, gender and status or class. Thus, the post-independence years were characterised by what Manor calls the ‘politics of accommodation’ (1990) that failed to meet the commitment for social justice and redistribution. In short, whether scholars chose institutions or class as their explanatory variables, ‘the State’ is either a unitary structure or a fixed ideological entity. These views, however, are silent on the significance of looking at different parts of the state as disaggregates. The suggestion of some of these scholars is that, from the top to the bottom, the will of the leaders is ‘recreated faithfully’ (Migdal, 2001: 115; see also Brass, 2006).

the top of the bureaucratic state sits the elite Indian Administrative Service, a small but influential part of the public bureaucracy at the national level, and constituted by the highest officials (District Collectors) at the district level. Each Indian state has its own state level administrative services, which are the mirror image of the IAS though not equivalent in status, rank, or privileges. These high status national IAS officers and state level civil servants are the decision-making authorities in core departments and ministries at the national and state levels.

Historians such as B.B. Misra (1977) have traced the evolution of the administrative culture in India to the image of the British-run Indian Civil Services. Under British rule, the middle class base that formed the All India Specialised Service was envisaged as source of ‘political security,’ an ‘instrument of infrastructural social change’ that acted as a ‘counterforce to the status-bound aristocracy’ (Misra, 1977: 310-317). Others, like Joshi (2001), trace the middle class base of the Indian bureaucracy to a ‘colonial public sphere,’ where educated men and later women discussed and debated issues related to ‘education and social reform’ (Joshi, 2001: 30).¹⁹ After Independence, the IAS became synonymous with ‘career service immune from political commitment and known for intellectual achievement and total security’ (Misra, 1977: 385).

The post-1947 bureaucracy, on the one hand, tried to shelter itself from politics and, in the process, became largely status driven, self-serving, and less accessible

¹⁹ The bureaucracy in India expanded under the British during the colonial period with the rise of a new social class, the Indian middle classes. The members of this new class, in north India, came from families that were financially well to do, however not rich enough to not work, well respected but did not have influence in arenas of politics and economy similar to the ‘hereditary landlords and indigenous aristocracy’. They belonged to the upper-caste Hindus (*Kayasthas, Brahmins, Khattris or Banias*) or highborn Muslims (*Ashraf*) (Joshi, 2001: 7). However, these men and women did not limit themselves to forming civil associations and used their ‘new education’ to ‘improve the lives of the less privileged caste’ and for the ‘moral upliftment’ of India (Joshi, 2001: 29). This colonial public sphere was the ‘site of class formation for middle classes’ in north India, however, unlike the Habermasian public sphere (1998 [1989]), this colonial public sphere in north India drew the support of some state institutions that seemingly promoted ‘the idea of a public-ness’ (Joshi, 2001: 18: 31).

(Potter, 1996). However, between the 1960s and 1980s the bureaucracy in independent India became significantly politicised, especially in the years following the “deinstitutionalisation” of the Congress Party (Kohli, 1990a; Rudolph and Rudolph, 1987), and the Emergency during which the political state increasingly intervened into the bureaucratic arena. Over the years, then, public officials became less able to circumvent the interference of political elites in day-to-day government functioning. While IAS officials often submitted to political demands (as they continue to do so today) in order to advance individual careers,²⁰ a few others attempted to change the system from within by asserting their autonomy from political elites.²¹ Only a rare few ever leave the elite IAS service to push for change from the outside. Nevertheless, as Chapter 4’s analysis of the National Campaign for People’s Right to Information illustrates, the IAS does still contain some islands of public minded bureaucrats who can occasionally serve as allies for social movements. Through their pragmatic activism, social movements have evolved a view of the state that consequentially distinguishes not only between different levels of government, but between sympathetic and recalcitrant individuals and sections within levels. Scholars can profit from this analysis.

When we shift focus away from national and state ministries and departments in the capital cities, we encounter the local state. The middle and lower bureaucrats, or *karamcharis*, are the other face of the Indian bureaucratic state. At these levels of the state we find a mix of permanent as well as contract-based employees such as technical

²⁰ For discussions on the constraints to bureaucratic integrity see, The Special Issue on Contemporary Administrative Culture in India. *The Indian Journal of Public Administration* Vol. XXXVI, No. 3 July-September 1990.

²¹ Such officials are either reprimanded for not following the political line or at times punished—that is, they are transferred or suspended. The recent suspension of a woman IAS officer from the state of Uttar Pradesh is a case in mind, who was suspended for taking action against illegal sand mining within her jurisdiction (Khan, 2013).

assistants, junior engineers, clerks, panchayat secretaries, postmen, and *patwaris* (land record keeper), who are in charge of implementing government policies and who are deeply embedded in political processes at the local level. In its everyday form, the local state is less rule-bound, more embedded in society than the elite IAS and prone to subverting intentions of higher levels of the state (Fuller and Harriss, 2000; Kaviraj, 1991; Gupta, 1995). In a stratified society like India's, inequalities of caste, gender, and class are compounded by the power that lower level officials and panchayat functionaries, including elected representatives or *sarpanches*, exercise over the bulk of the population that does not have privileged access to the system. This fact is highlighted ethnographically in Chapter 5, where these lower level bureaucrats attempt to appropriate power from the very state-mandated social audits that were intended to curb their power.

Recent anthropological interventions explain this subversion of power by the local state by writing about its practices of corruption. For instance, apart from their obvious functions as implementers of various government programmes and services, Oldenburg (2006: 186) notes, these *karamcharis* at the block and panchayat level are also 'gatekeepers' who demand bribes and act as 'intermediaries' between citizens and administrative bosses (see also Reddy and Hargopal, 1985). Local level officials, Gupta (1995: 384) explains, 'blur the boundaries' between state and society when they 'collapse the distinction between their role and styles of operation as 'public servants' as opposed to 'private citizens.' Thus, as Kaviraj (1991: 91) rightly points out, the idea that the Indian state or its massive public bureaucracy corresponds even moderately well with the Weberian rationality (Evans 1995) is 'wrong,' since many policies and programmes of the Indian state are implemented by a lower bureaucracy and, at this level, are 'reinterpreted beyond recognition'. In fact, the anthropological and

ethnographic studies that focus on the state in India as seen from below, tell us that different parts of the state in India have different social constitutions that do not conform to the standardised, predictable, calculable rules of Weberian rationality when executing government functions.²²

By focusing on the state agencies and personnel below the central and state levels, ethnographies of the ‘everyday state’ tell us about the impact of its practices—that is, its institutions, personnel, policies and programmes—on the lives of people and about the interaction of citizens, demanding the state meet their basic needs, with the people in positions of authority (Fuller and Harriss, 2000).²³ In an implicit contrast to the Marxist, Weberian, and Modernisation views of the Indian state that look at the state as unitary—Weberians and modernisation theorists are concerned about it being autonomous enough to direct national development (Rudolph and Rudolph, 1987; Kohli, 1990a, 1990b, 1987) and Marxists assess the degree to which it is captured by different classes (Vanaik, 1990; Kaviraj, 1991; Chatterjee, 1998; Bardhan, 1984, 1989)—the ‘everyday state’ literature argues that there is a disjuncture between the national state and the ‘everyday state’. In particular, the studies on corruption (Wade, 1982; Gupta, 1995; Fuller and Harriss, 2000; Jeffrey, 2000; Robbins, 2000; Parry, 2000; Oldenburg, 2006),

²²See also Kaviraj (1991: 85) who notes, the colonial period saw a ‘discursive division’ in Indian society between those ‘who made the world they inhabited intelligible via modernist discourse and those who did not. This division ran decisively between the Indian elite and the lower orders.’ After independence, ‘by overstretching, the state has been forced to recruit personnel from groups that speak and interpret the world in terms of the other discourse’ (1991: 91).

²³For example Jeffrey’s (2000) ethnography shows how the agrarian elite (specifically the upper caste *Yadavs*) in Uttar Pradesh access the state police force by placing relatives in it. Also in Uttar Pradesh, Oldenburg (2006) tells us, it is common to mobilise high-end politicians and ‘invest’ (bribe) thousands of rupees in order to secure the ‘prestigious’ job of a village postmaster. Parry (2000), in his ethnography of the Bhilai Steel Plant examines ‘low level routine corruption or everyday experience’ through the role of *dalals* (brokers)²³ in securing public sector jobs. Corbridge et al (2005: 20, 21) focus on how differently poor people, differently see the state in India, and tell us about the ‘multiple sites of poor-state encounter’ to better understand what it means to encounter or see ‘the state’ in India.

local governance and ‘governmentality’ (Corbridge et al, 2005), the ‘shadow state’ or networks between the bureaucracy and local agents in the informal economy (Harriss-White, 2003), local state practices in cities (Manor, 1993; Tarlo, 2000, 2003), and government functioning and right to information activism in Delhi (Pande, 2008; Webb, 2011) illustrate a common feature of the local Indian state: it is a site of dispute and competition (Fuller and Harriss, 2000), where much depends on people’s uneven abilities to manipulate the political and bureaucratic system to their advantage. They tell us how different classes of citizens penetrate the different layers of the state and create opportunities for *some* citizens to access the state (Fuller and Harriss, 2000). This literature, then, is a point of departure for this study. While these anthropological studies elucidate how the (corrupt) practices of state agencies and their personnel impede the daily lives of poor Indians, this literature does not examine the implications of state fragmentation for attempts to transform the state. This study, thus tries to add another perspective of the ‘everyday state’; that of social movements trying to change it.

SEEING THE STATE LIKE A SOCIAL MOVEMENT

In the pragmatic effort of activists to transform the state, the various phases of the right to information and work campaigns illustrate a differentially embedded state—that is, one that is differentially autonomous from societal actors at different political conjunctures, across levels, and even within levels. This provides a somewhat more dynamic and complex view of the state than the simple bifurcation between a relatively ‘Weberian’ state and an everyday one. Each chapter will illuminate how different parts of the Indian state created different kinds of challenges and opportunities for the grassroots activists trying to transform its functioning.

In Chapter 3, we will begin at the local level, where organising around the

concrete livelihood issue of access to work led activists and villagers to raise basic governance issues such as the misappropriation of panchayat funds and, ultimately, to the demand for a right to information. Naturally, the local bureaucracy counter-mobilised against the *Jan sunwais* to protect its interests and the Bharatiya Janata Party (or BJP) state government remained ambivalent to demands of activists and villagers to confront corruption in the implementation of rural public works. However, in its attempts to appease rural voters in an election year, the political leadership in Rajasthan agreed to disclose panchayat records. Even though the different parts of the state in Rajasthan produced contrasting responses, these responses do not suggest that one part of the state was more collaborative than the other. Indeed, the Rajasthan government agreed to grant access to panchayat records because it wanted to stall *Jan sunwais*. The more or less recalcitrant responses from the different parts of the state in Rajasthan, as I will show, became rallying points for activists and laid the foundation for a demand for national law guaranteeing citizens right to information. This indicates that challenges to mundane or everyday power relations will meet resistance, compelling groups of poor to engage higher levels in order to pressure local, and even state government actors into compliance; hence the need to engage higher levels of the state.²⁴ However, the logic is not unidirectional—as we will see in Chapter 5, there are also occasions when activists are blocked at higher levels and must return to grassroots struggles at the local level.

The primary goal of NCPRI/MKSS activists was parliamentary intervention for a national law, which, in part, was influenced by the difficulties in engaging the BJP state government to enact a state right to information law. Therefore, activists engaged

²⁴ Additionally, in India's federal system, where many social policies are centrally funded, and implemented by state governments, access to higher-levels of the state is useful to the extent that the dynamics of federalism can be used to exert pressure from the Central government on State governments. Further, activists must engage the state at the national level for legislative interventions in areas that do not fall within the domain of state governments, such as government transparency.

higher levels of the bureaucratic cadre and the political leadership at the national-level to build legitimacy for a national right to information law. The apex state, at the national or central-level is, in many ways, relatively coherent and has the high-level civil service and parliamentarians. This does not mean, however, that they are supportive of change. But it does somewhat increase the chance that activists will find sympathetic allies there. The campaign for the RTI relied strongly on such sympathetic elites (inside government or connected to it by various forms of capital) to institutionalise changes in law. These elite social segments are, however, more or less supportive—and more or less able to exercise their influence—at different political conjunctures. In Chapter 4, we will see that, MKSS/NCPRI activists reached out to sympathetic bureaucrats over its decade long campaign, and they were successful in passing legislation only after the Congress Party came to power. Within this relatively more sympathetic political context, eminent activists were able to *infiltrate* parts of the bureaucratic, and political state and build legitimacy for the RTI Act. Some of the eminent activists attached to people's movements/campaigns were invited to advise the national government on social policies. Strong political support for societal demands, then, provided the Congress party led United Progressive Alliance with the much needed public relations boost for its election promises. And enlisting political support at the top allowed NCPRI activists to use the political arm of the state to counter the opposition from the bureaucratic arm. The enactment of the right to information law was thus aided by the political conjuncture of the 2004 General Elections, which made the upper levels of the political state an effective counterweight to bureaucratic recalcitrance.

With the RTI Act passed, MKSS and NCPRI activists managed to institutionalise parts of the right to information into the new right to work legislation or NREGA: the social audit. With RTI and NREGA passed, the public audit model in

Rajasthan was put to the test. How effective was the independently developed audit model in reducing corruption and making NREGA work? Could that kind of transparency be institutionalised? In Chapter 5, we will see, government-directed social audits did not quite work and MKSS had to return to autonomous ‘public audits’ of the *Jan sunwai* variety. This, however, created a powerful and reactive backlash by the local level officials that caught the state government and activists off guard. It forced activists to redirect their attention at the state government to stop it from succumbing to the opposition of reactionary *sarpanches*. This time, it became more difficult for the state government in Rajasthan to pressure local level actors as the balance of power on the ground had shifted. This struggle over NREGA public audits in Rajasthan is as yet indeterminate. But by analysing its dynamic, we can further see the iterative movement across levels and between resistance and engagement that the nature of the Indian state forces upon its would-be transformers.

This dissertation suggests that the way social movements “see” the state is somewhat more complex than the dichotomy between the view of the state as a singular entity by Weberians and Marxist scholars, and the bifurcated state posited by the everyday state literature. In other words, movements have evolved a view of the state through their opportunistic attempts to transform it (they see the state opportunistically)—they find opportunities in different arms of the state at different times, across levels, divides, and even individuals. While generally they move higher to find leverage to overcome local blockages (consistent with the everyday state’s view of the local state as less Weberian and socially embedded), there is a constant oscillation across scales and also across the bureaucratic and political state. Higher levels are often used to pressure lower levels, but they are not always supportive—this also changes with the balance of political forces at different conjunctures. But activists are always

reading these conjunctures, looking for sympathetic levers in the state (across its different levels), and they leverage parts of the state against each other. By its practice, then, the Campaign for rights to information and work illustrates a less than coherent state whose incoherence provides opportunities for advancing its goals. Moreover, even once progress has been achieved nationally through legislation, activists still must return to the local and instantiate those gains over local resistance.

In the following chapters I delve into the iterative and multi-scaled interactions between actors in state and in society that lies behind the trajectory of the rights to information and work. This is an effort to build our understanding of how groups of poor people resist and engage the state to make it work for them. In the conclusion, I draw out the implications of this trajectory of the rights to information and work for our understanding of social movement activism more generally.

Chapter 3. *Jan Sunwai* in Rajasthan

This chapter conducts an analysis of the *Jan sunwai*, or “public hearings,” developed by MKSS in rural Rajasthan in 1994. A *Jan sunwai* is a public forum in which villagers ask questions and seek clarifications regarding the implementation of a range of rural development and welfare schemes from panchayat officials, such as the elected head of a village, or *sarpanch*, and the secretary, or *gram sewak*. For instance, in a *Jan sunwai*, activists/arbiters read aloud government information contained in construction *muster* rolls (labourer lists), measurement books, and invoices for construction materials, and workers testify to their accuracy. In the previous chapters I have introduced a distinction between MKSS’s state-resisting and state engaging strategies, the *Jan sunwai* as I will show was a resistance strategy to confront the local state and collectively interrogate its words and actions. In this chapter, I will present a history of the *Jan sunwai*, explain how it functioned as an “alternative public sphere” that allowed ordinary villagers to hold the local state accountable, and explain its place within the larger trajectory of MKSS’s activism.

This chapter draws on archival and interview-based research on *Jan sunwais* that MKSS organised in villages across four districts of central Rajasthan between 1994-2002. The subject of these *Jan sunwais* included employment relief, land, health, and the public distribution system (PDS). Through interviews conducted with villagers and MKSS activists I present a vignette of the first *Jan sunwai* held in KotKirana panchayat (Pali district) in December 1994. In KotKirana MKSS activists, with the help of a sympathetic IAS official, first laid hands on government records. Five years after struggling for the enforcement of minimum wages, activists found an issue—the right to information—around which to agitate and mobilise villagers, which also had the

potential to attract the interest (and support) of all classes of citizens (MKSS, 1996).

The initial experimental phase began in 1994 with MKSS organising five *Jan sunwais* within a radius of fifty kilometres across four districts of central Rajasthan (Pali, Rajsamand, Ajmer, and Bhilwara). Of these initial five *Jan sunwais*, the first four were organised within one month (December 1994) and the fifth one was organised immediately before the panchayat election in January 1995.²⁵

After presenting this history of the *Jan sunwai*, I turn to a fine-grained examination of its structure and then theorise its role as an “alternative public sphere” that became the initial step in the campaign for the right to information.

ENFORCING MINIMUM WAGE: THE INITIAL STRUGGLE IN RAJASTHAN

The *Jan sunwai* emerged as a response to systematic corruption and under-payment of wages in government-sponsored drought relief schemes in Rajasthan. Under these rural public work programmes, the state provides employment relief during periods of drought. These schemes typically fall under the category of ‘rural development’ that Oldenburg (2006: 185) calls the ‘mixed bag of state government administration and central government programmes.’ The desert state of Rajasthan suffers from famine more frequently than other states in India. Thus, it has a long history of organising massive public work programmes. Famine relief policies date back

²⁵Simultaneously, in order to use the momentum created by the initial *Jan sunwais*, MKSS also organised three public meetings to: galvanise support from intellectuals, middle class citizens, and to build a broader campaign on the emerging demand for a right to information at the state-level. These meetings were held at the block head quarter Bhim (Rajsamand district), and the state capital Jaipur and in Udaipur city.

to British rule during which a range of ‘public works’ were carried out to mitigate the effects of drought and famine.²⁶

Initially, the department of public works in each state, during famine years, started relief schemes that involved road construction, earthwork, and repair work on village wells and ponds to collect rainwater.²⁷ Although these relief schemes are centrally sponsored, the discretion of the lower level state officials, like the *gram sewak* (panchayat secretary), junior engineer, and the elected *sarpanch* (village head), influence the availability and access to employment relief and the amount of wages.²⁸ In the late 1980s when MKSS began work in Rajsamand district in central Rajasthan, *ghost* (fake) workers and works—through which *sarpanches*, *gram sewaks*, and block level officials siphon public funds—were a common occurrence in the implementation

²⁶For example, for a discussion of chief measures of famine relief in ancient India see, Maloo (1987); and for a discussion of the chief measures of relief used by the British see, Tucker (1900).

²⁷In the early 1970s semi-*pucca* (permanent) works like canals and check dams were also included. In 1977, under the Fifth-Five Year Plan (1974-1979), Food for Works Programme was introduced at the panchayat level in order to meet the need for work of the rural poor, particularly in slack and empty periods (Government of India, 1974). According to Jayal (1994), since the early 1980s the central government has made repeated attempts at poverty alleviation via a number of social welfare schemes and programmes. These welfare schemes and programmes, she argues (1994: 20, 21), are part of its interventionist response to provide minimum basic needs and not necessarily to enhance or maximise welfare. The Government of India also introduced, starting with the Sixth and Seventh Five Year Plans, wage employment through two programs: National Rural Employment Program (NREP) and Rural-Landless Employee Guarantee Program (RLEGP) in its efforts to alleviate rural poverty (Government of India, 1979, 1983). Relief works were incorporated into the Government of India sponsored rural work programmes for drought prone areas as a permanent solution to the problem of scarcity (Kachhawala, 1992). Since the early 1980s in Rajasthan, corruption in public work programmes was usually manifested in the denial of payment of minimum wages and misappropriation of public funds by the lower bureaucracy.

²⁸There is a fixed legal minimum wage for unskilled manual labour, which varies across states. All wages for unskilled work under public works programmes in Rajasthan are calculated on a time rate, that is eight hours work per day (there is also a piece rate that is made on the basis of the total task allotted). However in Rajasthan despite the upward trend in payments, minimum wages continue to be seen as maximum wages. Complaints of non-payment of full wages or delayed payments and harassment of workers were common as far back as 1939, the year of one of the worst famines, ‘*chhapania kal*’ (the great famine) (Kachhawala, 1992). ‘Leakages’ or ‘diversion’ of drought relief (funds), as Jodha (1975: 1611) also notes, is one of the most common ‘uses’ of drought relief in Rajasthan and is not only well recognised but also considered ‘unavoidable.’

of drought relief schemes in Rajasthan (as in other parts of the rural countryside in India).²⁹ It consequently became one of the first issues that the MKSS took up.

The *Harmada Andolan* (movement)

The three core activists who later went on to form MKSS got involved in the early struggle for the enforcement of minimum wages while working at the Social Work Research Centre (SWRC) located in Tilonia village, close to Harmada village (Ajmer district). The *Harmada andolan* (movement) began when a Dalit woman, Naurti Bai and a worksite supervisor (*mate*) opportunistically saw and took possession of labour lists (*muster* rolls) and refused to return them until workers were paid their full wages.³⁰ In 1981, as workers refused to take less than the minimum wage, and Naurti Bai refused to part with the *muster* roll, the Social Work Research Centre (SWRC), based in nearby Tilonia, supported her struggle. SWRC members provided moral support and strength of numbers, pre-empting physical assaults or threats on Naurti Bai.

Villagers from Harmada, despite protesting, were eventually compelled to take below minimum wages. Later however, the *muster* roll from Harmada was used as evidence in a Public Interest Litigation (PIL), which was filed in the name of the Director of SWRC.³¹ The decision on the PIL came two years after the *Harmada andolan* began and held that denial of minimum wages under drought relief was

²⁹Chunni Singh, MKSS activist, interview with author. Phaluna, Rajasthan. 26.12.09.

³⁰Ram Karan, member SWRC and SR Abhiyan, interview with author. Tilonia, Rajasthan. 06.04.10.

For a discussion of the role of the Harmada andolan in the women's movement in Rajasthan see, Jeitrli (2006).

³¹In the mid 1970's an activist judiciary, introduced the Public Interest Litigation (PIL) as a way for marginalised groups to access the judiciary. In the early 1980's every day several cases to secure the proper wages were being brought to the courts for litigation (Joshi 2007; see also Joshi and Moore 2000).

equivalent to state sanctioned ‘forced labour’.³² This legal victory was an early lesson in the power of obtaining control over official records, and it pointed towards the importance of taking the struggle over the heads of corrupt local (panchayat) officials.

The Formation of a Collective

Nine years after the *Harmada andolan*, the *Mazdoor Kisan Shakti Sangathan* (Workers and Peasant Power Collective) was formed in 1990. For a farmer and workers collective, it was only natural that the group took up the issues of enforcement of minimum wages and access to village commons.³³ In other districts of central Rajasthan, like in Harmada, smaller struggles were being waged on a personal scale. Local peasants and farmers working on drought relief were demanding full wages on drought relief works. However, in these confrontations with *sarpanches* and *gram*

³²After *Harmada*, the Director of SWRC and other MKSS activists had written to a senior judge and architect of the Public Interest Litigation (PIL), Justice P.N. Bhagwati. Justice Bhagwati sent a lawyer to inquire into the matter, who returned to Delhi with copies of the labour list. With the lists as evidence, a PIL was filed in the Supreme Court. In a historic decision two years later the Supreme Court ruled, ‘no person shall be required or permitted to provide labour or service to another on payment of anything less than the minimum wage and if...minimum wage may not be paid to a workman employed in any famine relief work, it would be clearly violative of Article 23 of the Constitution’ [of India]. As Drèze and Oldiges (2007) note, ‘it is in the context of relief works in Rajasthan that the Supreme Court delivered a landmark judgment stating that employing labourers without paying the minimum wage is “forced labour” insofar as it amounts to ‘[taking] advantage of the helpless condition of the affected persons’ (*Sanjit Roy vs. State of Rajasthan* 1983, SCC (1) 525) more than 20 years after this indictment, the problem persists.’

³³Between 1987-1990, Aruna Roy, Nikhil Dey, and Shankar Singh, who moved to Devdungri village together with a local farmer, Lal Singh, from *Sohangarh* village, undertook a successful struggle against a local upper-caste landlord in his village. The struggle resulted in the village commons being transferred to a women’s cooperative that was charged with monitoring the use of the commons for collective grazing and gathering of forest produce. The defining moment of the struggle was the physical violence by the upper caste landlord and his aides on two MKSS activists in order to prevent the cooperative from being set up. To protest the violence, the entire village marched to the block office and organised a daylong sit-in demanding a police complaint to be lodged against the violent beating of two MKSS activists. Lal Singh, MKSS activist, interview with author. Sohanganr, Rajasthan. 17.03.10; Mohini Bai and Bhanwar Singh, interview with author. Sohanganr, Rajasthan. 16.3.10; see also Kidambi (2008); Sampat and Dey (2005). Soon after, on 1st May (Labour Day), MKSS was formed. A *Mazdoor mela* (Workers fair) in Bhim block of Rajsamand district is organised annually on May 1st to mark the anniversary of MKSS and to reflect on its struggles, celebrate victories, and discuss the way forward; see also Gill (2010).

sewaks, these local actors were typically alone and, more importantly, lacked information to reasonably argue why underpayment of wages was unjust and arbitrary.

As I was told by a local farmer and MKSS activists from Phaluna village (Jawaja panchayat), ‘we all knew the *sarpanch* put his family members on the *muster* roll; they never came to work, but got full wages. On the other hand, we were not sure how much [wages] we were entitled to [receive]’.³⁴ As another MKSS activist and resident of Surajpura village, told me, ‘[the] majority [of] workers had not seen *muster* rolls until 1992.’³⁵ Workers were thus forced to take what was handed to them, which was sometimes nothing. False assurances from the *gram sewak* or *sarpanch* and local state officials, in the absence of adequate and appropriate information, gave them little to work with.

To their pleasant surprise, however, activists did occasionally encounter what they explain as ‘anti-establishment’ sentiments amongst the residents of the Rajsamand, Ajmer, Pali and parts of Bhilwara districts (the *Mangra* region).³⁶ As Shankar Singh, founder member of MKSS, said to me, ‘before we sat on our first hunger strike for minimum wages, Chunni Singh (another founder member of MKSS) and I, along with two hundred men and women from Bhim block, gave a spur-of-the-moment *dharna* (sit-in) outside the office of the sub-divisional magistrate in Bhim. The *dharna* was a response to the SDM’s sly tactics to abandon his office and ignore the villagers who had

³⁴Chunni Singh, MKSS activist, interview with author. Phaluna, Rajasthan. 26.12.09.

³⁵Author field notes, Jawaja, Rajasthan. 30.12.09.

³⁶The *Mangra* region was never under the control of princely Rajputs or upper caste *thakurs*. The social bandits, largely from the intermediate caste (*Rawats*), lived in the *Mangra* hills. They pillaged goods that were transported through the area that connected Mewar (Bhilwara, Udaipur) and Marwar (Jodhpur) regions. When the British arrived in Rajasthan, this region was given to them, and they set up an army cantonment in *Todgarh*, named after the British officer Colonel Tod. The British army recruited several villagers into its army from the region. However, the history of social banditry also led several people in the region to resist the British. Thus, the anti-establishment sentiment over the years survived and occasionally MKSS got a glimpse of this tendency. Shankar Singh, MKSS activist, interview with author. Jaipur, Rajasthan. 03.07.2012.

gathered at his office to demand their wages. We were surprised and enthused by the way women prevented the clerk from closing the SDM's office by sitting down in the middle of the doorway. They demanded to be heard. We eventually camped out at the SDM's office for the night, and the next day workers got their wages. We were encouraged by the experience and became hopeful about organising villagers on the issue of minimum wages.'

In Rajsamand district in central Rajasthan where MKSS is based, the struggle for enforcement of minimum wages finally gathered momentum when a dalit couple from the nearby Tadai village refused to take anything less than the minimum wage.³⁷ As Aruna Roy, founder member of MKSS, said to me, 'for us [MKSS] it was reapplying what we had learnt about minimum wages in Harmada,' and MKSS took up the issue with relative ease.³⁸ At the *Dadi Rapat* worksite, MKSS activists tried to convince approximately 100 workers who were building a levee to complete the full task allotted to them, assuring them that they would receive their full wages. Approximately 60 villagers agreed to the task. The rest were pessimistic that their full wages would be paid; they were certain about receiving the same wages irrespective of completing their work.

The *mate* or worksite supervisor tried to play the two groups of villagers against each other. On one hand, villagers that did not agree to the activists' suggestion—to complete their tasks—received more wages (Rs. 9.50) (less than half dollar per day), even though they had done less work. This was, in any case, less than the legal minimum wages (Rs.11 for Rajasthan). On the other, villagers who completed their work and refused to take less than the minimum wage were paid even less (Rs. 7) than

³⁷Mohan Ba, MKSS activist, interview with author. Tadai, Rajasthan. 16.03.10; Chunni Bai, MKSS activists, interview with author. Tadai, Rajasthan. 16.03.10.

³⁸Aruna Roy, MKSS activist, interview with author. Tilonia, Rajasthan. 17.10.09.

the other villagers. Along with several women and men who worked on the *Dadi Rapat* worksite, MKSS chose a familiar mode of struggle to protest this arbitrary system of payment of minimum wages.

Civil Disobedience for Minimum Wages

MKSS and villagers from Rajsamand district now entered struggle mode. Two hunger strikes, one in 1990 and another in 1991 became turning points in the struggle for the enforcement of minimum wages. The interdependence of the rights to information and work also became apparent with the response of the state to the hunger strikes. MKSS had learnt about the relevance of official information from the struggle in Harmada. The state government's response (or lack thereof) to the hunger strikes sharpened the need for a new approach to advance the struggle for enforcing minimum wages; access to information became integral to the struggle.

Drawing on their existing repertoire of non-violent civil disobedience, MKSS activists organised the first of its two hunger strikes outside of the sub-divisional office in Bhim (Rajsamand district) in 1990. The second one would be organised a year later in 1991 along with villagers from Brar panchayat (Rajsamand district). Through the hunger strikes, workers and activists sought to target the lowest level of the state, the panchayat staff, by exerting pressure on them via higher levels of the state apparatus, namely the block and state administration. During the first hunger strike, however, neither the villagers nor MKSS had the political leverage or the strength of numbers to grab the attention of the higher levels of the state and were ignored. The first hunger strike in 1990 did not produce concrete results and ended with false assurances from the block office.

The second hunger strike, however, became a critical turning point for MKSS. Representatives from five districts of central Rajasthan in 1991 went on a second hunger strike in support of eleven workers from Brar panchayat (Rajsamand district). To the extent that it was successful, because MKSS was able to scale up the struggle to the central government. Here, it is important to note that one of the core MKSS activists, Aruna Roy, was a former IAS official. In a sense, she came out of the state and, therefore, her insights into the functioning of the bureaucratic state were useful for scaling up the struggle.

Payments were finally made, but only after the Secretary for Rural Development, Government of India (an IAS official unknown to MKSS activists), acted on a letter from MKSS activists that drew the Central government's attention to the faulty implementation of drought relief schemes in central Rajasthan. As is common practice, the Central government dispatched a fact-finding team, which submitted a report confirming the grievances reported by MKSS. The Secretary of Rural Development categorically told the state government of Rajasthan to pay the minimum wages or face withdrawal of all central funds for drought relief.³⁹

The combination of pressure from the hunger strike and a reformist IAS official, that created a sympathetic opening proved effective in this case, especially since it was a centrally sponsored scheme.⁴⁰ However, there were also other factors at play. The

³⁹S. R. Sankaran former Secretary of Rural Development, Government of India (rtd.), interview with author. Hyderabad, Andhra Pradesh. 20.05.10; see also Jodha (1975: 1611) who notes, on leakages and diversion of drought relief (funds) 'erring governments have often received strong strictures from central fact-finding teams.'

⁴⁰Many wage employment or public work programmes come under the category of centrally sponsored schemes (CSS), which the Government of India designs and partly or wholly funds but whose implementation is the sole responsibility of state governments. State government budgets are seldom adequate, thus states remain dependent on the Centre for finance, especially in the case of CSS that are attractive, despite the discretionary elements attached to them, which state governments may not find favourable but which are insufficient to compel them to give up large amounts of central funds for politically popular schemes (Dasgupta, 2001). Drought-relief

hunger strike was also planned, though not deliberately, during an election year. In order to prevent losing rural votes to the Congress Party, the ruling Bharatiya Janata Party (BJP) government's immediate concern became putting an end to the hunger strike. This concern was reinforced when villagers at the hunger strike waved black flags in protest over government apathy as the Bharatiya Janata Party (BJP) Chief Minister Bahiron Singh Shekhawat arrived in Bhim during his election tour. Denial of minimum wages could have provided the Congress party with an opportunistic platform to win rural votes. The strike had to end, and the BJP government responded by physically detaining those on hunger strike. This desperate effort by the government to end the strike backfired and attracted outside support for the struggle.⁴¹ The next day eleven workers from Brar panchayat were paid their remaining wages when hundreds of people gathered outside the district collector's office to protest the arrest of activists, and refused to leave until the workers were paid.

In Search of an Alternative

The second hunger strike, although successful at implementing full wages in one panchayat, nevertheless made clear to activists that it would be very difficult to enforce minimum wages across the state of Rajasthan. Each panchayat would require a similar localised effort and a commitment by villagers to accept nothing less than the minimum

schemes constitute the 'multiple uses of drought' - one of which is "obtaining increased resource transfers from the Centre" (Jodha, 1975:1617). With these transfers, of course, come opportunities for leakage and diversion at various levels, particularly by the local-level officials who are responsible for implementing the various schemes.

⁴¹Even as the CM publicly assured villagers they would get their wages, the district Collector (acting on the CM's orders) got rid of striking villagers over night. MKSS activists, through their own sources amongst local intelligence officers as well as the press that were sympathetic to their demands, were informed of a night raid planned by the local police with specific orders to break the strike. Activists and villagers were loaded into trucks and transported to closest jail in Udaipur district. News spread about the arrest of activists and, the next day over one thousand people gathered at the *dharna* site in Bhim to protest against the raid. Nikhil Dey, MKSS activists, interview with author. Devdungri, Rajasthan. 01.05.10; Shankar Singh, MKSS activists, interview with author, Devdungri, Rajasthan. 14.02.10.

wage. Accepting less meant, in a sense, a withdrawal of the principal demand—full wages for full work (*pura kaam, pura daam*). There was also no guarantee of prompt intervention by the state government. Tactically, moreover, MKSS began to feel that hunger strikes increased the dependency of activists on the state. That is, the concerns regarding the health of hunger strikers often led to a dilution of their principal demands and weakened their position when engaging different levels of the state.

New strategies thus had to be devised in order to resist the actions of the state at the local (panchayat) level. At the same time activists had to figure ways to draw the attention of the higher—state and national—levels. Early on, MKSS learned the important lesson from the *Harmada andolan* of taking the struggle over the heads of local panchayat staff, but questions persisted within MKSS about the lack of tangible options beyond hunger strikes. This problem led to a search for an alternative mode of protest.

MKSS also realised the difficulties of building a campaign focused solely on the right to work and minimum wages for the informal or casual workforce. MKSS assessed that there were few state or national constituencies (including organised trade unions or farmers movements) prepared to lend support to such a struggle.⁴² They therefore put on hold plans for a large-scale mobilisation on the minimum wage issue.⁴³ Activists realised they needed an issue that would draw broader public while still advancing the main issue of rural livelihoods. Meanwhile, the inextricable link between

⁴²Although in 1995, a year after the first five *Jan sunwais*, a writ petition was also filed in the Supreme Court by MKSS, 40 Trade Unions, Voluntary Agencies and Human Rights Organisations as co-petitioners. The Supreme Court transferred the petition to the High Court of Rajasthan. Nikhil Dey, MKSS activist, interview with author. Devdungri, Rajasthan. 01.05.10.

⁴³In part after a discussion with S. R. Sankaran (the IAS official from the Ministry of Rural Development, who had intervened in the second hunger strike), MKSS learned that the government of India did not plan to allocate more resources for rural employment programmes. The central government was also under pressure from the World Bank to waive the protection of Minimum Wages Act for employment programmes. Nikhil Dey, MKSS activist, interview with author. Jaipur, Rajasthan. 15.12.10.

information and enforcement of minimum wages had become clear. The result of this conjuncture was the first *Jan sunwai* in December 1994. The *Jan sunwai* was MKSS's rural innovation, inspired by the experiences of activists who had participated in public hearings in cities (Delhi and Bangalore).

THE EMERGENCE OF THE *JAN SUNWAI*

Nathu Singh from the village of KotKirana was sure he had not been paid his wages from his last period of work on the Rajasthan government's public employment scheme, and suspected that the *sarpanch* had reduced the total number of days he had worked. He sought out Harinder, a young MKSS activist and an aspiring primary schoolteacher in December 1994. MKSS drafted a written complaint on behalf of Nathu Singh and brought it to the notice of the block development officer (BDO) when he came to visit Devdungri village, where MKSS is based. The BDO, Nirmal Wadwani, had met Shankar Singh at the Indian Administrative Services (IAS) training academy in Mussorie where Shankar, along with Aruna Roy (also a former IAS official), had given a lecture. After his posting to Raipur (Pali district), Wadwani came to Devdungri, to visit an ex-IAS officer Aruna Roy (who had voluntarily resigned from the service). He wanted to see where she lived and worked.

The MKSS at the time had been trying to find ways to obtain official records related to drought relief. The BDO's visit presented the activists with an opportunity to obtain access to official records for KotKirana. Therefore, Shankar Singh mentioned Nathu Singh's case to Wadwani, and the BDO promptly agreed to investigate the matter. Nathu Singh had the fortune of encountering the BDO, a new recruit of the Indian Administrative Services (IAS). Wadwani was posted as a probationer (IAS in training) at the sub-divisional level in the block office in Raipur (Pali district). Making

most of the opportunity, Shankar Singh suggested to the BDO that he should come to KotKirana and bring the related official records with him. Wadwani agreed to come with the official records.

Shankar Singh recalls, ‘I don’t think he (Wadwani) understood [that] what he was about to do was quite unprecedented and even dangerous for a new recruit.’⁴⁴ A few days later Wadwani brought the records to KotKirana to inquire into Nathu Singh’s complaint. He arrived at the panchayat building (*bhavan*), with his team including an accountant, a junior engineer, and the *gram sewak* was also summoned. With the arrival of these officials, several people gathered around the panchayat *bhavan*. Shankar Singh, Harinder, Nathu Singh, and others were also present.

Wadwani turned to Shankar Singh and asked what was to be done. When it was suggested that *muster* rolls be read out, he handed the *muster* rolls to Shankar Singh and asked him to read them out. Shankar Singh did not know how the villagers who had gathered around would respond. But no more than two or three names had been read when an ex-army soldier interrupted: ‘sir what are you saying? My wife has never worked on drought relief works. I was in the army and she has always lived with me where I was posted. How did her name get in to the *muster* roll, and who has taken the payment?’ Shankar Singh told me, ‘I was surprised by the response but continued to read more names and was interrupted again by people asking me bemused which (*kaun sa*) *muster* roll I was reading. Villagers clarified that the names of persons I had just read, did not live in the village.’⁴⁵

Wadwani promptly stood up and assured the small crowd that had gathered that he would conduct an inquiry. Shankar Singh requested if he could also read out some of the bills for the materials used on some of the works. As soon as the first bill for

⁴⁴Shankar Singh, MKSS activist, interview with author. Devdungri, Rajasthan. 14.02.10.

⁴⁵Ibid.

materials purchased for the construction of the revenue building (*patwar ghar*) were read, people laughed out loud. They asked the BDO and Shankar Singh to turn around to see that the windows and doors of the *patwar ghar*, for which bills had been submitted and payments made, actually did not exist. Shankar Singh recalls that Wadwani promptly closed the files and repeated, ‘we will investigate this further.’⁴⁶ Later, Wadwani and his team decided to visit the individual who had supplied the materials. His name and address were on the bill. After interrogating the supplier, Wadwani confiscated his bill books and noted his statement that he had not supplied any doors and windows for the *patwar ghar* and had fabricated the bills.

As they were leaving KotKirana, Shankar Singh, who was a little perplexed by the BDO’s pursuance of the case, requested him to provide him with copies of the official records and offered to assist him with the inquiry. Wadwani once again promptly agreed. On the way back to the block office, as they were dropping off Shankar Singh, Wadwani was told by his accompanying junior officials that as per the law—the Official Secrets Act 1923—he was not permitted to give photocopies of these records. Wadwani turned to Shankar Singh and asked him to come to his office (which was approximately 45 kilometres away from the village). ‘The next day I arrived at the BDO’s office, and Wadwani took me aside and said to me that my request for copies of records had generated a great deal of protest amongst the staff. I have been told I cannot give you photocopies, Wadwani said. So I asked him if I could copy them by hand, and

⁴⁶Ibid.



Figure 3.1. First *Jan sunwai* in KotKirana in Pali District, Rajasthan (1994).
Courtesy Social Work Research Centre, Tilonia, Rajasthan.

he agreed.’⁴⁷ Thus, the information needed to conduct the first *Jan sunwai* was obtained with the help of the BDO.

Residents of seven villages in KotKirana panchayat and four villages of Bagdi Kalaliya panchayat attend the *Jan sunwai*, which was conducted in an open field adjacent the KotKirana panchayat office (figure 3.1). The former Deputy Speaker and member of the Rajasthan state assembly (MLA), hearing of the intended plans, camped out in the village. His presence instilled fear. In the preparatory days leading up to the *Jan sunwai*, very few villagers assisted the activists. If nobody from KotKirana had supported the *Jan sunwai*, it would have been aborted. Threats and attempts to bribe villagers followed in order to prevent them from testifying at the *Jan sunwai*. The accused public officials, with the support of the MLA, made offers of money to villagers to change their statements. Three women from Kot village were taken to another panchayat and made to sign false affidavits. When the activists resolved to carry out the *Jan sunwai*, despite the opposition from the MLA, the *sarpanch* plotted to

⁴⁷Ibid



Figure 3.2. The room behind Harinder's (left) house where MKSS activists took shelter the night before the public hearing, in KotKirana. Photo by author (2010).

intimidate and dissuade the activists. Harinder and few adolescent boys from the village constituted the local support for the MKSS.

One night, some of the boys heard of a plan being hatched by the *sarpanch* and supported by the MLA to attack the activists. The activists were living in a school building during the period of the preliminary verification before the final hearing. Harinder was informed by a group of boys of the probable attack. As he recalled to me: 'I moved them [MKSS activists] into a small room behind my house' (figure 3.2), and, pointing to the stairs leading into his house, explained, 'the next morning we walked through the courtyard of this house, down these stairs and through the village carrying several files. I felt all eyes in the village were on me; but I was sick and tired of the way things were and felt I had to stand up.'⁴⁸

The *Jan sunwai* was organised under an old military parachute that was borrowed from a retired *subedar* of the Indian Army. Despite restrictions from parents, who had

⁴⁸Harinder, former MKSS activist, interview with author. KotKirana, Rajasthan. 14.02.10.

been intimidated by the *sarpanch* and the MLA to boycott the *Jan sunwai*, the youth enthusiastically helped to set up the tent and closely watched the proceedings.⁴⁹ A professor of political science from Rajasthan University, a Gandhian social activist from Jaipur, and the Director of the Social Work Research Centre in Tilonia (Ajmer district) constituted the informal panel of experts, or eminent citizens, at the first *Jan sunwai*. No government officials participated.

Activists read out names from muster rolls, and an MKSS document from the time recalls what happened next:

...[O] utraged people came and testified that they had never gone to those work sites, that false signatures had been used and that there were names on the *muster* rolls of people dead and gone, and others unheard of. The finger was pointed at the retired teacher Moti Singh who had entered the names, the *Gram Sewak* who made the payment, and the Junior Engineer who had certified that the work was done and payments made in his presence. The people fearlessly spoke against the former Deputy Speaker of the Rajasthan, Vidhan Sabha, who had camped in the village prior to the hearings, intimidating the villagers to change their statements against the accused. When bills and vouchers of the unfinished *Patwar Ghar* were read out, the people learnt that they had a ‘complete’ *Patwar Ghar*—at least on paper. The bills for materials used for the roof, doors and windows, when read out, elicited a great deal of laughter for there was no roof and there were only holes for doors and windows. When the laughter died down, there was consternation, anger and eventually a First Information Report (FIR).⁵⁰

The FIR or official police report was lodged against the junior engineer and *gram sewak* for forging accounts worth approximately fifty eight thousand rupees. The panchayat officials: that is, the junior engineer and *gram sewak* who were accused of fraud thus attempted to garner support from the local MLA, and he helped to subvert a full departmental inquiry against the erring officials, who got off relatively lightly: The *gram sewak* was temporarily suspended and the junior engineer was assigned to a neighbouring panchayat.

Meanwhile, a group of village elders were convinced to organise a meeting at the

⁴⁹ Author field notes, KotKirana, Rajasthan. 14.02.10

⁵⁰ MKSS (1996).

village temple in KotKirana to ask the *gram sewak*, the schoolteacher, and the junior engineer to tender a public apology. This apology, however, was not tendered in front of the entire village, as in a *Jan sunwai*. Rather, the *gram sewak* and junior engineer apologised to five religious elders of the village. These elders (based on their own notion of punishment) decided to fine the accused an insignificant amount (less than 2% of the total funds embezzled), and donated it to repair works of the village temple (Mishra, 2003). Thus, in KotKirana, MKSS achieved moderate success in tackling corruption in the employment relief scheme. However, in doing so they had evolved a new strategy for their activism.

The Diffusion of the *Jan Sunwai*

With the KotKirana *Jan sunwai*, MKSS learnt the power of information. According to MKSS activist Nikhil Dey, it was ‘power which was realised when we got the information in our hands’ (*shakti jo ahsas hui jab suchna haath me aayi*).⁵¹ He said to me, ‘we knew without information, *Jan sunwais* could not take place. They (*sarpanches*, *gram sewaks*, block level officials) understood what giving access to such information meant.’⁵² Thus came about the shift to the demand for a right to information. Over the next six months (December 1994–April 1995), MKSS organised four more *Jan sunwais* in quick succession across Rajsamand, Ajmer and Bhilwara districts. Of the four *Jan sunwais* after KotKirana, three took place within a month: in Vijaypura (7th December 1994), Bhim (17th December 1994), Jawaja (4th January 1995), and, finally, Thana (25th April 1995) panchayats.

The *gram sewaks* reacted defensively to the rapid development and use of the *Jan sunwai*. At the time of the fourth *Jan sunwai* in Jawaja (Ajmer district) the district’s

⁵¹Nikhil Dey, MKSS activist, interview with author. Devdungri, Rajasthan. 01.05.10.

⁵²Ibid

gram sewaks went on strike.⁵³ MKSS activists had obtained orders from the district administration to access official records to conduct the *Jan sunwai*. The *gram sewaks* refused to comply with the orders of the District Collector, and refused to give activists and villagers' access to panchayat information. In fact, the *gram sewaks* staged a *dharna* (sit-in) outside the District Collectors office to protest against the order, stating that they would only cooperate on a government audit. (In Chapter 5, we will see how *gram sewaks* deployed similar counter-mobilisation strategies against legally mandated social audits).

The *gram sewak* opposition to the *Jan sunwai* in Ajmer district (1995) soon turned into a state-wide protest. A delegation of *gram sewaks* from across the state met with the Development Commissioner in the state capital, Jaipur.⁵⁴ Alongside the opposition, the local demand for transparency in development expenditure was also shaping into a state-wide call for a right to information legislation. The Jawaja *Jan sunwai* was organised despite the opposition by the *gram sewak*. Even without access to official information, people from seven panchayats in Jawaja block attended and testified.

Three senior lawyers from the Rajasthan High Court and a professor from the National School of Drama in Delhi attended as independent observers. As I will explain, the *Jan sunwai* derives its legitimacy primarily from the people. At the Jawaja *Jan sunwai* the 'authenticity of the testimonies,' despite the lack of official information, produced results (D. Priya, 1996: 84). The irregularities and discrepancies that were publicly stated were speedily redressed. As Mishra (2003: 14) notes, five Dalit families of Jalia Peethawas (dalits) openly stated (at the Jawaja *Jan sunwai*) that their *gram sewak* had taken 'a cut of Rs.1500 (approximately \$25) from each of them from the

⁵³D'Monte (1996).

⁵⁴D. Priya (1996).

total grant money of Rs.9800' (approximately \$150) for the *Indira Awas*, or housing scheme, and they 'got the amount back within forty-eight hours of the hearing.'

At the Jawaja *Jan sunwai*, MKSS activists also issued a call for a mass agitation outside the District Collectors office to demand copies of official records, thus articulating the demand for a right to panchayat held information. Sandwiched between the *gram sewak* protests and mounting public pressure, the District Collector of Ajmer district turned to the state government in Jaipur. Three months after the Jawaja *Jan sunwai*, the Chief Minister (CM) of Rajasthan made a public announcement in the state assembly granting all citizens the right to information—that is, access to copies of officials records related to development works carried out at the panchayat level.⁵⁵

The CM's announcement was an expected rhetorical pronouncement by the political leadership; such pronouncements are 'normal for contending political leaders in their attempts to placate defecting groups' (Piven and Cloward, 1979: 17). In this case, the ruling BJP leadership pre-empted the opposition Congress Party, preventing it from capitalising on the momentum created by the *Jan sunwai*. When the CM's announcement to provide a right to information did not result in any concrete state action, activists turned the CM's announcement on access to information into a political plank. They did this by mobilising villagers from central Rajasthan for two *dharnas* (sit-ins). The subsequent executive order, which came in the initial days of the first *dharna* in Beawar, in 1996, and a year before the Rajasthan state assembly elections, bolstered the MKSS and protesting villages.

⁵⁵This decision, as the Chief Secretary of Rajasthan government at the time explained to me, was not influenced by MKSS. In fact, he asserted that while these people [MKSS] were protesting—to use his words, as 'Aruna sat on a dharna (rhymes well)' the state government made the promise '*suo-moto*' (on their own). However, he also noted, MKSS activists came to meet him during election year: 'they thought it was the right time to pressurise the government; but the government made the statement in a public body to which it is accountable, i.e., the state legislature. We were not going to backtrack'. M.L. Mehta, former Chief Secretary of Rajasthan, interview with author. Jaipur, Rajasthan. 14.04.10.

Within a year of the CM's announcement, MKSS embarked on a 40-day *dharna* (sit-in) in Beawar, and a month later extending the *dharna* to the state capital, Jaipur to scale up the demand for a legal right to information at the state level. Activists also galvanised a range of actors from across institutional arenas into a national campaign for a national right to information legislation, to be discussed in Chapter 4. Thus, what began as the creation of alternative public sphere to gain panchayat-level information in Rajasthan ballooned into a national RTI campaign. We will turn to this next stage in the following chapter. But first let us examine in more detail the structure of a Jan sunwai to understand its effectiveness as an alternative public sphere.

THE STRUCTURE OF A *JAN SUNWAI*

A *Jan sunwai* has five steps: obtaining government information, converting or simplifying that information, reviewing or auditing public works, motivating people to testify, and conducting the final hearing. A *Jan sunwai* thus consists not only of a final daylong public hearing but also the preliminary week to ten days of preparatory auditing and mobilising activities. Since not everyone can be covered in the preliminary activities, the final day of the *Jan sunwai* is an opportunity to bring—as far as possible—the entire panchayat together to collectively discuss and debate, but, more importantly, to question and assess how development programmes have been carried out in their villages.

Step 1: Gathering Information

The first step of the *Jan sunwai* is to gather information. While the government controls the flow and exchange of information, in order for the *Jan sunwai* to provide an equal knowledge base amongst villagers and panchayat functionaries, access to relevant

public records (government information) is imperative. Until 2001 in Rajasthan (and many other states across India), public access to such records was legally prohibited by the Official Secrets Act 1923. This meant that even MKSS activists had no means of accessing government information related to drought relief works.

Therefore, in order to organise a *Jan sunwai*, obtaining government records was a critical hurdle. Once information was obtained, activists had to convert it in order to facilitate person-to-person verification. Prior to 2001, activists relied largely on public-spirited officials at the block and district level or honest *sarpanches*, like the one in Dhapda village, to access such information in central Rajasthan.

Step 2: Converting Information

Once villagers and activists access government information, it has to be converted so that it can be shared with villagers in an idiom that they can easily understand. This is the second step of the *Jan sunwai*. The majority of villagers who work on drought relief in Rajasthan are illiterate. They are unable to read entries in the *muster* rolls that are usually filled out by the *mate* (worksite supervisor, usually an aide of the *sarpanch*). For example, key official records of drought relief works, such as the *muster* rolls, record the daily attendance of workers. It is therefore necessary that such records be read out—one form of conversion—so that villagers know how their wages are calculated.

Some villagers are semi-literate and can sign their names, and reading out names in front of villagers enhances the possibility of identifying fake or *ghost* entries. For example, in a village in Kushalpura panchayat (Rajsamand district), where activists were verifying *muster* rolls on a worksite, a villager asked to see the *muster* roll from which activists had read out his name. In the *muster* roll the villager saw a thumbprint

against his name. This suggested that—as per the official record—he had dug earth for a canal work, and received wages. According to the worker, however, he did not apply for work under drought relief that year. He issued a witty response, ridiculing the official record, ‘this is not a thumbprint. I can sign (*ye angutha nahin hain, hum sign karte hain*).’ Then placing his thumb over the thumbprint on the open *muster* roll, the villager said, ‘This is a fingerprint...’(*ye ungli laga rakhi hain...*), suggesting the *sarpanch* had not even bothered to use his thumb, and carelessly used his index finger to forge the entry (knowing he would not be caught).⁵⁶

Another key government record is the measurement book, which contains technical details related to the work allotted and completed by workers as well as the quantity of materials purchased for a work. Attached to the measurement books are bills and vouchers indicating the price for materials purchased for building roads, schools, and community halls. A measurement book, however, has a specific format and is not easy to read. This means entries are made in a specific style, using technical language only understood by trained professionals, in this case engineers. During an official inquiry the engineers are readily available to explain their entries to senior officials. However, villagers are not privileged with the same readiness when they seek clarification about why they are paid less. Thus, the conversion of measurement books is necessary so that villagers can ascertain official entries.

By converting a measurement book, I mean translating eight cubic feet of cement, as recorded in the measurement book, into six bags of cement. Villagers are generally aware of what happens in their village, and they can validate whether six or sixty bags of cement were brought into their village. However, what they are unaware of is what the official records contain. An illustration will further explain the

⁵⁶The Right to Know, The Right to Live. 2000. Directed by Anurag Singh.

significance of a measurement book for a *Jan sunwai*. In the pre-*Jan sunwai* verification, in 1998, one worker became agitated, after being asked several times by an activist whether he had dug earth for a canal in Lassani village (Rajsamand district). The villager denied working on the canal and categorically stated it did not exist (*neher bani hi nahi hai!*). However, in the measurement book, from which activists later read out loud at the final hearing at the *Jan sunwai*, project engineers had shown the same canal had been built and measured seven hundred and fifteen feet long and two feet wide.⁵⁷ The canal did not exist. These examples of sharing converted information with villagers bring us to the third step of a *Jan sunwai*.

Step 3: Motivating People to Testify

A *Jan sunwai* requires mobilising local people to participate, which involve concerted organising and publicity. Borrowing from the existing repertoire of education and communication strategies deployed by other rights-based groups, MKSS developed its own style of generating publicity and mobilising villages. Activists use puppetry, folk songs, *prabhat* and *sandhya pheris* (morning and evening processions), and meandering through *galis* (lanes) to publicise their presence and purpose in the village. *Nukad nataks* or street plays are also performed and incorporate a pedagogic element (figure 3.3). The themes of these plays and songs, written and enacted by local villagers and activists, weave in the socio-economic realities of villagers—repeated droughts, forced migration, non-payment of wages, apathy of state agents and corruption in public work programmes. In addition to these activities, activists camp out in the village for

⁵⁷Ibid.



Figure 3.3. MKSS activists performing a play at night in Thana village, Bhilwara district, Rajasthan (1995). Courtesy Social Work Research Center, Tilonia, Rajasthan.

the duration of the *Jan sunwai*. Over the week-to-ten days leading up to the final hearing of the *Jan sunwai*, activists exchange and share information with villagers regarding the implementation of a range of schemes such as employment relief, pension, and free housing.

Often, activists also make a peculiar request to villagers by asking one household to feed an activist—that is, after a public meeting or once activists have finished sharing the converted information, they make a request for food. This is a novel way to win the trust and support of villagers, especially Dalits. For instance in 2001, this practice of singing songs and enacting plays as well as asking for food from villagers was used by the *sarpanch* to insult activists and portray them as ‘beggars’ who were trying to mislead the people of Janawad panchayat. However as an MKSS activist told me, in fact it was this practice of ‘asking for food that turned things in our favour, because we were not merely asking to be fed, but through it also entering people’s homes, sitting with them and connecting with people.’⁵⁸

⁵⁸Sowmya Kidambi, former MKSS activist, interview with author. Hyderabad, Andhra Pradesh. 22.05.10. In 2006, after a similar exercise of sharing information on a hot day in Udaipur district, I was humbled by the offer of several households in Udaipur district who fed us *daab* (a drink made of corn kernels and yoghurt) and leftover *roti* (bread) and fried chillies from the morning meal.

This form of generating publicity is different from the ‘propaganda or techne’ commonly associated with the state that lack ‘integral or continuous engagement with the lifeworld but are involved merely with the production of truth-statement’ (Mukhopadhyay, 2005: 5467). Touring bureaucrats from district offices and state capitals rarely interact with villagers or recipients of old age or widow pensions. They do not visit worksites or inspect houses sanctioned under the free housing scheme. In fact, a lot of manpower and public resources are dedicated to separating the public official from the public. This ensures public officials reach out to village elites, in particular *sarpanches*, and rely on them to complete cursory evaluations of government programmes and schemes. The MKSS, in contrast, preceded each *Jan sunwai* with a period of concerted organising and outreach in the villages. Only once members of the village were mobilised, and information in hand, did they proceed to review the public works.

Step 4: Auditing Public Works

The fourth stage of a *Jan sunwai* is the auditing of public works with villagers with the use of converted information (figure 3.4). Such a social audit—what Jenkins and Goetz (1999a) call ‘popular auditing’—goes beyond the annual financial audit usually undertaken by the government. A financial audit looks for whether money was correctly spent and focuses on bookkeeping errors. A social audit, in contrast, *also* looks at whether the spending was justified and made a difference for the village. It performs a dual function: it assesses performance and unpacks how decisions are made at the panchayat and block level. This kind of public corroboration of official information is a vital step of the *Jan sunwai*.



Figure 3.4. MKSS and SRWC activists verify *muster* rolls with women workers, and inspect an ongoing work near Tilonia village, Ajmer district, Rajasthan. Photo by author (2010).

Official routine inquiries made by touring bureaucrats require villagers to make time for visiting senior public officials. Usually, the elected head, or *sarpanch*, mediates such exchanges between villagers and public officials. Sometimes a small meeting is called by the *sarpanch* along with the *gram sewak*; a ward *panch* and one or two women (usually supporters/family members of the *sarpanch*) are present. The meeting serves a symbolic purpose: to record the visit and its participatory nature.⁵⁹

In contrast to official inquiries, in a social audit there is no fixed place where activists share converted information with villagers. It can take place anywhere in a village, wherever people happen to be present: at a village *chaupal* (a community building or space), near hand-pumps where women fill water, in the fields or even at an

⁵⁹Also see, Breman (1985: 1044) for his account of the interaction between a government labour officer and villagers, ‘from the road he beckons to labourers working in the field. If they dawdle as they come over... he urges them irritably to hurry up. Right from the beginning the conversation is conducted on a footing of inequality and takes the form of an interrogation.’ There are rare occasions too, as the one I happened to be privy to during the course of my fieldwork in Bhilwara district, in 2010. I joined a group of state civil servants from Jaipur who were investigating specific cases of corruption under the employment guarantee scheme in *Reechra* panchayat. Prior to their arrival the District Collector – an IAS official that heads the district – had ordered the *sarpanch* to stay away from all worksites. Along with assessing NREGA works, these officials also took photographs, randomly selected houses and spoke to villagers to record testimonies, and only towards the end interacted with the *sarpanch* and other elected members of the panchayat.



Figure 3.5. SR Abhiyan activists verifying *muster* rolls with villagers, in Jhalawar district, Rajasthan. Photo by author (2008).

on-going worksite. Sharing and verifying converted information is at the core of the social audit that places great emphasis on the convenience of villagers in validating official records (figure 3.5).

Very often, the sharing of such information also occurs at night, individually when people are at home, or collectively in meetings organised in the part of the village inhabited by lower caste groups. MKSS often seeks out lower caste or Dalit inhabitants living in segregated parts of the village. This is done in order to reach out to people who are most dependent on welfare programmes such as drought relief. They are also most likely to be excluded in favour of family and friends of the village *sarpanch*. If and when lower caste villagers are included they are most vulnerable to the corrupt practices of the *sarpanch* and *gram sewak*. That is, they are often denied full wages and compelled to act according to the dictate of upper and dominant caste groups. Yet very often those who speak out at a *Jan sunwai* are Dalit or Bhil (Schedule Tribe or ST) as well as women.

No conclusions, however, are drawn from such preliminary activities during the social audit. Rather, on the basis of what villagers communicate in response to the converted information that is shared with them, they are encouraged and motivated to publicly testify on the final hearing of the *Jan sunwai*. After the social audit, activists

remain in the village, collating the information they have gathered for a public presentation at the final hearing, which is the fifth step of the *Jan sunwai*.

Step 5: The Hearing

Activists maintain a presence in the village and continue to motivate villagers to testify up until the final hearing. As they do so, *sarpanches* are also hard at work devising ways to subvert the *Jan sunwai*. They intimidate people or attempt to buy their silence. The *sarpanches* usually provide large quantities of alcohol to men in expectation that they will be absent from the final hearing the next day.

Bribes, however, incur a huge personal expense, and it is not feasible to bribe the entire village. For instance, women, who constitute at least 50% of workers on drought relief, cannot be bribed with alcohol. They are usually intimidated, indirectly via threats through their husbands. Lower caste men, especially, are often threatened to ensure their wives do not testify. Villagers intimidated and bribed by the *sarpanch* are pitted against others who the *sarpanch* cannot influence or buy out. Activists struggled to counter these strategies and maintain village morale and commitment to testifying.

Finally, a public hearing is organised in a public place, such as, an open field, outside the panchayat office or sometimes at the block level (sub-divisional administrative unit), outside the block development office. The logic behind the choice of a place is its proximity and accessibility for ordinary villagers, as much depends upon the participation/attendance of villagers.

At the public hearing, all the findings of the social audit are placed before the participating publics. Findings are read out loud and villagers who have agreed to testify are called forward to the microphone to speak. *Sarpanches* and *gram sewaks* also attempt to hijack the proceedings by planting their aides at the front of the gathering at

the final public hearing. These aides are tasked with the responsibility of speeding up the *Jan sunwai* by providing quick affirmations, sometimes in a chorus like manner to the accuracy of official records, thus attempting to prevent others from speaking. When the back and forth interaction on a particular work heats up, the *sarpanch*'s aides attempt to derail the interaction. One of the ways in which the derailment occurs is by creating a tense environment, in anticipation that it leads to scuffle. Disruption of law and order thus becomes an easy way to stop a *Jan sunwai*. While MKSS activists facilitate *Jan sunwais*, they cannot organise it without local support. This is due to a general unfamiliarity with the district or panchayat, but also due to the unfamiliarity with the village politics. Villagers who collaborate with activists lend legitimacy to the process and make it difficult for social and political elites to subvert the *Jan sunwai* on the grounds that outsiders impose it on poor illiterate villagers in order to misguide them. The primary concern for activists, then, is that the contesting actors and what they say do not disrupt the final hearing. Even though MKSS activists conduct and monitor the proceedings at the final hearing, they do not control or steer it in any one direction.

At first glance, a *Jan sunwai* resembles a typical outdoor event in India where people gather under a tent shelter (*shamiana*). Villagers usually meet the cost of hiring the *shamiana*. Additional resources for a microphone and sound system and photocopies of official records are raised through donations. Villagers also contribute token amounts during the preliminary publicity-generating activities, and the rest is raised by MKSS activists through appeals to middle class citizens living in cities. There is no arrangement for food or drinks, in part to de-incentivise the uninterested, but, also to some extent, because there is often a shortage of funds.

From afar, a *Jan sunwai* resembles a meeting organised by a political party—a regular feature during elections—or a religious gathering. Once curious onlookers

approach a *Jan sunwai*, however, they do not hear political speeches or sermons from a high-perched platform. Rather, people witness fellow villagers engaged in a discussion of village affairs that typically happens in homes or maybe at chai stalls, but rarely in public before the entire village. The *Jan sunwai* often creates a novel excitement when, for the first time, what Scott calls the ‘hidden transcript’ is spoken ‘directly and publicly in the teeth of power’ (Scott, 1990: xiii).

As noted earlier, not everyone who attends the *Jan sunwai* testifies. Many come just to observe, and some are drawn in by curiosity not knowing what to expect. Usually, women sit together on the ground (away from the men) in the front of the tent (with their veils drawn over their faces) facing the activists and other villagers who are conducting the *Jan sunwai*. Upper caste men sit on chairs on the side towards the front of the tent. Lower caste or Dalit usually sit towards the back of the tent on the ground. On the right hand adjacent to the presenters sits the independent panel of eminent citizens and local journalists. This not because MKSS arranges the *Jan sunwai* in that way, but because that is how people are accustomed to segregating themselves. Though these entrenched forms of segregation persist the *Jan sunwai* is an attempt to organise public forums differently.

The *Jan sunwai* usually begins with activists announcing the name of the panchayat, details of financial year and the list of works to be discussed one by one. Flipping through sheets of paper from numerous files containing copies of official records activists reiterate the second step of the *Jan sunwai*—that is, conversion—as they take the microphone and read out aloud: names of works, names of villagers in several *muster* rolls pertaining to each work, number of days worked, and the amount of wages paid. Each detail that is read out is followed up by a question to authenticate the official record: has this work been carried out (*kya gaon mein ye kaam hua*)? Have

wages been paid (*kya bhuktan hua*)? Other lists containing details of pension payments—that is, names and amount of money—or names of selected villagers eligible for free houses are also read out. As names and details of works and accompanying remunerations are read out, and as questions are posed, the silence is gradually broken.

At first, responses come from the floor in a chorus: ‘he died seven years ago’, or ‘he lives in the city’ or ‘she is 80 years old, she could not have dug ditches’ or ‘the levee you are talking about does not exist’. Gradually villagers, who previously agreed to testify publicly, take the microphone. For instance, at the Kuker Kheda *Jan sunwai*, a villager took the microphone and said, ‘during the period when the work under discussion was underway, I was at another worksite. The bullocks and cart that were hired are a total fabrication (*bilkul farjiwada hai*); I don’t own any’.⁶⁰ Soon the *sarpanch*’s aides simultaneously shouted down others, referring to the whole process as a conspiracy by the opposition (*vipakshi saajish*) against the *sarpanch*. Chaos ensued, the villagers watched silently but intently. Soon, some order was established and activists assured contending speakers that they would get an opportunity to speak.

Jan sunwais could provide the opportunity for lower-caste villagers and women to challenge the claims of the (often) upper caste men who controlled local government. In 2001, the Congress Party state government attempted to organise three *Jan sunwais*, one of which was organised in Nathdwara district. In one panchayat, Panotia, *sarpanches* and *gram sewaks* had successfully managed to prevent people from testifying by threatening them with physical violence. According to MKSS activists, the *Jan sunwai* was a ‘complete washout’. The testimony of a Bhil (adivasi) in another panchayat (Jhalon ki Madar) however, broke the resistance of the Brahmin *sarpanches*.

⁶⁰The Right to Know, The Right to Live. 2000. Directed by Anurag Singh.

In the presence of the Brahmin *sarpanches*, ward *panches*, Kalu Tekka Bhil testified that none of the Bhils from his village whose names were in the *muster* roll had actually worked on the worksite.⁶¹ Sometimes then, *Jan sunwais* are an opportunity for the lower castes to counter the power of the upper castes that usually control the delivery and implementation of public works.

The Jan sunwai is clearly not a panacea for solving the many problems of class, caste and gender domination that characterise rural India. However, its accomplishments also should not be dismissed. Having provided an overview of its basic structure, in what follows I argue that the *Jan sunwai* operated as ‘an alternative public sphere,’ which created a space for public dialogue on these issues in a way that was novel for many villages. It is from these dialogues, moreover, that the demand for the right to information emerged.

JAN SUNWAI AS AN ALTERNATIVE PUBLIC SPHERE

The ‘public sphere’ as articulated by Jurgen Habermas (1998 [1989]) is a sphere of the lifeworld in which all citizens can interact, form public opinions, and confer in an unrestricted manner on matters of general interest.⁶² The interactions within the public sphere are based on what Habermas (1984a, 1984b), in his *Theory of Communicative Action*, calls communicative rationality. This communicative rationality, according to Habermas (1984a: x), is based on presupposed norms through which people relate to the world and make claims regarding the truth being spoken, the moral validity of reasons

⁶¹Sowmya Kidambi, former MKSS activist, interview with author. Hyderabad, Andhra Pradesh. 22.05.10.

⁶²Habermas (1984b: 310) developed a two level concept of society that integrates on one hand the system – bureaucracies and market forces – that function on instrumental purposive rationality, where actors communicate by following a government directive or in pursuit of profit or money. On the other hand he develops the idea of the life world, which constitutes the realm of the informal that works on communicative rationality.

for saying what actors say, and the sincerity or authenticity of speech acts. These claims are open to criticism, dispute, and revision (Ibid). Mutual interactions, as Habermas (1992: 252, 444) tells us, generate ‘communicative power’ that assert the ‘practically oriented demands of the lifeworld’, and can ‘influence’ and ‘impact’ the logic of public bureaucracies.

However, one of the fundamental critiques of Habermas’s concept of the public sphere is its presumed guarantee of universal access and neglect of other public spheres (Calhoun 1992). For instance, Fraser (1990) examines how the bourgeois public sphere excluded women and the working class. One of the assumptions of Habermas’s public sphere, Fraser argues (1990) is the bracketing of social differences by its interlocutors.

Additionally, Habermas did not account for popular social movements that constituted other public spheres in conflict with the bourgeois public sphere. According to Fraser (1990: 61) there was never *the* public but rather a plurality of ‘contending publics’ that ‘contested the exclusionary norms of the bourgeoisie public through their alternative political behaviours, alternative norms of public speech’ (see also Eley, 1992). In response to these criticisms, Habermas (1992) later revised his view of setting aside the variant of the liberal public sphere, or what he called the ‘plebeian public sphere.’

Chandhoke (2005) also makes an interesting argument about the public spheres being multilingual to explain how Habermas’s public sphere has historically functioned as a vehicle of exclusion and, therefore, of power. Her argument is instructive for understanding the critical role of the *Jan sunwai* in expressing a demand for right to information. For instance, Chandhoke (2005: 334-344) argues, the public sphere is embedded in languages—legal as well as bureaucratic—that signify the power of the state. Anything that contradicts the language of ‘politics and modernity’ is disqualified.

Thus, one language—that of the state—does not acknowledge the other language as a ‘free and equal partner in a debate’—for instance, the language of an adivasi (tribal) threatened by displacement due to big dams (Chandhoke, 2005).

My conception of the public sphere is based on such critiques of Habermas’s bourgeois public sphere as restrictive, and exclusionary. I do not accept Habermas’s conception of the public sphere and communicative action in its entirety. My analysis of the *Jan sunwai* as an alternative public sphere follows the work of other scholars who critically analyse the concept of the public sphere. Drawing on these critiques I analyse the *Jan sunwai* as an *alternative* public sphere.

The *Jan sunwai* has been conceptualised as a ‘popular auditing’ tool to ‘combat corruption’ (Jenkins and Goetz 1999a, 1999b, 2003; Mander 2003), and as one of those ‘highly visual spaces that deconstruct the state’s description of itself,’ that reveals how the state is *seen* by poor people in India (Corbridge et al 2005: 225). The important analysis I make examines how MKSS’s activities, or strategies for communicative action, turn the *Jan sunwai* into an alternative public sphere. The five steps of the *Jan sunwai* discussed earlier together are based on a type of communicative action that juxtaposes two different realities—the daily experience of villagers and the reality contained in official records that the state controls. These realities rarely intersect, but at the *Jan sunwai*, they are brought together into confrontation through speech and action that, while not free of power, is usually free from coercion.

The villagers, via their reflexive questioning about the arbitrary implementation of rural development programmes, and, in particular, about the payment of wages (or lack thereof), openly contest the implementation of such programmes. In doing so, they transform the *Jan sunwai* into a site for ‘agitational activities’ (Fraser, 1990:68) and into a vehicle for mobilising ordinary villagers as well as ‘wider publics’ for social justice

and equality. Viewed in this way, the *Jan sunwai* is a site of power and contestation (Somers, 1993; see also Benhabib, 1992) drawing multiple actors—lower-caste and women workers, as well as upper caste men, *sarpanches*, public officials—into a public discussion and accounting of the practices of local government. Despite its limitations, the *Jan sunwai* offers the potential for inclusion and leverage for the interests of women, the elderly, and dalits that often does not exist in the formal public sphere of the local panchayat.

For instance *gram sabhas* or village assemblies that, in principle, embody the ideal of universal participation in practice circumvent participation by excluding women and lower caste groups. Such village assemblies tend to be dominated by men from the upper and dominant castes. Even more exclusionary are the caste panchayats, informal arbitrating local bodies that are restricted to members of a particular caste. In practice, these caste panchayats function as an agent of social and moral control. They are organised and run by men who maintain all customary powers of decision-making concerning the social and political life in the village. Thus, neither the formal public sphere of local panchayats nor the informal caste panchayats permits an equal and free interaction amongst different social categories of villagers.

In organising the *Jan sunwais*, MKSS found that women and dalits, who rely the most on drought relief and other employment relief schemes in Rajasthan, are often eager to redress the issue of the non-payment of wages. However, they are also the most vulnerable, and thus less likely to testify in public. Nevertheless, the *Jan sunwais* did succeed in getting such individuals to speak publicly about their grievances, which they assuredly would not have done in the traditional public spheres mentioned above. Take for instance, the case of Pyari Bai (a dalit widow), who testified against a *gram sewak*. As a young widow Pyari bai was an unusual choice for a permanent sterilisation

operation (social norms prohibit widow remarriage). The *gram sewak*, in a bid to complete his assigned official target, was confident nobody would find out, and he gave her false assurances. He convinced Pyari bai to undergo the operation and, in return, he promised to get her approved for a free housing scheme. After the operation however, the *gram sewak* told Pyari bai she was not eligible for the free housing scheme, because she was not listed as a ‘below poverty line household.’ Afraid of the villagers’ reaction to her decision to go through with the surgery, she could not tell anyone about the *gram sewak*’s conduct. During the pre-*Jan sunwai* activities, MKSS activists met Pyari Bai who was on their list of beneficiaries of the free housing scheme. She denied receiving any payment and told the activists about her agreement with the *gram sewak*. At the *Jan sunwai* in Dhapda village (Bhilwara district), Pyari bai made a public statement about her agreement with the *gram sewak*.

In 1999, another dalit, Pyarchand Khatik who worked in the neighbouring state of Gujarat, was compelled by upper caste *thakur* in his panchayat (Umarwas) to abandon his work in Gujarat and contest the panchayat elections on a reserved dalit seat. The dalit *sarpanch* had no choice but to become a front man for the *thakur*—also a ward member—of his village. Frustrated by his plight, he approached MKSS to help him organise a *Jan sunwai*.⁶³ The activists cautioned Pyarchand that he would be arrested for fraud and embezzlement of public funds since he had signed all the documents.⁶⁴ Pyarchand was resolute, and he told the activists he was willing to testify that he had been forced to contest the panchayat elections and was tricked into becoming a *sarpanch*. He was unwilling to undergo further humiliation and ridicule.⁶⁵ On the day of

⁶³Pyarchand had heard about MKSS from a relative who was a bonded labourer, and had been relieved with help from MKSS activists.

⁶⁴Sumir, former MKSS activist, interview with author. Devdungri, Rajasthan. 01.05.10.

⁶⁵The *thakur* and his aides made all the decisions over disbursements of funds allocated for the panchayat. And Pyarchand signed cheques and put his official seal, even as the *thakur* siphoned

the *Jan sunwai*, Pyarchand received overwhelming support by other dalits in his village. Many of them knew he was a puppet in the hands of the upper caste men, and at the *Jan sunwai*, a few members of his caste publicly acknowledged that he was indeed a victim of the upper caste who had manipulated the reservation system and used him.⁶⁶

During the pre-*Jan sunwai* activities in Umarwas panchayat Nain Singh the upper caste *thakur*, showed off his gains to activists who were verifying works in the panchayat. On display was a community centre built inside his house using development funds meant for the village. Two other rooms and a toilet were also constructed inside his house using money from the free housing scheme. In the same village, activists also met a Bhil (scheduled tribe or ST) widow with three children, all less than ten years old, who had not heard of the free housing scheme or of the widow pension that she could avail.⁶⁷

Beyond a few heroic individuals, the *Jan sunwai* also provided the opportunity for marginalised groups to participate in the relative safety of a large group, simply by verifying whether or not they received wages and worked the number of days recorded in *muster* rolls. Such participation, while seemingly simple, cumulatively could have

off money from the free housing scheme and employment relief. Any opposition by Pyarchand was met by threats to repay the money he owed the *thakur*—money that had been spent on Pyarchand's election campaign without his knowledge; but Pyarchand nevertheless was paying back the *thakur* from panchayat funds. As he told me, 'each time I signed a cheque I was made to squat on the ground while the upper caste men sat on chairs. Being a Dalit, I was 'not allowed to interact with them as an equal,' even though I was *sarpanch*. Thus, I decided to 'challenge' the upper caste *thakur*, and give up my position as *sarpanch*. Pyarchand Khatik, former sarpanch Bori village, interview with author. Umarwas. Rajasthan. 07.01.10.

⁶⁶On the day of the *Jan sunwai*, Pyarchand received overwhelming support by other *Dalits* in his village. Many of them knew he was a puppet in the hands of the upper caste men, and at the *Jan sunwai*, a few members of his caste publicly acknowledged that he was indeed a victim of the upper caste who had manipulated the reservation system and used him. Also see, Mander (2001).

⁶⁷*Indira Awas Yojana* is meant for the poorest of the poor and the beneficiaries have to be approved in a *gram sabha*; see *The Right to Know, The Right to Live*. (2000). Directed by Anurag Singh.

large effects, exposing the corruption of powerful local officials in front of not just the village but also outside observers.

As Chandhoke (2005: 333) argues, the idea of communication in the public sphere is related to a ‘referral.’ That is, a proposition made by one participant—in this case, activists reading out from *muster* rolls or measurements books—must be added to or subtracted from, or agreed and disagreed upon by other participants (villagers and *sarpanches* and *gram sewaks*). Thus, at the final hearing the process of reading out information from official records and verifying entries in the presence of and with the participation of villagers has a powerful effect. First, for social and political elites implicated in the corruption, such publicity of their dishonesty is inconceivable. They are flummoxed and attempt to respond in haste. Second, at the *Jan sunwai* two realities persist: the reality constructed in the information of the official records stands in tension with the lived experiences of villagers as they are brought out into the open. Their accuracy is hotly contested and debated in an open hearing. It is in this sense that we can see the *Jan sunwai* as an alternative public sphere: a form created outside the formal public sphere that allows everyone, including the marginalised, to air grievances, challenge or corroborate the ‘truth statements’ of public officials, and thereby subject authority to communicative reason.

This raises an important question: if the *Jan sunwai* exists as an alternative public sphere outside existing formal institutions, who or what grants it legitimacy to function as such? For understandable reasons, *sarpanches*, *gram sewaks* and other officials (junior engineers, technical assistants) are generally ambivalent about, if not hostile to, the legitimacy of the *Jan sunwai*. They believe they know how to manage the government. Moreover, they fear having to mount a public defence of their actions in front of the entire village, and they are aware that a large public gathering is difficult to

manipulate. If they choose to participate, the collective acts of probing and questioning forces them to explain their actions. Dishonest deals (*andaar ki saudebaazi*) struck between social and political elites become public knowledge in a *Jan sunwai*. *Sarpanches* and *gram sewaks* are thus compelled to publicly defend their actions. Diverting minimum wages or panchayat funds meant for constructing a school or community building in the village is publicised and transformed via the publicity into an act of public shame. In the process, individuals who project themselves as *immandar log* (honest people) are shown to be pilfering individuals.

For the state government, which often chooses to be absent from the *Jan sunwai* or relies on the feedback of *sarpanches* and *gram sewaks*, the legitimacy of the *Jan sunwai* is considerably less. However, the presence of ‘eminent citizens’ counters the easy dismissal of the *Jan sunwai* and extends some legitimacy to the proceedings in the eyes of the state. The open contestation between villagers and *sarpanches* and *gram sewaks* takes place in the presence of an independent panel of eminent citizens, or people of eminence in public life from diverse institutional arenas: law, public administration, journalism and academia (see Chapter 4). This panel of eminent citizens most often sits behind or on the side of where the questioning, clarifying, testifying and often arguing publics engage one another. These eminent citizens however, do not deliver judgments or make an assessment of right or wrong actions. They use their symbolic capital to publicise their observations and opinions of the *Jan sunwai*. The publicity, on their behalf, is generated through the submission of written reports on the *Jan sunwai* to the state government and through statements to the press.

The ultimate legitimacy of a *Jan sunwai*, consequently, comes from the villagers themselves. Once they overcome their fear, and with some encouragement from activists, they see the enhanced role they can play in a *Jan sunwai* compared to the

restrictions and marginalisation they often encounter in other local public spheres.

Villagers are able to collectively defy local elites and express dissent by questioning and probing the role of elites in core areas of their daily lives. For the average villager, the open and public interaction between other villagers and upper caste elites, *sarpanches*, and *gram sewaks* at a *Jan sunwai* profoundly *alters the legitimacy and relevance of other public spheres* such as *gram sabhas* and *jati* panchayats. As noted earlier, these formal and informal institutions are founded on unequal social structures that, in the case of formal panchayats in any case, are legitimised by the state apparatus. At the *Jan sunwai*, the villagers, through their testimonies and their public contestation (or approval) of government information and actions, isolate the *sarpanch* and *gram sewak* and expel them from their positions of authority.

In an interesting discussion of what he calls ‘popular justice,’ Foucault (1980: 8-9) argues that masses try to ‘punish’ or ‘re-educate’ their enemies. For this they rely on their own ‘experiences, sufferings, wrongs done, [and] oppression’, rather than on some ‘universal abstract idea of justice.’ The state apparatus does not back up the decisions they arrive at, the masses simply carry out their decisions (Foucault, 1980). Similarly, the legitimacy of the *Jan sunwai* for the villagers lies in their ability to momentarily suspend other forms and institutions of social, moral, and political control, and alter the terms of exchange between villagers and representatives of the local state. Here, aside from the symbolic role of the ‘eminent panel,’ there is no third party that is assessing right or wrong. By publicly challenging official information with their own experiences, villagers assert their truth.

While public testimonies are crucial for the final hearing of the *Jan sunwai*, not everyone who attends the *Jan sunwai* is required to publicly testify; many villagers simply come to watch and observe. As Scott (1990: 65) notes, people may be

emboldened by the ‘act of massing’ itself as well as the ‘visual impact of collective power’ if accompanied by a ‘measure of anonymity.’ The *Jan sunwai* viewed in this way is a mechanism for *mobilising dissent* by creating a different kind of deliberation about the everyday practices of local-level public officials. It is also qualitatively different from participatory techniques, development aid projects, or existing government reform and decentralisation policies, which as Mosse (2005) explains require ‘enlisting participants’ and ‘enrolling different interests’ for the purpose of mobilising consent for predetermined projects/policy goals and/or objectives. The qualitative difference of a *Jan sunwai*—namely, its ability to mobilise dissent—is relevant in so far as an outsider can be responsive to a demand from villagers for dissent.

In this case, that outsider role is fulfilled by MKSS. Even though the *Jan sunwai* is dependent on MKSS facilitating the process, the activists on their own cannot organise a *Jan sunwai* without local support. The process has to be initiated by the villagers—that is, a *Jan sunwai* is *asked* for by villagers, rather than imposed upon a village. MKSS agrees to organise a *Jan sunwai* in collaboration with villagers, who have to agree to collaborate on all five steps of the *Jan sunwai*. Thus, MKSS’s role as ‘convening authority’ (Houtzager and White 2010: 184-185) at the village level allowed activists to embed persons and groups relevant to focused contestation into the local political process. It did this without imposing a plan but by ‘bringing power holders and interested groups into deliberative dialogue to produce inventive campaign strategies’ (Houtzager and White, 2010: 184-185).

The question arises: did this create several backlashes for those who participated? In KotKirana, people told me there was no backlash. While local politicians threatened residents of KotKirana to prevent them from testifying at the *Jan*

sunwai, there was an absence of coercive response from those whose power was challenged via the *Jan sunwai*. In Jhalon ki Madar too, the Bhil who testified was not physically harmed or threatened after the *Jan sunwai*. As Vikram, from KotKirana, recalled, ‘because of our support for the *Jan sunwai*, on the cycle *yatra* in 1996, to join the Beawar *dharna* some roadside *chai*/food stalls refused us water.’⁶⁸ Others such as, Pyarchand *Khatik*, the Dalit *sarpanch*, told me he was not physically attacked or harmed. Villagers in Janawad panchayat told me that the *Jan sunwai* had changed things a little. For instance, the *sarpanch* lost the next elections, but was also ridiculed and publicly insulted in front of the entire village. So while pre-existing forms of power and domination did not disappear after *Jan sunwais*, there does not appear to have been violent and punitive reprisals.

So while I do not suggest that this kind of public shaming puts an end to corruption or local inequalities, it does reveal the potential of decentralised deliberation platforms like the *Jan sunwai* to create new kinds of spaces in which authorities are subjected to the power of communicative reason and to, perhaps, gradually alter power relations at the local level.

CONCLUDING REFLECTIONS

In this chapter I have explained how the *Jan sunwai* evolved from attempts to enforce minimum wages and curb corruption in public works projects in rural Rajasthan. I have described the five steps of a *Jan sunwai* and analysed how this process constituted an alternative public sphere at the local level. While I show the *Jan sunwai* could at least momentarily offset caste and gender inequalities, I do not suggest that these *Jan sunwais* brought an end to corruption or eradicated social inequalities in

⁶⁸ Author filed notes. KotKirana, Rajasthan. 14.02.10.

the panchayats where they were organised. Rather the *Jan sunwai* was a resistance strategy that set into motion processes of accountability at the local level and was able to mobilise dissent to create a different kind of deliberation about the arbitrary implementation of the drought relief programme.

While a new practice of accountability was generated, there were also hidden costs. The process that MKSS began with the *Jan sunwai* in the mid 1990s was not adequately coupled with other strategies to consolidate the local support at the panchayat level that was mobilised with each *Jan sunwai*. The process of accountability that the *Jan sunwais* set into motion is highly contentious, and it must be viewed as a *work in progress*. As we will see in Chapter 5, under the new guise of “social audits,” under the National Rural Employment Guarantee Act (enacted in 2006), this process has entered a new phase as the MKSS has returned its attention to their implementation at the local level.

The *Jan sunwai*, as we have seen, also shifted the terrain of the struggle for enforcement of minimum wages to right to information. In part, this shift was based on the recognition by MKSS activists that they would be unable to build a broader national campaign on the issue of minimum wages. However, the role of the local bureaucracy and political elites was also significant. While *gram sewaks* perceived the *Jan sunwai* as a threat to their authority at the panchayat level and counter-mobilised against the *Jan sunwai*, the compulsions of electoral politics compelled the BJP political leadership to make a public commitment to provide access to information at the panchayat level. Even though the two parts of the state (bureaucratic, and political) had seemingly contrasting responses to the *Jan sunwai*, they hoped to stall further *Jan sunwais*. Their reactive and conciliatory responses together shaped the demand for a legal right to information.

As activists scaled up their struggle to higher levels of the state to demand a right to information enshrined in national legislation, they also shifted the location of their activities—that is, they moved from the panchayat to the state as well as the national capital. Villagers who organised and attended the initial phase of *Jan sunwais* were mobilised for state-level as well as national-level agitations to demand right to information laws. In the next chapter, I follow the trajectory of the right to information from the local to the national level as MKSS galvanised a broad-based national campaign to demand a national right to information law.

Chapter 4. Eminent Activists and the National Campaign for the People's Right to Information

“The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.”

(Section 12 (5), RTI Act (2005))

In 1996, MKSS launched a nation-wide campaign demanding a national law on the right to information. This was two years after the first *Jan sunwai* was organised by MKSS in Rajasthan to expose the misuse of public funds in rural development programmes. The Beawar *dharna* (sit-in), in April 1996, saw the MKSS direct its demands towards the State government in Jaipur (Rajasthan), and it marked the shift from a local to a state-wide campaign. Just four months later, MKSS decided to form the National Campaign for the Peoples Right to Information (NCPRI), which resulted in the expansion of the right to information campaign to the national arena. In the previous chapter I have examined MKSS's state-resisting strategy. The *Jan sunwais* were used by MKSS to mobilise dissent against the local panchayat staff and hold them accountable to villagers. The subsequent decision to form a national campaign highlights how activists pried open spaces to proactively engage high levels of the political, and administrative state with the goal of making new law to ensure a citizens' right to information.

The decision to move from *Jan sunwai* in rural Rajasthan to a national campaign partly reflected the lessons from the former; but the MKSS was also encouraged to form NCPRI by a network of supporters who I will call “eminent activists.” According to Nikhil Dey, founder member of MKSS, a number of ‘respected and senior friends of the MKSS’ had seen the wider implications of what had been the cause of the 40-day *dharna* in Beawar and they consequently urged the MKSS to take the step to give their

struggle a National face.⁶⁹ These eminent activists played a significant role, first, in turning the MKSS struggle into a National Campaign and, then, in providing consistent support, ideas, and leverage to keep the campaign going and helping to spread its message. NCPRI was formed with the twin objectives of advocating the passage of national RTI legislation and supporting grassroots struggles for accessing and using information in different campaigns.

Previous research on social movement activism in India demonstrates that issue and interest groups often operate through national networks active in the bureaucratic or judicial arenas and emphasise linking localised activity with national concerns (Katzenstein et al, 2001:244-245). Since not all issue and interest groups in India have the capacity for mass mobilisation on a countrywide level, many operate through national networks that link concrete grassroots activities with broader political, legal, and bureaucratic reform campaigns (Kothari, 1984; Sheth, 1983, 2004; Katzenstein et al, 2001). These groups tend to have a small support base of active workers who invest heavily in framing processes, or collective action frames, that articulate issues and build support for issue adoption. Such groups, however, rely heavily on an informal support base of eminent people in public life to support their claims, people such as sympathetic civil servants, retired judges, academics, and, on occasion, even artists (writers and musicians). In general, scholars have paid scant attention to these actors and their role in social movement activism.

Scholars who have written about RTI in India specifically (Jenkins and Goetz, 1999a, 1999b, 2003; Singh, 2007, 2011; Mander 2003; Mishra, 2003; Kidambi, 2008; Sampat and Dey, 2005; Dogra and Dogra, n.d.; Mander and Joshi, n.d.; Puddephatt, 2009; Calland, 2010) have also not examined in any detail the formation of the NCPRI

⁶⁹Nikhil Dey, MKSS activist, personal correspondence with author. 25.09.12.

or the forms of influence that its various actors, who have come from an array of institutional arenas, brought to the campaign. With the exception of Baviskar (2007) who identifies NCPRI's 'unusual' organisational strategy through which activists 'cultivated links' with state actors to form a broad-base alliance for a national RTI law. She does not however, examine in any detail the social background of NCPRI activists and theorise precisely what they brought to the campaign.

This chapter's focus is this missing piece of the struggle for a national right to information legislation. I examine the construction of NCPRI and the role of some of its key players, or as I call them "eminent activists." Rather than a social movement, I explain that these key players that constitute NCPRI should be understood as a countrywide network of eminent individuals cutting across diverse institutional arenas. This extraordinary set of activist-minded individuals together created a persistent and high profile push for a national right to information legislation. Following Bourdieu (1986, 1991; see also Bourdieu and Wacquant, 1992), I examine what eminent activists contributed to the campaign by exerting influence in their respective 'fields' and by harnessing their 'symbolic capital' to strengthen the demand for a national RTI law.

These 'eminent activists' primarily belong to the urban middle class, but most often have strong linkages to what in India are called "people's movements." These include the anti-dam movement, groups working on women's rights, dalit and *adivasi* (tribal) rights advocacy organisations, urban and rural groups opposing forced evictions, environmental action groups, and civil liberties and human rights organisations. I will show how this network of transparency advocates, working in diverse issue areas and institutional arenas, was instrumental to the passage of the national Right to Information Act (2005).

A second related question I examine in this chapter is why the network of RTI activists chose the strategy they did. Most social movements in India have used public interest litigation (PIL) as their primary legal strategy, but NCPRI chose to pursue the path of legislation. I explain the choice of the legislative over judicial route for RTI. Additionally, I consider two reinforcing explanations for why NCPRI chose the legislative route. First, in order to get rid of the Official Secrets Act (1923), a legislative intervention was necessary; second, public debate on accountability created an enabling environment to raise the demand for a national RTI law. This demand, as I will show, was grounded in a broad, even radical notion of transparency and accountability that was inextricably linked to social justice and equality; this grounding is in contrast to the fashionable rhetoric of ‘good governance’ (however narrowly conceived) on which many state and non-government actors rely.

The enactment of a national right to information law is, in part, attributable to the efforts of eminent activists in NCPRI, but the response of the bureaucratic and, political state also strongly influenced the law’s shape. Thus, this chapter seeks to demonstrate how the interactions between actors inside the state and between state and society led to the enactment of a strong RTI law (rather than attribute credit entirely to societal actors). In the run up to the enactment of the national RTI law, the bureaucratic and political state were opposed to each other. The key deterrent for the central bureaucracy was not simply the potential for RTI to expose corruption—as was the case with the opposition to the *Jan sunwai* by the panchayat staff in Rajasthan—but for its ability to compel bureaucrats to cede some of their zealously guarded status, privilege, autonomy, and power. The idea of opening up government functioning to public scrutiny was in direct contradiction to the well-entrenched insularity of the governing process and the interests of those involved in it.

The 2004 General Elections—where the Congress Party made a public commitment to enact a strong right to information legislation—demonstrated the political state’s support at the national level for an RTI law. I examine how individuals developed different capacities within state and society to forge alliances, and how different forms of collaboration or opposition led to the enactment of the Right to Information Act (2005).⁷⁰ For this, I focus on the creation, and role of institutional spaces like the National Advisory Council (NAC)—an advisory body set up to provide policy and legislative inputs to the Central government. Among civil society actors, two NCPRI activists (Aruna Roy and Jean Drèze) were invited by the President of the Congress Party to become members of the NAC.⁷¹ The NAC was a key institutional site where activists’ demand for a strong RTI law found recognition, legitimacy, and, importantly, the support of the Congress Party President.

In what follows, I trace the origin of the NCPRI, the contribution of four categories of eminent activists, and the historical and situational context that inspired the choice of a legislative strategy over a judicial one. Finally, I analyse the opposing responses of the bureaucratic and political state in the lead up to the enactment of the RTI law.

INTRODUCING “THE EMINENT ACTIVISTS”

In India, ‘eminent person’ is a popular term used to refer to people in public life who are respected for their experience and knowledge. Eminent persons may include

⁷⁰Also see, Skocpol (1992: 1-57) and Houtzager (2005: 1-31) for a discussion of the ‘polity approach’ that focuses on the structure of the state and how actors (within state and society) are constituted and interact to produce intended change.

⁷¹N.C. Saxena, though not a member of the NCPRI working Group, was an important ally from the early days when he was the Director of the National IAS academy (LBSNAA) and a meeting was hosted by the academy to help draft a law. He was also invited to become a NAC member in 2004. Thus, the NAC had at least three ardent supporters of RTI.

reformist bureaucrats, social and political activists, retired judges and senior lawyers, academics, journalists. These individuals play a vital role in building legitimacy for the demands of people's movements in the mainstream public discourse.⁷²

For instance, a job in the government or qualifying for the IAS in India signifies honorific status, or what Bourdieu (1991: 170) would call symbolic capital or power—‘a power that can be exercised only if it is *recognised*.’ The same is true for more conventional careers in law, medicine or engineering, which are highly regarded in Indian society as markers of stability, and which bring with them promise of material success. These professional fields are highly competitive. Getting into the IAS or establishing a successful legal practice or becoming a Judge of the High Courts or Supreme Court, brings with it a sense of accomplishment based on years of experience, which confers respect, repute, and prestige.

However, what amplifies this respect and prestige in the case of some of these eminent activists is a sense of renunciation (attributable to the political culture commonly associated with the Gandhian political tradition or Hindu asceticism). That is, they reject ‘careerism’ for ‘*sewa*’ (service). For instance, people who give up prestigious careers, such as one with the IAS, attract the respect of the Indian public, and add a new dimension to their symbolic capital based on the perceived disinterested dedication to public service.⁷³

⁷²See Bose (2004: 133) who writes about “popular intellectuals” (made of critics and experts) in the rise of the anti-dam movement or the *Narmada Bachao Andolan*; they belong to diverse backgrounds, and perform multiple roles as ‘specialists, interpreters, mediators, commentators, and critics’. What Bose means by “popular intellectuals” however, is not the same as what Gramsci calls “organic intellectuals” (who come from the working class); also see, Hung (2011:71-92) for a discussion of the role and contribution of the ‘local literati elite’ in mobilising and articulating the claims of ‘state-engaging’ protesters in eighteenth century China.

⁷³For example, Aruna Roy, founding member of the MKSS, quit the IAS, and opted for a frugal life full of hardships when she decided to live and work amongst the rural poor. Her decision to

The eminent activists in NCPRI network wear many hats. Though they are professionals from different fields such as the bureaucracy, academia, law, journalism and activism, they are all also ‘transparency advocates’ connected by the common goal of making the Indian state transparent and accountable to people. The eminent activists in NCPRI played a vital role in the success of the campaign for RTI.

In my analysis of a national network of right to information advocates, I classify the eminent activists in NCPRI into four different categories based on their professional backgrounds. I also mark the national struggle for the RTI as it progressed through three different phases, from the ‘local’ level in Rajasthan to the ‘national’ level in Delhi. This three-phase journey of a local struggle maturing into a national one also encapsulates the seminal role played by NCPRI. Three moments mark the phases of the struggle: the Beawar *dharna* in 1996; the meeting in Delhi at which NCPRI was formally constituted; and the period between the two national conventions for right to information in 2001 (Beawar) and 2004 (Delhi). The four categories of actors who advanced the struggle for right to information during the three phases are: the journalists who came to Beawar in April 1996; the retired and serving IAS officials (some of whom MKSS met during its struggle to enforce minimum wages)—judges, lawyers, and some activist academics; the final wave of activists from different people’s movements; and RTI Act users from different states who were sought out by NCPRI between the two national RTI conventions (2001-2004). I examine how each group of eminent activists got involved with NCPRI, and how they used their eminence or symbolic capital to create legitimacy and advance the demand for a national RTI law.

quit the IAS carries immense social significance, as she is seen to have sacrificed the many privileges and perks that come with that government job.

THE CONCEPTION AND ROLE OF THE NCPRI

Although some of its members are affiliated with various people's movements, NCPRI does not have a mass base or following of its own. Rather, NCPRI is a national network that MKSS and its supporters gradually built around the idea of forging a national RTI campaign.

We can, however, begin by providing the historical context that shaped many of the activists who would become involved in NCPRI. Since the mid 1970s, and especially after the Emergency,⁷⁴ there was a slow accretion of people who were fed up with the existing bureaucratic structure, which was opaque, secretive, and unresponsive to its citizens. Additionally, these people were vehemently opposed to the political state's violation of civil liberties. They were therefore naturally allied to the cause of increasing state transparency and accountability. The debates over transparency and accountability were not only about improving the state's efficiency or management of agencies and the delivery of public goods. Rather, the debates encompassed a range of interpretations, which were linked to an array of demands for social justice and equality. Such demands cut across various categories of class, caste, and gender. As individuals from various groups increasingly recognised the centrality of public access to government information for their respective issues, they formed a latent constituency for a right to information. The MKSS united such individuals under the banner of NCPRI.

In addition to MKSS activists, NCPRI initially consisted of journalists, bureaucrats, retired judges, a few lawyers, and environmental activists. In due course,

⁷⁴A state of emergency was declared in India for a 21-month period between 26 June 1975 and 21 March 1977 at the behest of the then Prime Minister, Indira Gandhi under Article 352 of the Constitution of India. In what has been the only such occasion in the history of independent India, during emergency, democratic processes came to a screeching halt as general elections and civil liberties were suspended and government of the day ruled by decree.

the NCPRI gradually expanded its member base to include professionals of very diverse hues. What they had in common, however, was an element of symbolic capital typically not possessed by the farmers and workers who participated in the first phase of the struggle. By lending their symbolic capital to the struggle, these activists helped to scale up MKSS's transparency activism from *Jan sunwais* in rural Rajasthan to a national legislation. Below I analyse how this occurred.

Eminent Activists and Symbolic Capital

The eminent persons, above all, contributed symbolic capital to the struggle for a national right to information legislation. The symbolic capital of these eminent activists, here, is viewed together with their social and political capital, as an 'instrument of power' (Harriss, 2006: 192). By capital, I mean the resource that actors use within a 'field' or a site of struggle, which, according to Bourdieu and Wacquant (1992), is a 'configuration of objective relations between positions'. That is, in each field, the varying volumes of individual's capital—social, political or symbolic—determine the position of actors in that field. For Bourdieu, there are several autonomous fields, each of whose logic is *specific* and *irreducible* to that field; this logic separates one field from another. The quantity and composition of an individual's capitals in different fields shapes their *habitus*, or their ensemble of dispositions. One's *habitus* includes a practical sense of a field, an investment or 'stake' in a field, and structures of perception and appreciation that recognise certain kinds of capital (Bourdieu and Wacquant, 1992: 98). Explicit forms of training that characterise a particular field also shape dispositions. That is, lawyers, judges, and bureaucrats each need to be trained for their respective fields. The resulting dispositions shape the

practices and perceptions of actors within a field (Peillon, 1998: 215; Bourdieu 1991: 176; Bourdieu and Wacquant, 1992).

Thus, government officials acknowledge the symbolic capital of an IAS official through a structure of perceptions and classifications of honour, which recognise an official's competence. Progressive judges, for example, recognised the symbolic capital of lawyers such as, K. G. Kannabiran—one of the founding members of NCPRI—for, in such a lawyer, they saw attributes that they associate with respect, and even admiration, regarding his use and interpretation of law. The respect that eminent activists enjoy with the institutions of government was and continues to be an important asset for NCPRI.

Due to the extensive symbolic capital (as well as social capital in the form of connections) held by particular NCPRI members, the group was able to engage the state, and the state willingly engaged them. Symbolic capital in these cases finds a close link to social capital. As noted earlier, the majority of these eminent activists belong to the middle class. The cultural capital (or education and expertise) deriving from their class position eases their initial entry into their respective professional fields, enabling them to acquire the necessary symbolic capital (Deshpande, 2003). Insofar as it conveys honour and respect, this symbolic capital grants access to another form of capital, that is, political capital.

Political capital, according to Bourdieu (1991: 171-201) enables actors to make claims to representativeness. Bourdieu (1991), however, does not extend his concept of political capital to other arenas outside the political party or trade unions. He remains sceptical of the genuine responsiveness of politicians and unionists to the people they represent. Here, I use Bourdieu's notion of political capital to suggest that eminent activists also claim to represent the socially excluded and marginalised classes.

However, unlike politicians and unionists, their claim to representativeness is relatively free from suspicion of the represented under classes, which are otherwise unable to gain access to the state. These people of eminence have supported social justice issues of or, at times, directly worked with marginalised groups. This support is also because of the nature of this group, and their relationship with grassroots people's movements.

These eminent citizens have a deep appreciation for grassroots work but are generally unable to do such work themselves. With an understanding of their own privilege, they are extremely keen to use it for the benefit of poor and marginalised communities. They also understand the workings of the bureaucratic and political establishment, and they put this knowledge to use. Finally, they could advise, suggest, and push a campaign like RTI into widening its sphere of action; in fact, they were happy to be seen as the movement's mentors and urged groups like MKSS to form a national campaign.

Apart from the honorific status and stability that their professions guarantee, for the eminent persons who chose to become IAS officials, judges, or lawyers, their professional fields revealed many constraints as well that further inclined them to support social justice issues. In recognition of both the constraints and possibilities of their professional fields, they reorient their roles. Rather than manipulating access to the state for personal gains, eminent people make use of their skills and position to highlight contradictions in state practices or interpretations of law. In certain instances, these have the effect of recasting the practices of the state. For instance, Shekhar Singh, a veteran environmental activist and academic, often found himself the lone voice of minorities and people's movements fighting big dams in various government appointed committees. Singh was invited to participate in these committees as a representative of civil society and used these spaces tactically to counter the state's logic of development.

These eminent persons know the language and the architecture of the state, and are thus able to reach deep inside it. The IAS officials or judges also have embedded in them an instinctive knowledge (along with mannerisms, habits, perspectives, and ways of negotiating or making arguments) that comes from the specific practices prevalent in their field. This imparts certain ease and confidence to the persons in their own field, further enabling them to effect change. Thus, as noted earlier, the symbolic capital of NCPRI activists is ‘a weapon, and a stake of struggle’, which allows them to ‘wield power, and influence’ in that field (Bourdieu and Wacquant, 1992: 98). However, while eminent persons use symbolic capital to pry open fields and provide a certain kind of access to positions of power, such use of such symbolic capital is restricted to a select few.

Insidiously, it is precisely through wielding their symbolic capital to advance movement demands that eminent individuals reproduce their capital (Bourdieu 1991:170). However, this rather abstract and unintended effect does not undermine the tactical importance of the eminent activists’ role in people’s movements. Though furthering the aims of a campaign may aid eminent activists, it is not to their personal ends. In fact, what the eminent activists are able to achieve with their advantage of class-based connections and associated symbolic capital would be quite difficult for a campaign to accomplish otherwise. The tactical employment of eminent persons is, then, the reality of social movement activism in India: it remains one of the people’s movements’ main strategies. Eminent activists represent valuable allies for people’s movements because they help build legitimacy for movement demands.⁷⁵ In this

⁷⁵For instance, in a meeting organised in Jaipur in 1996, the presence of Justice Sawant, a retired Judge of the Supreme Court, was instrumental in countering the opposition of the state government, which included that of the Chief Minister of Rajasthan, to the passage of a state right to information law. The argument made by the Chief Minister of Rajasthan was as follows: If the state grants access to panchayat information, and given the geographic proximity of some

chapter, then, I use Bourdieu's theory of symbolic capital to explain the significance of eminent activist in the RTI Campaign. First, however, I provide a brief overview of early debates and historical precedents that created an enabling environment for a demand for national right to information law.

THE CONTEXT: FROM OSA (1923) TO RTI ACT (2005)

Gould's (2011:104-136) insightful historical account of the shifting perceptions of 'everyday routine' corruption in the late colonial and early independent eras (1930s-1960s) in north India illustrates how anti-corruption efforts, from early on, have been enmeshed in bureaucratic concerns to preserve 'integrity'. However, the intrastate anti-corruption discourse was very different from the everyday interactions between government agents and citizens that shaped public views about corruption. While political elites thought the problem of corruption could be resolved through high-level committees and commissions, but as Gould (2011) notes, the disaggregated bureaucratic structure frustrated efforts at reform.⁷⁶ The mid-1950s debates within the Congress

districts of the state of Rajasthan to Pakistan, a right to information law will enable information falling into wrong hands. Justice Sawant dismissed such a claim and argued that the information being sought after (by MKSS) did not pertain to national security (for which safeguards can be built into the law), but rather the workers were demanding information related to expenditure of development funds. Citizens have a right to know, how public funds are being spent. Such broad extrapolations suggest that the government is reluctant to ensure transparency and accountability towards its citizens. Aruna Roy, MKSS and NCPRI founding member, interview with author. Lahore, Pakistan. 17.03.08.

⁷⁶Both the colonial state as well as the Congress Party in the post-1947 years, Gould tells us (2001: 172), believed that 'the problems of everyday government and police corruption could be found in antiquated social customs' such as, *daalis* (customary presents) and *sifaarish* (recommendations). Unlike the British, however, the Congress Party in Uttar Pradesh (the focus of Gould's study) made efforts to remove these aberrations and advance the anti-corruption agenda: anti-corruption committees were set up, rules of bureaucratic conduct were redrawn, the state government also responded to the press reports exposing scandals implicating officials and politicians. However, the early independent anti-corruption agenda suffered on account of the Congress Party's dependence on the colonial bureaucratic structure. Thus, concerns about the moral uplifting of bureaucrats, combined with a desire to preserve the public image of integrity, actually weakened high-level enactments, orders, even legislative efforts such as the Prevention of Corruption Act 1947.

Party illustrate the concerns of political elites to ensure public disclosure of income tax assessments and personal assets of party members (Singh, 2007:21).⁷⁷ Nevertheless, a public discourse concerning government corruption did emerge at this time.

After independence, discussions and debates on government transparency and accountability grew. Singh (2007:21) argues that the initial demands for transparency in Independent India were focused on ‘corruption, disasters (such as railway accidents) and human rights violations.’ At this time, the British-era Official Secrets Act (OSA) remained in effect and was blanketly used to deny requests for access to government information. After the failure of the Indian armed forces in the 1962 China War, an ‘unprecedented and strident demand for transparency’ developed (Singh, 2007: 22) and, with it, growing demands to repeal the OSA. India’s defenceless debacle raised several questions about the ill preparedness of the Indian army, and people wanted to know what had gone wrong and who was responsible (Singh, 2007).

During the 1960’s the government also set up a committee to tackle corruption. The Santhanam Committee on the Prevention of Corruption reiterated the 1950’s debates on disclosure of income tax assessments and personal assets, extending it to the bureaucracy. The committee recommended that in matters which are ‘important to citizens in their day-to-day affairs’, the government ‘should make a clear distinction as to what information should be treated as ‘secret’ and what should be made freely available to citizens’ (Government of India, 1964: 48). However, it was during the Bihar Movement and the struggle for Total Revolution (1973-74) that the veteran Gandhian Socialist, Jayaprakash Narayan, gave the clarion call to the nation to ‘end corruption in day-to-day life and politics’ (Chandra, 2003: 2). For the first time, the

⁷⁷See also Deccan Chronicle (2011).

agenda of corruption and dysfunctional government gained national salience. Soon after, Indira Gandhi declared the Emergency.

Apart from debates in the political and bureaucratic arenas, the Supreme Court, in the mid-1970s, interpreted the *right to information* as part of the *right to free speech and expression* under Article 19(1)(a). The Court, in a series of cases on the freedom of press, laid down the jurisprudential foundation of the right to information within the constitutional scheme.⁷⁸ While hearing a petition challenging the election of the then Prime Minister Indira Gandhi on account of electoral malpractices, Justice K. K. Mathew interpreted the fundamental right to speech and expression in the following terms: ‘The people of this country have a right to know every public act, everything that is done in a public way, by their functionaries... The right to know... is derived from the concept of freedom of speech...’⁷⁹ The Supreme Court, once again in 1982, while dealing with a case relating to judicial appointments observed: ‘The concept of an open government is the direct emanation from the right to know which seems to be implicit in the right to free speech and expression guaranteed under article 19(1)(a)...’⁸⁰

Following the Bhopal Gas Disaster in 1984, a growing concern over the lack of transparency in the regulation of risky industries led the environment movement in

⁷⁸In *Bennett Coleman & Co. vs. Union Of India*, AIR 1972 SC 106, editors of three national dailies moved a petition in the Supreme Court against the government’s Newsprint Policy of 1972-73 that restricted the acquisition, sale, and consumption of newsprint. The Court struck down the policy. A decade later in a similar case, *Indian Express Newspapers (Bombay) Pvt. Ltd. vs Union of India*, (1985) 1 SCC 641, when the government tried to impose taxes on sale, purchase of newspapers and publishing of advertisements, the Court observed, ‘The Government must at all material times be conscious of the fact that it is dealing with an activity protected by Article 19 (1) (a) of the Constitution which is vital to our democratic existence.’

⁷⁹In *State of UP v. Raj Narain*, (1975) 4 SCC 428. A Janata Party candidate, and opponent of Indira Gandhi, leader of the Congress Party, alleging corruption after her 1975 election victory filed this case. Soon after Indira Gandhi imposed the Emergency.

⁸⁰*S.P. Gupta vs. The Union of India*, AIR 1982 SC 149.

India to play a significant role in advocating for a public right to information.⁸¹ Fearing a similar incident in a fertilizer factory in Delhi in the aftermath of Bhopal, an environmental action group called *Kalpavriksha* moved the Supreme Court, 'asking the Court to lay down the right to information as a fundamental right' (Singh, 2007: 30).⁸² Although the Court passed no specific order to this effect, it nevertheless expressed its unhappiness over the lack of information and appropriate avenues for understanding matters that require expertise at a high level of scientific and technical sophistication.⁸³ By the 1990's, then, the judiciary had articulated some support for the right to information; but this support was not translated into directives to the executive to ensure transparency in everyday government functioning, and the state continued to refuse public access to information.

The Long Shadow of the Official Secrets Act

Thirty years after the 1962 China War, the OSA remained a significant tool in the hands of state functionaries at all levels to maintain secrecy. For example, at a workshop organised by the government on compensation for victims of the Bhopal gas disaster, 'participants who took notes at the workshop were arrested under the

⁸¹On the night of 2–3 December 1984, a leak of methyl isocyanate gas and other chemicals from the Union Carbide India Limited pesticide plant in Bhopal, Madhya Pradesh, resulted in the chemical exposure of hundreds of thousands of people. This gas leak disaster, considered as one of the world's worst industrial disasters, left several thousand dead and several thousand more permanently disabled.

⁸²Also, see Singh and Singh (2006) for a discussion on the role of environmental movements, internationally, in advocating freedom and access to information.

⁸³The Court noted, 'we had great difficulty in finding out independent experts who would be able to advise the court on cases ... [that require] neutral scientific expertise as an essential input to inform judicial decision making...[W]e had to make an effort on our own to identify experts who would provide reliable scientific and technical input necessary for the decision of the case and this was obviously a difficult and by its very nature, unsatisfactory exercise...[W]e would urge upon the Government of India to set up an Ecological Sciences Research Group consisting of independent, professionally competent experts...who would act as an information bank for the court and the government departments and generate new information.' *M.C. Mehta vs. Union of India*, AIR 1987 SC 965.

provisions of the Official Secrets Act' (Mander and Joshi, n.d.). There were also cases of 'disappearances' in insurgency-affected regions like Kashmir and North Eastern States. Family members of several missing persons—mostly young men—had no way to obtain information from the armed forces of the Indian state about the whereabouts of their family members.

The anti-dam movement working with the *adivasi* (tribal) communities similarly failed to obtain information from the government regarding the impact of dam projects, such as the Sardar Sarovar, on the villages in the Narmada valley. Likewise, workers on drought relief works were repeatedly denied access to government records. As we saw, the MKSS, in its struggle for minimum wages and for organising *Jan sunswais*, faced a similar denial of information. Panchayat officials, like the *gram sewaks* (panchayat secretary), and intermediate-level public officials, like the *tehsildars* and block development officers, consistently used the OSA to reject requests by MKSS activists and villagers for copies of official records (Roy and Dey, 2002).

In their fight against the state, various democratic struggles quickly discovered that this lack of access to information created a major hurdle. The relevance of, and need for, government information became frustratingly apparent for the *Jan sunswais* and other rights-based campaigns and grassroots struggles. Information—whether pertaining to minimum wages, the whereabouts of missing persons, or the dispossession and displacement by big dams—appeared integral to any struggle resisting the arbitrary exercise of coercive state power (symbolic and physical). But as Baviskar (2007) notes, other movements had neither expressed an explicit demand for, nor galvanised a campaign around, a right to information law. Though the demand for a right to information law intrinsically linked the demands of all progressive campaigns for social

justice and equality, NCPRI finally articulated this demand and galvanised a campaign around it.

The Rhetoric of ‘Good Governance’

With a dramatic shift to open up the economy in 1991 came the added pressure for ‘good governance’ from international financial institutions (IFIs) like the World Bank, the International Monetary Fund (IMF), and the Asian Development Bank. The IFIs shaped the transparency agenda for many developing countries by making transparency and accountability mechanisms one of their loan conditions. There was also an evolving international trend at this time to enact Freedom of Information laws. In the last decade, over seventy countries have passed access to information laws; this trend is partly attributed to citizens’ increasing lack of trust in the state and intolerance towards secrecy in the functioning of both state and non-state actors (Florini, 2007; Banisar, 2006).

The Government of India began to research international experiences with implementing access to information laws in the early 1990s.⁸⁴ An inter-ministerial task force was set up in 1991 to examine the feasibility of enacting a Right to Information Act. The task force visited the UK, Canada, Sweden, and the USA to learn from their experiences with designing and implementing Freedom of Information laws.⁸⁵ By the late 1990s, several state governments agreed to improve transparency in the functioning of government by passing right to information laws.⁸⁶ By 1997, increasing pressure from loan agencies compelled state governments to enact right to information laws. For instance, according to NCPRI activists, the state of Karnataka received an unofficial

⁸⁴See, Rowat (1990).

⁸⁵Government of India (2001a).

⁸⁶See, Rao (n.d.); see also Caiden and Sundaram (2004)

communication from the ADB endorsing the creation of an RTI law.⁸⁷ The State of Tamil Nadu was also under pressure from the Asian Development Bank (ADB) for bringing in RTI law, and the ADB made the enactment of a transparency law a ‘pre-condition of loans for sector specific spending.’⁸⁸

In addition to this international push for transparent regimes, “eminent and influential citizens” began advocating separately for the adoption of state laws. In the case of Tamil Nadu, S. Guhan, from the Madras Institute of Development Studies, was an important advisor to the Tamil Nadu Chief Minister. He invited MKSS activists to Chennai after the Beawar *dharna* (in 1996) and said, ‘he would try to ensure that a RTI law was passed.’⁸⁹ Tamil Nadu was the first state to enact a state right to information law, but political opportunism resulted in a weak law. Despite efforts of concerned citizens such as S. Guhan, a statement made by the former State Chief Information Commissioner for Tamil Nadu reveals the inefficacy of the laws that were springing from the state’s limited transparency agenda. Referring to the Tamil Nadu RTI Law of the 1996, he remarked:

[the Act] became a secret almost as soon as it was passed [the law was not adequately and/or appropriately publicised by the state government]...besides the concerned Secretary to government could deny any request for information, deemed not in public request, and sweep matters under the carpet.⁹⁰

⁸⁷Shekhar Singh, former Convenor and founder member NCPRI, interview with author. New Delhi. 29.05.07

⁸⁸Venkatesh Nayak. Programme Coordinator, Access to Information. Commonwealth Human Rights Initiative, and member of NCPRI Working Committee, interview with author. New Delhi. 11.11.10.

⁸⁹Nikhil Dey, MKSS activist, personal correspondence with author. 25.09.12.

⁹⁰S. Ramkrishnan, State Chief Information Commissioner, Tamil Nadu State Information Commission (rtd.), interview with author. Chennai, Tamil Nadu. 01.12.10; MKSS activist Nikhil Dey also notes, ‘the state law, in the absence of a people’s movement was bound to be a weak law. The neoliberal agenda—however bad—would not have succeeded at that time in passing an RTI act. In Tamil Nadu the political leadership realised that this was an idea whose time had come, and it was best to pay lip service to it by passing *some* act, rather than seen to be resisting it.’ Nikhil Dey, personal correspondence, with author. 25.09.12.

The Central government however, in line with the “good governance” agenda, thought it sufficient to introduce a few insubstantial measures. Former Cabinet Secretary T.S.R. Subramanian (2004: 322) recalls, ‘[I] mportant measures in administrative reforms taken up by me fell by the wayside...a draft legislation incorporating major changes in the Official Secrets Act was approved, but subsequently got lost somewhere in the legislative process.’ Even a request made by the Parliamentary Standing Committee discussing the Freedom of Information Bill in 2000 fell on deaf ears. The Committee asked for the report of the Inter-ministerial Task Force Report (1991) to which the Ministry of Home Affairs responded by saying that it had “misplaced” Volume I of the report.⁹¹

With the international financial institutions advocating for the RTI laws, “transparency” and “accountability” had become the buzzwords within corridors of the state.⁹² *But the nature of transparency discourse arising from within the government was markedly different from the demands for accountability and transparency raised by the transparency struggles outside.* While the state only echoed the neoliberal “good governance” agenda for public disclosure or ‘access’ to information, civil society demanded something as concrete as a legal right to information enshrined in law.

It is thus important to recognise that there was substantial conflict between the ineffectual ‘good governance’ reforms pursued by the state at the advice of IFIs and the demands for a deeper and more social justice-oriented transparency emerging from civil society. NCPRI reflected the latter: it emerged to fulfil the growing public demand to guarantee all citizens the ability to hold public officials accountable in a meaningful way and *on a daily basis*. Thus, very different commitments grounded NCPRI’s interest

⁹¹Government of India (2001b).

⁹²For instance, in the words of the Chairperson Department-related Parliamentary Standing Committee on Home Affairs, transparency in government ‘agitated the minds of common people and policy makers’. (Government of India, 2000).

in an RTI law. Indeed, as Baviskar (2007:20) argues, the World Bank and other IFI propagated “top down accountability” mechanisms did little to make the states accountable to its poorest citizens. The NCPRI leadership she notes (2007:20), was ‘careful to distance itself from the neoliberal demand for transparency.’

This brief overview lays out the various debates occurring around transparency that led up to the emergence of NCPRI. Energised by MKSS struggles, in 1996, NCPRI became the convergence point for various actors energised by these issues. It brought together diverse sets of actors into a single unified campaign to advocate for a national right to information law. Next I discuss the Beawar *dharna*, organised in Rajasthan that provided the final impetus for the origins of this national campaign.

40-DAYS IN BEAWAR

After organising *Jan sunwais* between 1994 and 1995, MKSS entered the next phase of its struggle with a demand for a legal right to information. In April of 1996, MKSS organised a 40-day *dharna* (sit-in) in the city of Beawar, tabling the demand before the state government for a legal right to information. MKSS, through the *dharna*, was protesting against the Chief Minister (CM) of Rajasthan. Following the first round of *Jan sunwais* in 1995, he had made a public announcement to provide access to information at the panchayat level but a year later, lack of any government action compelled MKSS to take the struggle to higher levels of the state. Over the course of a year (1995-1996), as MKSS awaited further action by the state government on the CM’s statement, it mobilised workers from four districts of central Rajasthan to partake in actions that culminated in the 40-day sit-in at Beawar.⁹³ This *dharna* drew the attention

⁹³ MKSS organised workers in Pali, Rajsamand, Ajmer and Bhilwara. Those who could not come to Beawar contributed a share of the household grains or small donations towards the *dharna* fund. As Shusheelaji, an MKSS activist told me, ‘we collected 14 bags of wheat here (in

of actors outside of Rajasthan, particularly at the national level. Beawar was chosen as the *dharna* site because it is a sub-divisional head quarter.⁹⁴ The day after the Beawar *dharna* began the Government of Rajasthan issued an order providing access to information—by paying a fee—at the panchayat level.⁹⁵

In response, MKSS along with hundreds of villagers marched to the office of the sub-divisional commissioner and submitted a memorandum, via the Sub-Divisional Magistrate, to the Chief Minister. The memorandum demanded a right to access panchayat level information and drew attention to the discrepancy—the introduction of a new clause for fee payment—between the Chief Minister’s statement in the state Assembly and the government order. As the activity heated up at the state and district levels in Rajasthan, the journalists who came to Beawar recognised the political relevance of the issue and pushed MKSS to take the struggle to Delhi. I now examine the role that each of the four types of eminent activists played in the subsequent

Jawaja block).’ Shusheela, MKSS activist, interview with author. Jawaja, Rajasthan. 17.12.09; Shankar Singh, another MKSS activist, recalls, ‘the tea vendor at *Chan Gate* in Beawar, gave us tea at half price. He said he voted for BJP, and we were opposing his Chief Minister, but he agreed with us on the issue. So we could drink his tea at half price.’ Shankar Singh, MKSS activist, interview with author. 16.12.09; Nikhil Dey of MKSS recalls other instances of solidarity: ‘flower sellers gave us five rupees daily, an old man who worked for the city municipality as a street sweeper, came early every morning to sweep the *dharna* site.’ Nikhil Dey, interview with author, Devdungri, Rajasthan. 01.05.10; Aruna Roy recalls, the scepticism of lawyers from Beawar in the initial days of the *dharna*. They asked her, how the village women or, to use their words, the “skirt brigade” (*ghagra paltan*) that had gathered at Beawar could successfully advocate for a national RTI legislation. By the end of forty days however, over four hundred signatures had been collected and the city of Beawar extended its full support to the *dharna*. Aruna Roy, interview with author. Lahore, Pakistan. 17.03.2008.

⁹⁴That is, the administrative unit above the block or *panchayat* level. Beawar is also centrally located, and well connected by road and railways, to the state capital, Jaipur, as well as the national capital, Delhi, thus, making it practically and easily accessible for wider publics. Apart from its strategic importance, the location also had symbolic relevance. As Justice V.S. Dave of the Rajasthan High Court said to me, ‘the city was historically significant for the first free press of Rajasthan. It was also the only British India territory where rulers of the princely states of *Rajputana* had no control or power. Thus, exiled members of the *Praja Mandals* (People’s Assemblies) who revolted against princes, sought refuge in Beawar.’ Justice V. S. Dave, Judge. Rajasthan High Court (retired), interview with author. Jaipur. 14.12.10.

⁹⁵The Order stated that on payment of the fee (Rs. 5), information related to expenditure on development works undertaken in rural areas must be provided (Government of Rajasthan, 1996).

campaign, starting with the reformist IAS who MKSS interacted with during the struggle for enforcing minimum wages, and the journalists who came to Beawar. They constituted important actors in the first phase of the national struggle and helped lay the foundations of NCPRI.

THE FIRST PHASE

The Eminent IAS

During its struggle for minimum wages, the MKSS encountered a few sympathetic civil servants, in particular several IAS officials. These officials used their position and power to institute more transparent and accountable systems in their own departments and ministries. For instance, the second hunger strike in 1991 brought MKSS in contact with a senior IAS official, Mr. S.R. Sankaran, who at the time was a Secretary of the Ministry of Rural Development (MoRD). He intervened not at the personal request of MKSS but after reading MKSS's letter of complaint to the MoRD. After carrying out his inquiry, Mr. Sankaran presented the state government of Rajasthan with an ultimatum: pay full minimum wages to workers of drought relief programmes or face withdrawal of central government funds for drought relief. The state government agreed to pay full wages, and MKSS ended its hunger strike.

In his 32 years as an IAS official, Mr. Sankaran had developed a reputation for integrity and an unabated and open support for marginalised groups, especially Dalits. In his native state of Andhra Pradesh, he worked towards abolishing bonded labour by implementing the Abolishment of Bonded Labour Act with such activist zeal that he almost lost his job.⁹⁶ In 1996, Mr. Sankaran became a founding member of NCPRI.

⁹⁶ 'I was Secretary Social Welfare and used the opportunity after the Emergency, to implement the bonded labour Act that had been recently enacted as part of the 20 point programme. I made frequent visits to villages, dealt with cases that I learnt about and released bonded labour. The

Along with a close friend, K.G. Kannabiran, National President of the People's Union for Civil Liberties (PUCL), and Hyderabad-based journalist, Anant M. (previously a reporter for the *Indian Express* in Rajasthan), Mr. Sankaran accompanied MKSS activists to meetings, which he helped organise with literacy activists, journalists, women living in slums, intellectuals, non-governmental organisations, and civil rights activists.⁹⁷

IAS officials in neighbouring states like Madhya Pradesh also came into contact with MKSS after the *Jan sunwais* began in 1994. One such person was Harsh Mander, Divisional Commissioner of Bilaspur district in Madhya Pradesh, who became the first serving IAS official to join NCPRI. As Divisional Commissioner, Harsh Mander, along with MKSS, got a *Jan sunwai* organised on the PDS in Bilaspur. The record of PDS has been marred by extensive corruption in India. In 1995, Mander passed a series of government orders to ensure effective implementation of the Public Distribution System (PDS), a lifeline for the rural poor who depend on it for obtaining subsidised food grains.⁹⁸

Chief Minister, Chenna Reddy was from a feudal background. He did not like civil servants implementing the bonded labour Act. In a meeting he asked me, why do you go to the villages, why are you implementing this law? He said he was getting complaints from landlords. Why do you go to villages, you are a Secretary? Do other Secretaries go? Normally Secretaries don't go. It is the Head of Department who goes. He got angry and said, you go to villages, sit with all sorts of people, and take part in processions and shout slogans. I said to him, I do, except take part in processions, but I have given them 2 slogans- "Stop bonded labour", "cancel loans", these capture the essence of the Act, so that people may know about it. You stop this work, he said. I refused, and told him, he could transfer me. I don't want you in my government, he said. I also got a little angry, and said, I do not want to work for your government. I wrote a letter narrating the incident and asked for 6-month leave.' S.R. Sankaran, Secretary of Rural Development, Government of India (rtd.), and Member of NCPRI, interview with author. Hyderabad, Andhra Pradesh. 20.05.10.

⁹⁷ As MKSS activist Aruna Roy told me, when someone asked us in Hyderabad where are you staying and we gave Mr. Sankaran's name, that is all it took, to convince people of our integrity, such was his reputation. Aruna Roy, MKSS activist and founder member NCPRI, personal correspondence with author. 16.09.12.

⁹⁸ Harsh Mander, former IAS and member of NCPRI, interview with author. New Delhi. 16.07.09.

Soon thereafter, Dr. N.C. Saxena, Director of the IAS training academy, Mussorie, with the help of Mander (who was also a faculty member at the IAS training academy in Mussorie), invited MKSS activists to a meeting at the academy. Dr. N.C. Saxena was also a reformist IAS official. MKSS and these bureaucrats of reformist zeal have mutual admiration based on shared values and commitment. The two sympathetic officials used their symbolic capital to get something that MKSS activists could not have got otherwise: access to the bureaucratic field. The symbolic capital of two other NCPRI activists (Shekhar Singh and Aruna Roy), and their access to serving IAS officials in the Prime Minister's Office, enabled NCPRI to counter bureaucratic opposition by officials from the Department of Personnel and Training (DoPT) to the NAC Draft of the Right to Information Bill.

At the meeting organised in 1996 at the IAS training Academy, active civil servants, legal experts and activists together discussed the provisions of a new right to information law. This meeting produced one of the central provisions of the RTI Act 2005—a proviso in the law that prevents civil servants from misusing the exemption clause to restrict access to information. Dr. Saxena, the Director of the Academy, conceived the idea behind the clause.⁹⁹ Dr. Saxena and Aruna Roy from MKSS, later in 2004, became members of the advisory body to the Central government, the National Advisory Council, which played a critical role in the enactment of the RTI Act (2005). In 2009, Mander joined them as a member of the NAC, which, in its second term, took up the formulation of another important piece of legislation, the National Food Security Bill. These reformist bureaucrats thus played key roles in the formulation of, and early

⁹⁹Section 8(1)(j) of the RTI Act states, "Provided that information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person". This proviso accompanies the other provisions laid out in the RTI Act (2005) that specifically deals with exemption of certain categories of information. According to Aruna Roy, In order to avoid wanton denial of information by public functionaries, Dr. Saxena suggested the inclusion of this provision.

mobilisation around, the right to information. Other eminent activists from the journalistic field joined them in 1996.

Eminent Journalists

As Sheth (1983: 4) notes, grassroots initiatives in India extensively use the ‘Fourth estate’, or media, to ‘protect the rights’ of the poor. In India, as elsewhere, journalists’ concern with the freedom of press often makes them strong supporters for freedom of information.¹⁰⁰ However, the journalists who had gathered at the Beawar *dharna* played a somewhat different role. They were not the key actors demanding the right to information, but, instead, were instrumental in popularising a distinct conception of the right to information in India—expressed as “the right to know, the right to live” that emerged from the struggles by peasants and workers over the enforcement of minimum wages. The visit of several journalists to Beawar played an important role in the founding of a national RTI campaign.

Journalist and political analyst Nikhil Chakravarty, founder of a left-wing journal called *Mainstream*; Kuldip Nayyar, another journalist and former High Commissioner to the UK and a Member of Parliament; and Prabhash Joshi, senior journalist from *Jansatta* (a leading Hindi National daily), were among the initial few who came to the Beawar *dharna* in 1996. These journalists helped propel RTI into the national public domain. Some of these journalists came to Beawar simply out of curiosity.¹⁰¹ For Chakravarty, the struggle of peasants and workers in Rajasthan was ‘one of the most important struggles of independent India’, and he compared it to the

¹⁰⁰For example in Malaysia, the Centre for Independent Journalism was one of the key organisations leading the campaign for the enactment of the freedom of information bill as they envisioned it as a natural corollary to the freedom of press. ‘Lobbying with Local Government’. Workshop organised by Pusat Komus. Malaysia 29-30 March 2010.

¹⁰¹Quoted in, Dey and Roy (2009).

many struggles led by Gandhi that he had participated in.¹⁰² At the Beawar *dharna*, he said, ‘it was in small meetings such as this one, attended by a few hundred ordinary people, that India’s freedom movement took shape...This was a right that should have come with independence. It is not going to be easy to win this entitlement, but you must not give up. This is like a second battle for independence.’¹⁰³ Kuldip Nayyar, who accompanied Chakravarty, said later that year at a meeting organised by the Press Club in Jaipur, ‘we came because we saw a spark in the movement at Beawar.’¹⁰⁴

Another journalist, Prabhash Joshi, who happened to be passing through Beawar was sought out or “way-laid” by MKSS.¹⁰⁵ In 1996, Joshi spent twenty-four hours at the Beawar *dharna*, and said ‘I want to acknowledge and pay my respects to the ordinary men and women who are the real sovereigns of this country and who, through this *dharna* and struggle, are asserting their sovereign rights in a democracy.’¹⁰⁶ He returned to Delhi to write a powerful editorial titled ‘*The Right to Know, the Right to Live*.’¹⁰⁷ In the article he argued that the right to live and the freedom of expression were integral to one another. He wrote, ‘in a democracy with high levels of poverty, the right to information cannot be limited to freedom of expression, but is without doubt about the right to life’ (Joshi, 1996). The article captured the essence of the local struggle by the workers and peasants in Rajasthan, and its title became the campaign’s most popular slogan.

Soon after, Prabhash Joshi together with Ajit Bhattacharjea, the Director of Press

¹⁰²Ibid

¹⁰³Ibid

¹⁰⁴The Hindu (1996)

¹⁰⁵According to MKSS activist Nikhil Dey, who went to invite Prabhash Joshi to the Beawar *dharna*, Dey recalls, I talked for nearly an hour, as he [Joshi] ate his dinner, in the end, he [Joshi] simply said “I will come”. Nikhil Dey, MKSS activist, interview with author. Devdungri, Rajasthan. 01.05.10.

¹⁰⁶Roy, Dey and Singh (2010)

¹⁰⁷Author translation from the original title in Hindi, see Joshi (1996).

Council of India (PCI), played an important role in gathering some of the prominent people that would constitute NCPRI. It was Joshi also who suggested the campaign be called the ‘National Campaign for People’s Right to Information.’¹⁰⁸ Both Joshi and Bhattacharjea became founding members of the NCPRI, and continued to write extensively on the RTI. In order to spread the word about the campaign in Rajasthan and its gradual expansion to other parts of the country, Bhattacharjea founded ‘Transparency: Bulletin of the Right to Information Movement.’ Joshi became a confidante and mentor of MKSS activists Aruna Roy and Nikhil Dey, who, along with other people’s movements like the Anti-Dam Movement, or NBA, relied upon Joshi for his astute understanding of politics while lobbying political parties, and especially in moments of crisis.

Although the issue of right to information had been a substantial concern for the press (largely the print media), no member of the press—apart from the 1970’s public interest litigations to protect free press—had pursued the RTI as a legal entitlement. Intellectuals in seminars, policy makers in government, and even courts of law had actively discussed the right to information. Thus, when these journalists visited Beawar in 1996, they encountered a familiar demand, but, this time, it was being made by a rather unexpected part of the citizenry: rural workers and peasants. The journalists realised that the framing of the demand for a right to information also went beyond its more common liberal conceptualisation. That is, ordinary workers and peasants had successfully linked the right to information to their struggle for enforcement of minimum wages, but also to a more substantial and ideal form of democracy, far from the lived experiences of poorer citizens.

The MKSS now had access to two different fields: the media and the bureaucratic

¹⁰⁸ Aruna Roy, founding member NCPRI and MKSS activist, interview with author. Lahore, Pakistan. 17.03.2008.

state. It also had the support of prominent individuals who had the relevant capital to exert influence in their specific fields. With the support from IAS officials and journalists, the MKSS expanded its activity and sought out other actors at the national level. New actors known to the journalists and IAS officials were brought together under the banner of NCPRI. Prabhash Joshi and Ajit Bhattacharjea, together with Nikhil Chakravarty and Kuldip Nayyar, got Justice Sawant involved in drafting the law as Chair of the Press Council of India. The NCPRI was constituted in 1996, in Delhi, with the specific purpose of engaging the political state—politicians/parliamentarians—at the national level. I now focus on the creation of NCPRI that followed the Beawar *dharna*, which brought together lawyers, judges, and activist academics. Each used their specific capital in the bureaucratic and political spheres to advance the demand for national RTI legislation.

THE SECOND PHASE

The Meeting in Delhi

The major objective of NCPRI in 1996 was to lobby for a national right to information act. The opposition by the *gram sewaks* and *tehsildars* (block level officials) and other district level officials, as well as the foot-dragging by the BJP government in Rajasthan influenced NCPRI's decision to target the Indian Parliament, and demand a national RTI law. This would also mark the first time the demand for institutionalising the right to information was expressed publicly. According to Shekhar Singh, former Convenor and founding member of NCPRI, 'in 1996 Aruna and Nikhil emerged from Rajasthan, and talked about wanting to *institutionalise RTI*, because they

had seen its impact [based on *Jan sunwais*] at the local [panchayat] level.’¹⁰⁹ According to Singh, who taught at the Indian Institute of Public Administration (IIPA) for twenty-four years, ‘we thought it [a national legislation] would be easier than state acts, primarily influenced by the fact that in Rajasthan it would be an uphill task.’¹¹⁰

The NCPRI was formally constituted when a meeting jointly organised by the IIPA and the Press Council of India, under the chairmanship of a retired Supreme Court judge, Justice P. B. Sawant, who, along with Nikhil Chakravarty, Prabhash Joshi and Ajit Bhattacharjea, brought together an array of supporters. Along with the Attorney General of India, they brought retired Judges from the Higher Judiciary, such as Justice V. M. Tarkunde (retired judge of the Bombay High Court), a Public Interest Litigation lawyer in the Supreme Court, Prashant Bhushan, an ardent advocate of judicial accountability, Subhash C. Kahsyap, a constitutional expert. Additionally, journalists, academics, and social and political activists attended the meeting. Also present at the Delhi meeting was former Prime Minister V. P. Singh, who quit the Congress Party in 1989 as it was battling corruption charges over a defence deal (also known as the Bofors case). Singh would become a strong supporter of the national right to information legislation, and in 2005-06 he helped mediate between NCPRI activists and the Prime Minister Manmohan Singh on behalf of RTI and the right to work campaigns.

IAS officials from the IIPA were also invited and the entire group debated the issue of transparency and accountability for a day and half. Shekhar Singh, who knew Harsh Mander, explained, ‘I knew Aruna, not personally, but from when she worked with my father, [who was a civil servant]. In 1996, Harsh [Mander] introduced me to them [Aruna and Nikhil]. I was teaching at the IIPA and had some funds available to

¹⁰⁹ Shekhar Singh, former Convenor and founder member NCPRI, interview with author. New Delhi. 29.05.07.

¹¹⁰ Ibid

me, with which we organised the first NCPRI meeting in Delhi.’¹¹¹ The meeting led to the creation of a Working Group of ten founding members as the main decision making body of the NCPRI.¹¹² This is what the network looked like in 1996.

After the meeting in Delhi, participants were also given various responsibilities. Singh was given the responsibility of taking the message of RTI to civil servants. As he told me, ‘*we infiltrated RTI into every course [at the IIPA].*’¹¹³ A core group was also formed to draft a bill on the right to information. Under the chairmanship of Justice Sawant, the Press Council of India drafted a model bill on the right to information (also known as the PCI Draft Bill), and submitted it to the Prime Minister of the United Front Government. NCPRI activists thus pushed the draft Bill in the political sphere.

In the 1996 general elections, none of three major political parties (Congress, the Bharatiya Janata Party (BJP), or the Left Front) were able to secure the requisite number of seats in Parliament to form a government. The United Front coalition government came to power for a year and was headed by two Prime Ministers—I.K. Gujaral and H.D. Deve Gowda. The Congress Party supported this coalition government of thirteen disparate political parties from the outside (Kaviraj, 1997; Pai, 1996). The United Front coalition government had also placed the issue of transparency and the right to information in its Common Minimum Programme. It is interesting to note that the first

¹¹¹Ibid

¹¹²The founding members of NCPRI who met in Delhi in 1996 were -Ajit Bhattacharjea, Aruna Roy, Bharat Dogra, K.G. Kannabiran, M.P. Parmeshwaram, Prabhask Joshi, Prashant Bhushan, Renuka Mishra, S.R. Sankaran, and Shekhar Singh. The NCPRI is still active today with a Working Group of thirty-two members. An honorary Convenor and a full-time General Secretary are the official points of contact for the NCPRI.

¹¹³Ibid; RTI was incorporated into the advanced professional programme for civil servants at IIPA. MKSS activists were invited as resource persons to facilitate discussions on right to information for IAS officers under training at the IIPA (see, Government of India, 1997b; Government of India, 1997c). The new Director of the IAS Academy in Missouri, B.S. Baswan also wrote to the Additional Secretary Administrative Reforms and Training in the Department of Personnel and Training, Government of India, endorsing Shekhar Singh’s suggestion made on behalf of NCPRI’s: to incorporate penal provisions and disclosure of file notings in the draft Press Council of India draft right to information Bill (Government of India, 1997a).

Prime Minister of the United Front government, I.K. Gujaral was a former journalist. As Justice Sawant said, ‘we sent the draft Bill to all Members of Parliament, Members of State Legislative Assemblies, and Chief Ministers of states.’¹¹⁴ The Prime Minister at the time gave a ‘positive response to the PCI Draft Bill.’¹¹⁵ In 1997, the United Front coalition government constituted a working group headed by a consumer rights advocate H.D. Shourie. The Working Group on RTI and Promotion of Open and Transparent Government invited Justice Sawant to its meetings to discuss the contents of the Freedom of Information bill.¹¹⁶

The conservative Bharatiya Janata Party (BJP), however, replaced the United Front Government in 1998. The political environment under the new BJP government was not conducive to getting the legislation passed.¹¹⁷ An illustration will help to convey the stance of the BJP government. Acting independently, the Urban Development Minister (who was also advised by NCPRI member and Supreme Court lawyer Prashant Bhushan) in 1999 attempted to enforce transparency in the Urban Development Ministry and issued an order giving access to official records and documents of the Ministry.¹¹⁸ The Cabinet Secretary, on the instructions of the Prime

¹¹⁴Justice P.B. Sawant, former Judge of the Supreme Court and Chairperson of Press Council of India, interview with author. Pune, Maharashtra. 26.09.10.

¹¹⁵ Ibid

¹¹⁶Minutes of meeting of the Shourie Working Group give details of the comments made by Justice Sawant on two provisions of the proposed Freedom of Information Bill - the definition of public authority and the discussion of the inclusion and wording of non-obstante clause or overriding effect of RTI on other legislations (Government of India, 1997d).

¹¹⁷Justice P.B. Sawant, former Judge of the Supreme Court and Chairperson of Press Council of India, interview with author. Pune, Maharashtra. 26.09.10.

¹¹⁸Urban Development Minister Ram Jethmalani issued the order using the Supreme Court Constitution bench decisions, mentioned earlier that held that the citizens have the right to get information about all aspects of government functioning. He had also insisted that anything available to Members of Parliament must be available to citizens. The same clause that N.C. Saxena an IAS official had suggested in 1995 at the meeting at the IAS academy in Mussorie. Venkatesh Nayak. Programme Coordinator, Access to Information. Commonwealth Human Rights Initiative, and member of NCPRI Working Committee, interview with author. New Delhi. 11.11.10.

Minister, revoked the Minister's order.¹¹⁹ For NCPRI, the next few years would be about building a support base for the right to information outside.

While the central government remained unresponsive to proposals for right to information legislation, MKSS travelled to other states in India with the PCI Draft Bill, and, in 2001, NCPRI organised its first national convention in Beawar to commemorate the five-year anniversary of the *dharna* and submission of the Press Council of India (PCI) draft RTI Bill. Next, I examine what the network looked like five years after it was first constituted. NCPRI expanded between 2001 and 2004 by including new actors (activists and activist academics) and building inter-organisational linkages with different issue groups and grassroots campaigns.

THE THIRD PHASE

My fourth category of eminent activists that were invited into NCPRI after 2001 share the same symbolic capital—respect, prestige and honorific status—with the initial wave of journalists, IAS officials, judges and lawyers, and academics that led to the creation of NCPRI in 1996. However, what is markedly different about this second wave of eminent activists is their claim to representativeness. This fourth category includes activists, lawyers, artists, leftist intellectuals or academic activists who are

¹¹⁹ Additionally, according to Shekhar Singh, founder member of NCPRI, the actions of the BJP government lead the Centre for Public Interest Litigation and Common Cause, two non-government organisations, to file a public interest litigation in the Supreme Court asking the court declare unconstitutional the actions of the Cabinet secretary as well as Section 5 of the OSA that prevents public officials from disclosing official information. It further asked the court to direct the government to issue administrative directives based on the Press Council of India draft RTI Bill. Shekhar Singh, former Convenor and founder member NCPRI, interview with author. New Delhi. 29.05.07.

According to Nikhil Dey, MKSS activist, MKSS was party to this Supreme Court case where Jethmalani's orders were being used in Court to ask the government what it was doing about the RTI law. However, as Dey said to me, 'our focus was never such cases, but the legislation.' Nikhil Dey, MKSS activist, personal correspondence with author, 25.09.12.

representatives of people's movements from the 'non-party' political domain (Kothari, 1984; Sheth, 1983).¹²⁰

These groups are at the margins of the mainstream political field. These left progressive movements are typically non-violent in nature and advance the interests of marginalised and excluded citizenry from outside the sphere of electoral politics. They represent an alternative political force—"people's politics"—that seeks to change state practices and policies from the outside. This third type of eminent activists, some of whom sacrificed traditional careers for full-time activism, are not interested in capturing state power, and thus their claim to represent the poor and excluded is often seen as more respectable and prestigious than politicians. This makes it difficult for the state to dismiss and/or co-opt them. Moreover, because they are non-violent, it is somewhat more difficult to repress them than the violent left. These movement leaders began to play a major role with the Beawar convention in 2001.

The National Convention in Beawar (2001)

Medha Patkar, the leader of the anti-dam Narmada Bachao Andolan (the NBA), and Arundhati Roy, writer and public intellectual, were amongst the eminent activists from across the country that gathered in Beawar in 2001. The question that the participants centrally grappled with at Beawar was how to strategise new ways—aside

¹²⁰ The term "non-party political formation" was first used by Rajni Kothari (1984) to talk about public interest groups working outside the electoral domain, mainly in villages with the poorest of poor, bargaining for policy changes. Sheth (1983) also talks about the "Grassroots Initiatives" that are similar to Kothari's "non-party political formations": they do not intend to capture political power, and work at the village level to create an alternative model of development. Morris-Jones (1963:140) also categorises such groups in what he calls the third idiom of politics in India: "saintly politics". These groups, as we also know, work through national networks active in the bureaucratic and judicial arenas (Katzenstein et al, 2001). Such groups are different from New Farmers Movement in India, who are also non-political in form, but have entered into informal alliances with political parties, and use different tactics to put pressure on the state: 'blocking food transport systems, denying officials access into their villages, refusing to pay outstanding bills' (tax arrears, electricity bills etc.) (Brass, 1995: 3-4).

from the once-in-five year vote—to hold the Indian state accountable. Since a lot of different issue groups or campaigns worked at the local level, the relevance of devising new practices of accountability from the district level down to the panchayat was a common concern. Therefore, at the first national convention in Beawar, in 2001, the NCPRI adopted a resolution articulating a vision of the ‘People’s Right to Information’, with reference to various policy areas vital to the people—health, food security, human rights, gender, education, environment, and national security. Additionally, in an effort to support grassroots struggles for the RTI, NCPRI made official its objective to include people’s movements in the campaign.¹²¹

Eventually, discussions and forums brought more and more social movements into the fold. One of the ways in which NCPRI reached out to other people’s movements to build inter-organisational ties was through its own founding members, who were also affiliated with other networks, such as the Peoples’ Union for Civil Liberties (PUCL), Citizens for Democracy, and *Jan Vikas Andolan* (Centre for Education and Documentation).

The Campaign at Work

Whereas the struggle for the right to information law took root in Rajasthan and Delhi, it began to spread to other states. Activists from MKSS and NCPRI were seeking out other activists from across the country that would understand the relevance and need for official information to be accessible to broader publics. The draft Press Council of India or PCI Bill was discussed in detail in meetings organised by the MKSS and the NCPRI. Based on these discussions, the draft underwent further revisions. As Mr.

¹²¹National Campaign for People’s Right to Information (2001)

Sankaran explained, ‘The right [RTI] emerged from a field experience in Rajasthan, but it got canvassed in different forums [across the country].’¹²²

MKSS and NCPRI activists collaborated with local activists in south and east of the country to popularise the right to information. From October 1996, NCPRI organised meetings in Orissa (October 15), Tamil Nadu (October 29), Karnataka (November 4), and Andhra Pradesh (November 6-7). In Hyderabad (Andhra Pradesh), meetings were organised by NCPRI through founding members such S. R. Sankaran and K.G. Kannabiran. M.P. Parmeshwaram, a nuclear scientist who quit his job to join the Kerala People’s Science Movement (KSSP), was also a founding member of the NCPRI. In 1996, KSSP members visited Rajasthan to observe and learn from the MKSS on how to organise *Jan sunwais*.¹²³ In Orissa, *Aragamee*, an organisation working in tribal districts of Orissa took the initiative to organise meetings. In Chennai (Tamil Nadu), the Madras Institute of Development Studies gathered academics, policy makers, human rights activists, and members of citizens’ fora. In Bangalore (Karnataka), the *Jan Vikas Andolan* (Centre for Education and Documentation) organised a daylong workshop for Southern states on RTI.¹²⁴ A year later, NCPRI also organised a public hearing with the NBA in Madhya Pradesh on the *Maheshwar* dam project.

In Rajasthan, apart from MKSS, NCPRI linked up with single issue-based networks, such as the right to food. Issue groups like the right to food would become important national campaigns in their own right, such as the Right to Food Campaign, and the People’s Action for Employment Guarantee (PAEG), and had overlapping memberships between NCPRI. The Right to Food Campaign, for example, followed the

¹²² S.R. Sankaran, Secretary of Rural Development, Government of India (rtd), and Member of NCPRI, interview with author. Hyderabad, Andhra Pradesh. 20.05.10.

¹²³ T. Gangadharan, KSSP activist, interview with author. Trichur, Kerala. 12.05.10.

¹²⁴ Srivastava. (n.d.); see also Jan Vikas Andolan (1996).

conventional social movement strategy outlined above and filed a public interest litigation to enforce a legal right to food. The PAEG, on the other hand, with its overlapping membership of activists like Aruna Roy and activist academic Jean Drèze—both members of the NAC—used the legislative route to enact a legal right to work.

By the time of the first national convention, at least five state governments had enacted state RTI laws. As we learnt earlier, some of these state laws were partially influenced by the then-fashionable “good governance” agenda, which had been internalised by the existing bureaucratic structure. It is not surprising that these state laws, by and large, provided only limited access to information and were difficult to be put into use for ordinary citizens. Nevertheless, they filled citizens using these laws with an unfamiliar poise and sense of equality in their dealings with IAS and other public officials (*gram sewaks*, *tehsildars*). Between 2001 and 2004, the repeated use of various state RTI laws led to a burgeoning group of RTI users and activists across India.

The Second National Convention on RTI 2004

By the year 2004, experiences derived from different states’ RTI campaigns made the right to information a politically effective demand. NCPRI became the vehicle for realising this demand. As noted earlier, between 2001 and 2004 NCPRI began to expand its member base. It identified and actively sought out new RTI advocates from different states as well as actors representing diverse issues such as the right to food, work, environment, electoral reforms, and others. Some new entrants were also personal

friends of NCPRI activists.¹²⁵ The new actors were invited to join the NCPRI campaign committee.

For instance, Frederick Noronah, an eminent journalist from Goa, became a close ally of NCPRI and a prominent advocate for RTI in the state of Goa.¹²⁶ An Indian Revenue Services (IRS) official, Arvind Kejriwal, became a strong RTI advocate in Delhi. Kejriwal and other activists of *Parivartan* used the Delhi RTI Act (2001) and pioneered urban *Jan sunwais* in a working class neighbourhood of east Delhi.¹²⁷ These *Jan sunwais* were primarily inspired by and closely modelled on the MKSS experience. Well-known journalist Prakash Kardaley from Pune, and regional editor of the national newspaper *Indian Express*, also joined the NCPRI. Kardaley also founded the first online discussion group on RTI called *Hum Janenge*, or “We will know.” Other new allies included Maja Daruwala and Venkatesh Nayak of the Commonwealth Human Rights Initiative (CHRI), which is a non-partisan transnational non-governmental organisation working on the practical realisation of human rights. The CHRI brought the international experiences of freedom of information laws to the NCPRI. Later we will learn about the role of CHRI members in revising the draft Bill for the NAC in 2004.

NCPRI also sought out ordinary people who were actively using state right to information laws. One such person was Shailesh Gandhi, a businessman from Mumbai

¹²⁵Suman Sahai (a friend of Shekhar Singh) from the Gene Campaign, working on farmer’s rights in particular genetic resources and trade, and Dunu Roy (a close friend of Aruna Roy) from Hazard Centre a Delhi-based research group that works on urban planning were on the NCPRI Campaign Committee.

¹²⁶Noronah (n.d.).

¹²⁷Kejriwal took a leave of absence and set up an organisation called *Sampoorn Parivartan* to check corruption in delivery of public services. In 2000 Kejriwal broke off from *Sampoorn Parivartan*, to start a new organisation called *Parivartan* and began work in a working class neighbourhood of Delhi, Sundernagri. He eventually resigned from the IRS in 2006. In 2001 Kejriwal also spent time in Rajasthan with the MKSS and later organised the first urban *Jan sunwai* on development works in the city. Parivartan activists incorporated several aspects of the MKSS repertoire, including the use of music, street theatre, and open public hearings.

who sold his business and devoted his time to filing right to information applications. On average, Gandhi filed one right to information request per day and unearthed a number of scams involving transfer appointments of the Mumbai police and sales of public land. Gandhi joined NCPRI in 2004 and later went on to become its Convenor in 2007. The following year, he was appointed Information Commissioner in the Central Information Commission, the independent appellate body under the RTI Act. Anjali Bharadwaj, who previously worked with Kejriwal and Shekhar Singh and later started her own organisation, *Satark Nagrik Sangathan* (SNS), which works in slum areas of south Delhi, also became a NCPRI member. SNS, like *Parivartan*, was active in organising *Jan sunwais* on the implementation of the Public Distribution System (PDS).¹²⁸

NCPRI also established links with people who were using cultural media, like folk music, to draw people's attention to various forms of state repression. Vinay Mahajan, an agricultural engineer, and Charul Bharwada, an architect, formed *Loknaad* or People's Voice to increase social awareness through singing; they soon joined hands with NCPRI after meeting MKSS activists Aruna Roy and Nikhil Dey in the aftermath of the 2002 communal riots in Gujarat.¹²⁹ Several of the new members who joined NCPRI were invited not only to display organisational strength, but also to proactively share in the commitment to 'support a participatory, just, informed, secular and humane democracy.'¹³⁰ Thus, from a small group of ten members—largely journalists, a retired judge, lawyers, and civil servants—NCPRI expanded to include ordinary citizens, other

¹²⁸For a detailed discussion of the SNS's anti-corruption activism and its use of right to information for PDS and other urban services for slum dwellers see, Webb (2011); for a discussion of the use of right to information and *Jan sunwais* on implementation of PDS in working class neighbourhoods in east Delhi see Pande (2008).

¹²⁹Vinay Mahajan, founding member Loknaad, and member of NCPRI Working Committee, interview with author. Ahmedabad, Gujarat. 7.12.09.

¹³⁰National Campaign for People's Right to Information (2004a).

activists and activist academics representing diverse issue groups. Many of the people I mentioned above were invited by Shekhar Singh, Aruna Roy and other founding members of NCPRI to join the Working Committee of NCPRI after the second National Convention on the RTI organised in Delhi in October 2004.¹³¹

The NCPRI network—which by now encompassed legal experts, social activists, civil servants, journalists, and ordinary citizens—proved significant to the creation of the national RTI law. In creating this network, NCPRI brought together technical skills in law-making, insights into government functioning, and of course the symbolic capital that would ultimately help them gain access to government officials and lawmakers. By 2004, with an expanded member base and the momentum generated by the dynamic use of various state RTI laws, eminent activists in NCPRI made the demand for a national right to information legislation politically relevant. NCPRI had been waiting for a moment that would enable it to translate a politically effective demand into a universal right. That moment arrived with the 2004 general elections and the change in the central government.

A POLITICAL OPENING

In the 2004 general elections, the BJP-led National Democratic Alliance (NDA) was unexpectedly defeated by a new Congress-led coalition.¹³² The Congress Party had

¹³¹Like the constitution of the first NCPRI working committee in 1996, the second working committee was elected at the Delhi convention, and later expanded to include new members by circulating names to the campaign committee (as per the NCPRI constitution). Since 2005 NCPRI also developed an informal support base of members who make nominal monetary contributions to become members (on an annual basis or paid a lump sum amount to become members for life). These are ‘passive’ members, that is, they pledged support for the cause, actively use right to information, but did not actively engage in the actual drafting of the law or in the running of NCPRI.

¹³²The Congress Party had successfully managed to gather enough seats (40 percent) in the *Lok Sabha* (People’s Assembly), clinching the required majority with the left parties supporting the government from ‘outside’ (Wilkinson, 2005); also see, McGuire (2009).

focused on forging strong alliances with regional parties, including the left parties. In order to woo the rural, middle, and low-income voters, it also expressed a commitment to the *aam admi* (common man) through electoral promises, including pledges to a transparent and accountable government and to the creation of jobs.¹³³ After the general elections, the Congress Party coalition (supported from the outside by left parties) formed the United Progressive Alliances (UPA) government. The Common Minimum Programme or CMP produced by the UPA coalition government contained the vision of the *aam aadmi's sarkar* (government of the common man), and was the result of an agreement between coalition partners to ensure the Congress Party would deliver on its election promises (Baviskar, 2007). The CMP specifically stated, 'The Right to Information Act will be made more progressive, participatory and meaningful' (Government of India, 2004b: 16).

As Shekhar Singh recalls in early 2004, 'Nikhil, Jean, and I were meeting, when somebody from the Congress Party called to ask for two paragraphs, one on right to information and another on the National Rural Employment Guarantee Act (NREGA), for their party manifesto.'¹³⁴ Two paragraphs were drafted, but even as the activists took up the opportunity to push forward their demands, they did not pin any hopes on the phone call. A few months later, the Congress Party had won the election, and laid out the "main priorities" of the Congress led coalition government in the CMP. A strong

¹³³For instance, in a discussion with some women in a working class colony in east Delhi, I recall their enthusiasm for the Congress Party. One of the ladies I spoke to said, "*Indira ne basaya, Sonia kaam dilayegi*" (Indira settled us, Sonia will find us jobs). I was speaking to some women in New Seemapuri, a working class residential area in east Delhi, as part of my research entitled 'Ensuring public accountability through community action', conducted for the Institute of Social Studies Trust (ISST), supported by the International Development Research Centre (IDRC), Canada.

¹³⁴Shekhar Singh, former Convenor and founder member NCPRI, interview with author. New Delhi. 29.05.07.

right to information law was one of the ruling coalition's priorities. Reading the CMP, the NCPRI activists became hopeful.

However, activists did not rule out a strong bureaucratic opposition to their model law—with its guarantee of universal access, strong penal provisions, and an independent appeal mechanism. As I will discuss, in response to NCPRI's RTI draft bill, the bureaucratic state attempted to push for a weaker Freedom of Information Bill, already passed by Parliament in 2002 (which was not yet notified by the central government). But the Congress Party committed to passing a stronger RTI law. This commitment, apart from coinciding with civil society's demands, also had the unequivocal support of the party leadership.

A combination of factors contributing to NCPRI's importance greatly affected its ability to achieve its objective. The work of NCPRI's eminent activists led to the creation of a political space at the national level. At this stage, key activists in the network, such as Aruna Roy, Jean Drèze, and N C. Saxena, were invited to occupy positions in the National Advisory Council (NAC), an apex public policy advisory body that included Sonia Gandhi, the Congress Party President. The NAC was set up to provide policy and legislative inputs to the government with the mandate to implement the CMP. Thus, activists gained direct access to the highest levels of the state, access that they previously lacked. Thereby, the NAC became a key site to offset the counter-mobilisation of IAS officials, especially those in the Department of Personnel and Training (DoPT).

As I will illustrate below, in the lead up to the enactment of the RTI law in 2005, the oppositional responses of the central bureaucracy—namely, by the Department of Personnel and Training, which is in charge of recruitment, training, career development and staff welfare—and of the political state, pushed activists to simultaneously resist

and engage the different arms of the state. NCPRI activists' relationships to certain state actors enabled it to leverage its access to the top political leadership, via the NAC, and, hence, to offset the opposition from the central bureaucracy. While activists had an unusual amount of access to the political state, they also engaged the top levels of the bureaucratic state by vetting sympathetic bureaucrats. Throughout the pre-legislative process, these bureaucrats served as key informants for activists, and allowed NCPRI to successfully counter the opposition from the DoPT bureaucracy.

INFILTRATING THE POLITICAL STATE

In June 2004, the Congress Party President, Sonia Gandhi, set up an apex policy advisory body—the National Advisory Council (NAC)—with prominent members of NCPRI as its members. The NAC became a political space for societal actors working with the poor, marginalised and excluded groups to negotiate significant rights-based policies, such as the Right to Information, the Right to Work (NREGA), and the Forest Rights Act (FRA). With the support of Mrs. Gandhi, key NCPRI activists that had direct access to her enabled the national right to information legislation to make its way to the top of the NAC agenda. However, the discussion in the political field, largely due to the support from Mrs. Gandhi, was different from the discussion in the bureaucratic field, which channelled its opposition via the Prime Minister.

First, let us consider the support that the NCPRI activists had in the political field and from Mrs. Gandhi. As Convenor of the NCPRI at the time, Shekhar Singh was given the task of operationalising the group's demands and advocacy strategies. 'We developed a whole series of amendments to the Government's Freedom of Information Bill 2002. Arvind (Kejriwal) did some initial work and then Prashant (Bhushan). Finally, Nikhil (Dey), Arvind, Prashant, Charmine [Rodrigues, from CHRI] and I sat up

till 3 am, and clause-by-clause revised the Government's Freedom of Information Bill. We all had different perspectives: Nikhil (also a law graduate) brought the grassroots experience, Prashant was the legal eye, and Charmine was well versed with laws across the world.¹³⁵ Shekhar Singh also activated his international network of transparency advocates on the International Transparency Task Force for feedback.¹³⁶

In August 2004, Aruna Roy, as a central node of the RTI network, and member of the NAC, sent the NCPRI draft to the NAC for discussion. With no fixed agenda, the strong network presence in the NAC made it possible for NCPRI's model RTI Bill to become the first item discussed by the NAC. Rather than consult the ministry of law and the concerned Department of Personnel and Training, and rather than constituting a committee—as was done in the case of the Forest Rights Act—NCPRI drafted a national right to information law along with the political state while largely avoiding the bureaucratic state. The NCPRI's model RTI bill, with some changes,¹³⁷ was sent, with a signed letter from Sonia Gandhi, to the Prime Minister's Office (PMO) for discussion in Parliament.¹³⁸ At this stage the right to information legislation left the political field, momentarily, and entered the bureaucratic field.

¹³⁵ Shekhar Singh, former Convenor and founder member NCPRI, interview with author. New Delhi. 29.05.07.

¹³⁶ The task force was initiated by Joseph Stiglitz as a part of the International Policy Dialogue, and produced a series of country and area specific papers see, Florini, A. (2007); Some members of this task force also attended the *Jan sunwai* organised by MKSS and NCPRI in Kumbalgarh, Rajasthan (1999).

¹³⁷ For instance, the NAC changed the recommendation on appointment of Information Commissioners. NCPRI had recommended a committee that has a Chief Justice must do the appointments. The bureaucrats in the NAC did not want to involve the judges in the appointments process. As per the law, the Committee for the appointment of Information Commissioners at the Central level includes the Prime Minister, Leader of Opposition and a Union Cabinet Minister to be nominated by the Prime Minister. At the State level the Information Commissioner is appointed by a Committee, which includes the Chief Minister, Leader of Opposition and a Cabinet Minister to be nominated by the Chief Minister. As a result, despite the provision for journalists, academics, lawyers to be appointed Information Commissioners, with a few exceptions, the post of the Information Commissioner has been handed out to retiring bureaucrats.

¹³⁸ In her letter Mrs. Gandhi reiterated the promise of the UPA to pass a strong, participatory and meaningful RTI Act (Gandhi, 2004).

BUREAUCRATIC BLOCKAGE

The process of enactment entered its most critical moment upon entering the PMO in August 2004. The political parties and politicians felt less threatened by the RTI than the bureaucracy, who would be directly impacted by it and ‘burdened’ with its implementation. Implementing the RTI law would require a change in mindset, and a radical overhaul of the bureaucratic apparatus’s day-to-day functioning. For this, neither the top level IAS officials nor the lower level *sarkari karamcharis* were prepared. As a result, while *en route* from the NAC to Parliament, the RTI law received its staunchest opposition, particularly from the Department of Personnel and Training (DoPT), the nodal department in charge of reviewing the NAC draft.

Both the scope and breadth of public access to government information and the penal provisions in the RTI bill were some of the strongest provisions internationally and, therefore, also the most worrisome for the bureaucrats. The penal provisions in the NAC draft were particularly worrisome as they applied to erring officials, thus fixing the failure to provide information *personally* on officials rather than collectively on departments or ministries. According to Singh, who taught IAS officials for over two decades, the ‘NAC draft created panic amongst sections of civil servants.’ My teaching at the IIPA allows me to get informal information from former trainees, and Aruna's own networks allowed us to know *blow by blow* what was happening and how the bureaucracy was burying the recommendations of the NAC.¹³⁹

The bureaucracy adopted a two-fold counter strategy: it proposed to resurrect the weaker Freedom of Information Bill (2002) and to create additional legal hurdles. A series of late night discussions took place, and bureaucrats, particularly in the DoPT, arrived at the decision to activate the Freedom of Information Bill (2002). They [DoPT

¹³⁹Shekhar Singh, former Convenor and founder member NCPRI, interview with author. New Delhi. 29.05.07.

officials] told the Prime Minister's office that similar recommendation as those made by the NAC in 2005 had earlier been considered and rejected by government when passing the Freedom of Information (FOI) Bill (in 2002). Thus, there was no need to consider them again.¹⁴⁰ The DoPT officially took the view that since the Freedom of Information Bill (2002) had already been passed by Parliament and received Presidential assent, the government should notify the FOI Act, and implement it for a few years; then further amendments to improve the FOI Act could be considered. A draft note prepared by the DoPT for a cabinet meeting stated, '...Certain provisions suggested by the Council [NAC] have been modified keeping in view the legislative, constitutional, and administrative requirements.'¹⁴¹ As Shekhar Singh told me, 'in a meeting with Sonia Gandhi in which I was present a senior civil servant [IAS official] confirmed the actions of DoPT officials.'¹⁴² In December 2004 a significantly watered down version of the RTI Bill was sent to the Parliament for discussion.

The NCPRI countered the opposition by the bureaucracy by seeking out different people to petition different political parties. Notably, NCPRI activists lobbied leaders of the Communist Party of India, a key partner in the UPA coalition government. It also sought the legal opinion of former law Minister Shanti Bhushan—also the father of an NCPRI member, lawyer Prashant Bhushan—to counter the opposition from the DoPT and the Ministry of law. The issue at stake was whether in a federal system, the central (national) government could make a law when its enactment is a state subject. The NCPRI argued that transparency, or right to information, was not mentioned in any of the three separate lists (state, central or concurrent) that provide legislative powers, and the central government could therefore pass a national law. In a letter to the NAC

¹⁴⁰ Ibid.

¹⁴¹ Government of India (2004a).

¹⁴² Shekhar Singh, former Convenor and founder member NCPRI, interview with author. New Delhi. 29.05.07.

Chairperson, NCPRI activists wrote,

Whereas the Freedom of Information Act 2002, for all its faults, was applicable to the States, Union Territories and the Central Government, this new RTI Bill [which the DoPT sought to get passed in Parliament] appears to be intended to be restricted to only the Central Government and the Union Territories. It has thereby, in one stroke, taken away the access given by the earlier Act to information with state governments, district authorities and local bodies. This denies the very information that people actually need to hold public authorities accountable... The new Bill formulated has also changed the NAC recommendations regarding penalties, rendering them ineffective. The penalty clause is perhaps one of the most critical provisions for implementation of the RTI law.¹⁴³

NCPRI activists also made an additional move. They used their symbolic capital and reached out to the former Prime Minister V.P. Singh in order to gain access to Prime Minister Manmohan Singh, who seemed to be taking a more conservative stance than the political leadership of his party.¹⁴⁴ The Prime Minister's stance was only natural, since he was not a politician but a former bureaucrat. At the meeting, NCPRI activists Shekhar Singh, Aruna Roy, and Jean Drèze learnt that the PM was in agreement with the basic principles of transparency and expressed his support for an open, accountable government. Nevertheless, he was hesitant to implement a law with a strong penalty clause, which he considered an impediment to bureaucratic independence. The PM, however, also told the activists that he was under great pressure from the party president, Sonia Gandhi.¹⁴⁵ The difference between the PM and Mrs. Gandhi on the scope of the RTI law is public knowledge (and is presently reflected in

¹⁴³ National Campaign for People's Right to Information (2004b)

¹⁴⁴ V.P. Singh while he was Prime Minister in 1989 had also proposed to enact a right to information (and a right to work) legislation, but the government lost power. In 2005, he was also instrumental in influencing the Communist Party of India Marxist (CPI (M)) to revise its position on the waiver on minimum wages that it had agreed on for passing the national right to work law.

¹⁴⁵ After the meeting summarising the stance of Prime Minister (PM) Manmohan Singh, the V.P. Singh remarked that the PM lacked the "*mann*" (will) for right to information and the "*money*" for right to work or NREGA.

ongoing debates on amendments to the right to information Act that the government periodically seeks to pass).¹⁴⁶

The more conservative stance of the PM, especially on the penal provisions, was thus not a surprise. However, it was Mrs. Gandhi's unflinching support for a strong RTI law that helped overcome the bureaucratic resistance that was being channelled via the PMO. Several NCPRI members, as well as the former Chief Information Commissioner of India, Wajahat Habibullah, confirmed Mrs. Gandhi's unwavering support for a strong RTI Bill. As to why the RTI was so readily accepted, he explained to me, '[apart from the efforts of MKSS and NCPRI], it [the RTI Act] was Sonia Gandhi's contribution. The [Congress] Party had come back unexpectedly [to power], and one of the key issues she pushed for was RTI.'¹⁴⁷ According to Shekhar Singh, who at the time was the NCPRI Convener, 'in our first meeting with her, she told us I am 100 percent with you.'¹⁴⁸

The draft RTI Bill was soon referred to a Parliamentary Standing Committee, which contained several Sonia Gandhi loyalists, including its chairperson, E.M.S. Nachiappan. Although it is standard practice for all legislation to be referred to such standing committees, the referral to a standing committee provided NCPRI with the opportunity to use the legislature against the executive and to counter the attempts by the bureaucracy to push through a weak RTI law. NCPRI members activated their personal networks and mobilised individuals, groups, and advocates of RTI to depose before the Parliamentary Standing Committee, which introduced over 150 amendments to the draft Bill to restore it to the original NAC draft. On May 5, 2005, even as the

¹⁴⁶See, Times of India (2010b).

¹⁴⁷Wajahat Habibullah, former Chief Information Commissioner, interview with author. New Delhi. 05.01.2011

¹⁴⁸Shekhar Singh, former Convenor and founder member NCPRI, interview with author. New Delhi. 29.05.07.

opposition was boycotting Parliament, the Right to Information Bill was passed. The Bill was notified on June 15, and came into effect on October 13, 2005 after receiving Presidential assent.

CONCLUDING REFLECTIONS

This chapter tells us how a network of individuals from various institutional arenas used their symbolic capital to pass a national RTI legislation. In the preceding pages we have seen how four types of NCPRI activists used their relevant capitals in various fields—bureaucratic, political, and media—to exercise influence and advance the demand for national RTI legislation. The chapter seeks to build our understanding about one of the more commonly observed, but rarely examined, tactics of social movement activism in India: the use of eminent middle class persons in creating legitimacy inside the state and in society for social justice struggles. By examining the formation of NCPRI, and the role of its eminent activists, this chapter tells us exactly how and through whom social movements engage the state. While most people's movements and other modes of protest rely on eminent activists to make their demands relevant, NCPRI was different in that the intelligentsia 'constituted' the campaign (Baviskar, 2007). I have shown in this chapter how NCPRI knitted together these activists from diverse professional fields, and successfully harnessed their symbolic capital into a very effective coalition to pass a national right to information.

The different responses of the bureaucratic and political arms of the state to the national RTI law highlight the relevance of MKSS's strategy to simultaneously resist and engage the state. In Chapter 3 we saw how MKSS used the *Jan sunwai* as a resistance strategy to create a new practice of accountability at the panchayat level that refused to part with information. The local struggle in Rajasthan however, was an early indication of the difficulty in pressurising state governments to enact RTI laws. Thus, MKSS

scaled up its struggle to the national level and proactively engaged the state, where as Baviskar rightly notes (2007: 20), the right to information was perceived as a ‘universally desirable right.’ Thus the political state as well as some supportive bureaucrats at the national level willingly engaged activists and supported the enactment of a national law. However, while right to information as an idea might have been universally desirable, the legal mechanism to enforce the right, as we saw in this chapter, was strongly opposed by the central bureaucracy.

Within the political state, the support for RTI was synonymous with allegiance to the party high command. Even though the threat from RTI appeared imminent, politicians were ambivalent toward the law. After all, day-to-day functioning was the domain of bureaucrats, the penal provision applied to erring public officials who were obligated by the new law to provide information, and not to elected politicians whose fate was secure for the next five-years. Therefore, the newly elected Congress Party decided to enact the RTI Act, which was one of its major election promises.

However, for NCPRI and MKSS activists, the enactment of the national RTI law was only a first necessary step in the long struggle to transform the everyday practices of state agencies. With the law passed, NCPRI has joined forces with other campaigns to battle against regressive amendments and interpretations to the law, which would undermine the guarantees that the Right to Information Act 2005 grants. Thus, NCPRI focused on publicising the new law, organising trainings, and advising other campaigns and NGOs on the use of RTI. MKSS, however, once again shifted the terrain of its struggle. Along with NCPRI, and other activists in the Right to Food and Right to Work Campaigns, MKSS activists lobbied for a national law guaranteeing the right to work for rural citizens. The National Rural Employment Guarantee Act (NREGA) was enacted six months after the RTI Act. Activists managed to institutionalise the *Jan*

sunwai, reconceived as social audits, into the new right to work. In the next chapter, I shift attention from the national-level and go back to rural Rajasthan, and trace MKSS's efforts to embed its legislative victory into the everyday practices of local panchayats.

Chapter 5. Linking the Rights to Information and Work

In this chapter, I follow the trajectory of the right to information and work back to the local state, under changed circumstances—namely, after the enactment of the right to information law and the institutionalisation of the *Jan sunwai* (public hearings), reconceived as social audits under the Mahatma Gandhi National Rural Employment Guarantee Act (or NREGA). While a national right to information law became a powerful tool to alter citizen-state interactions, the law in itself was clearly insufficient to achieve the kind of change in citizen-state relations envisaged by MKSS. While activists involved in the RTI campaign were able to get the *Jan sunwai* institutionalised as a social audit in the new right to work legislation, passed in 2005,¹⁴⁹ much work had to be done to ensure its adequate implementation. The RTI struggle thus returned full circle to enforcing the right to work in rural Rajasthan. After beginning its activism with resistance to the local state over non-payment of wages, then moving towards an engagement with the national state to pass a right to information legislation, in the last several years MKSS turned its attention to social audits in an, as yet, indeterminate phase of the struggle characterised by both resistance and engagement directed primarily at the local and state levels.

¹⁴⁹NREGA is unique in the existing gamut of welfare, employment relief, and poverty alleviation programmes introduced by the government of India since the 1970s. In contrast to more popular conditional cash transfer schemes, the new Indian law guarantees a legal right to work. It is premised on the principle of demand-based, labour intensive wage employment or a legal guarantee of 100 days of manual work per year to adult members of rural households within five kilometres of their house. State governments are mandated to provide work within 15 days of receiving an application. If it fails to do so, the state government ‘has to’ pay an unemployment allowance, thus creating an incentive for state governments to provide employment on demand. Its strong transparency and accountability provisions—manifest through social audits—also make NREGA different from its related predecessors such as Drought Relief, Jawahar Rozgar Yojana, National Rural Employment Programme, and Food for Work.

Social audits are commonly understood as an oversight mechanism to tackle corruption in NREGA. For MKSS, social audits are not primarily conceived as a method of tackling corruption. Rather, MKSS conceives social audits as a necessary legal mechanism that creates possibilities for transforming the existing practices of the state bureaucracies charged with administering welfare programmes such as, NREGA. The audit guarantees a process of accessing information related to all public works, physically verifying these works, and publicly sharing or presenting the information on their implementation.

This chapter contributes new knowledge of India's right to information by examining a crucial and previously untold part of the RTI story—that is, the post-legislative struggles fought to make the social audit provision of NREGA work. This phase of the struggle has not been documented by existing studies on the right to information in India (Jenkins and Goetz, 1999a, 1999b, 2003; Baviskar, 2007; Singh, 2007, 2011; Mander, 2003; Mander and Joshi, n.d.; Mishra, 2003; Puddephatt, 2009; Calland, 2010; Webb, 2011).

The post-legislative campaign I will primarily discuss took place in Rajasthan and has had two distinct phases. In the first phase, from 2006-2008, the Bharatiya Janata Party (BJP)-led state government failed to organise the legally mandated social audits. The BJP political elites made themselves inaccessible to the civil society groups attempting to hold the state government accountable. MKSS and other societal actors under the banner of *Suchna Evum Rozgar Adhikar Abhiyan*, or SR Abhiyan (The Right to Information and Work Campaign), responded to the state's inaction by organising campaigns to create acceptance and recognition for social audits; and critically, they also persuaded the state government under a subsequent administration to enact the social audits.

The second phase of the campaign began in 2009 after the state assembly elections, which also hoisted the Congress Party to rule. Under the new administration, the state government made a public commitment to organise the first state-supported social audit. In late 2009 however, following substantial protests, counter-campaign by the local state, and, in particular, by the *gram sewaks* and *sarpanches*, to prevent outsiders from participating in social audits, the state declared an indefinite stoppage to the social audits. With the social audits stalled indefinitely, civil society actors launched a new campaign for an inclusive social audit process. Civil society actors demanded that social audits should be open to all citizens, and persons other than the village *sarpanches* should chair or preside over social audit proceedings.

This chapter's examination of the *ongoing* efforts of MKSS and SR Abhiyan to ensure implementation of social audits in Rajasthan views law not as a narrow set of rules or norms that govern social behaviour but, rather, as an arena of struggle/conflict (Thompson, 1975; Hunt, 1993) in which different groups engage in conflict over the construction and use of law (Houtzager, 2001). The struggle over the execution and implementation of social audits in Rajasthan illustrates that the interaction between social movements and legal reform is not unidirectional (Coglianese, 2001). As we will see, for both—state and society—legally mandated social audits create possibilities as well as barriers, and therefore, actors in the state and society interpret legal mechanisms such as social audits differently. For *gram sewaks* and *sarpanches*, social audits signify loss of social and political power, which they articulated as a loss of sovereignty of panchayats. In contrast, for civil society, social audits are necessary legal mechanisms to alter the existing practices of local social and political elites that subvert the state's welfare functions and accountability to the poor. The struggle over organising social audits in Rajasthan also reveals the contentious interactions *between* levels of the state

itself. While social audits received significant support from higher levels of the bureaucratic and political state, this created substantial friction with lower-level government functionaries, namely the *grams sewaks* and *sarpanches*, who strongly oppose social audits. Showing how social movement activists strategically navigate these divisions within the state, this chapter also reveals the multi-scaled activist pressure necessary to consolidate legislative gains at the local level.

Institutionalising the *Jan Sunwai*

MKSS and its network of eminent activists and people's movements were successful in pushing for the institutionalisation of social audits—modelled on the *Jan sunwai*—into the landmark NREGA. The new right to work law would be the largest public works project in the world, guaranteeing every rural family 100 days of work at minimum wages. While negotiating with UPA over the passage of NREGA, MKSS and other activists proposed the *Jan sunwai* as the solution to government concerns that such a large welfare program implemented by local governments would breed corruption. One of the arguments put forward by MKSS and its allies¹⁵⁰ was the potential of *Jan sunwais* to reform the local panchayats and make them more responsive to the poor. In a meeting with the Prime Minister in 2005, activists pointed to the success of the *Jan sunwais* to assuage the fears of the government regarding 'unscrupulous politicians who could use NREGA to support their private armies and

¹⁵⁰Several rights-based advocacy organisations connected to issue campaigns: for the right to information, food and work, as well as people's movements, agriculture workers' unions, academics, writers, and leaders of the Left political parties (in particular the Communist Party of India or CPI) came together under the banner of People's Action for Employment Guarantee (PAEG) in 2004, to campaign for a national right to work legislation. For a discussion of the role of the PAEG in the enactment of NREGA, see, Chopra, D. (2010, 2011; see also Vivek, 2010).

that NREGA would be a source of huge corruption.’¹⁵¹ They were, consequently, successful in embedding social audits into the final draft of the NREGA.

Under sections 17 and 19 of NREGA, state governments that receive NREGA funds from the Central government are obligated to conduct social audits. Panchayats are responsible for organising social audits every six months (section 17 (2)), and state governments are responsible for facilitating them (section 18). The social audit clause in NREGA therefore links the right to information and the right to work statutorily through the institutionalisation of the *Jan sunwai*. The audit guarantees access to information and public vigilance in implementation of the largest public works program in the world.

In Chapter 3, I have argued that the *Jan sunwai* operated as an alternative public sphere. A social audit is somewhat different: while the *Jan sunwai* was organised by civil society as an alternative to the official institutions, social audits would now have an institutionalised role in government functioning sanctioned by law. While the law sets out that social audits are the principal monitoring mechanism for NREGA, state governments have discretion over formulating rules for their implementation.¹⁵² Right to Work activists, in 2006, co-wrote the NREGA operational guidelines with officials of the central government in the hope that state governments would use them to draft their own state rules. These guidelines, however, were not part of the law. Although they contain a detailed charter specifying the roles and responsibility of each of the

¹⁵¹ Shekhar Singh, Convenor, NCPRI, who was present at the meeting, summed up the apprehensions of Prime Minister Manmohan Singh in these words. He also told me, ‘The National *Janata* government (1989–91) under VP Singh had also formulated a detailed plan for a universal employment guarantee scheme at the time. However, the idea of ‘social audit’ was not heard of and the government lost power (because of the Mandal Commission report) before it had the opportunity to implement its plan.’ Shekhar Singh, former Convenor NCPRI, interview with author. New Delhi. 18.06.10.

¹⁵² In India’s federal system, employment falls in the domain of both state and national governments. Therefore, while NREGA is a national legislation, its implementation is the responsibility of state governments.

“stakeholders” for conducting social audits, most state governments paid little attention to them.¹⁵³

State governments receiving NREGA funds (with the notable exception of Andhra Pradesh) have not formulated social audit rules. Nor have they, as yet, instituted different ways to ensure transparency that would render social audits unnecessary. For instance, the state-led model of social audit in Andhra Pradesh is widely believed in India to be a ‘successful case of institutionalised accountability’ (Aiyar et al, 2011; Singh, 2010; Afridi, 2008; Aakella and Kidambi, 2007a, 2007b; Shah and Ambasta, 2007). This model bypasses *panchayats* and is top-down: an independent agency under the aegis of the state department of rural development conducts the social audit. It enjoys political commitment from top levels of state political leadership. In other states such as Tamil Nadu, political commitment at higher levels of the state has led to an executive decision to exclude works that are material-intensive in an effort to maximise transparency in NREGA. For example, labour intensive earth works are prioritised over material based works in order to prevent the entry of contractors as well as to minimise the possibilities of corruption.

The process in Rajasthan has been different. Activists have interpreted social audits as a necessary legal mechanism to entrench a hard won right to ensure a new practice of accountability at the local level. Their campaign to conduct social audits intensified tensions between different levels of the state responsible for NREGA. Each of the differently affected actors, as I will show, brings multiple contending meanings to the terrain of struggle over NREGA social audits. The state government’s approach to

¹⁵³ Stakeholders include: wage seekers, *gram sabha*, panchayat representatives, block, district, state and central-level public officials charged with implementing NREGA, see Operational Guideline no. 2-2.5 (Government of India, 2008: 6-10).

resolving the tensions between its own people and civil society groups has fluctuated between ambivalence and conciliation depending on regional party politics.

The political state at the local level or *sarpanches* interpreted the social audit as an infringement of their powers as elected representatives. Together, the political, and bureaucratic parts of the local state see social audits as an attempt by higher levels of the state, as well as by activists, to “weaken” *panchayati raj* (local self-government). The lower bureaucracy, or *gram sewaks* (panchayat secretaries), interpreted the social audit as “anti-panchayats.” In order to contain social audits and limit the participation of ‘outsiders’ (or civil society), the *gram sewak* association in Rajasthan discovered a loophole in the law (NREGA): the (controversial) clause 13 (b). The association used this clause, which limits the role of outside individuals in social audit proceedings, to challenge in the Rajasthan High Court the state government (in collaboration with MKSS) social audits.¹⁵⁴ Below I provide an account of this struggle over social audits in Rajasthan based on interviews and my own fieldwork between *sarpanches* and *gram sewaks*, SR Abhiyan and MKSS activists, politicians and government officials at the district and state-levels in Rajasthan as well at the national level.

FIRST PHASE: THE POST-LEGISLATIVE STRUGGLE (2006-2008)

The Bharatiya Janata Party (BJP), which was in power in Rajasthan when NREGA was enacted in 2005, was (at best) ambivalent towards organising social

¹⁵⁴ According to clause 13 (b) a social audit organised by the *gram sabha* is “open to public participation”, but outside individuals can “attend” a social audit as “observers” and are not allowed to intervene in the proceedings. The Central Employment Guarantee Council (a national advisory body housed in the central Ministry of Rural Development) amended the clause (via a government notification) in a meeting chaired by the Minister of Rural Development, which was not attended by several key non-state representatives of CEGC, such as NREGA activists, Aruna Roy and, Jean Drèze. Thus, until the *gram sewaks* used clause 13(b) in Court to challenge social audits in Rajasthan, activists were unaware of this amendment that had been approved by the central government in December 2008.

audits. Although Rajasthan was one of the largest recipients of NREGA funds during its term (2003-2008), the BJP state government did not formulate the required administrative rules to govern social audits. Although the state government was dependent on central government funds and legally obligated to administer the right to work, it also had discretion over formulating rules. However, past experience—that is, MKSS's use of *Jan sunwais* in the 1990s—had also made clear to the BJP government that it was politically damaging to deny people wages under public work programmes, and made social audits politically so consequential. Thus, while it verbally expressed an agreement with the legal mandate for social audits, the BJP government did not take any concrete steps toward institutionalising them.

Interviews with leading activists and public officials reveal that MKSS and its allies in the SR Abhiyan had little or no access to the top levels of the political state while the BJP was in power. Instead, MKSS sought out district collectors who expressed an interest in making NREGA and social audits work. In one of the most prominent instances, soon after the law came into effect in April 2006, MKSS collaborated with the district Collector of Dungarpur district, an Indian Administrative Service (IAS) official (later in 2009, she would serve as district Collector of Bhilwara). Together with the support of the district administration, MKSS organised a mass-public awareness campaign: the Dungarpur NREGA *padyatra* (foot march), which covered the entire district (all 237 panchayats, approximately 800 villages).¹⁵⁵ Over a thousand participants from across the country, including activists from various issue campaigns, non-government organisations, academics, student volunteers, and state government representatives joined the Dungarpur *padyatra*. The state-wide campaign for the rights to information and work, or SR Abhiyan, was formally constituted after the *padyatra* by

¹⁵⁵See, Sivakumar (2006)

a network of non-government organisations (including MKSS). Since 2006 this network of activists and non-government organisation has been engaged in a protracted struggle to ensure effective implementation of NREGA in Rajasthan. In sum, while it was blocked from any productive engagement with the state government, the MKSS reached out to sympathetic bureaucrats at the district level, and began to create awareness about NREGA among villagers and other civil society groups. They additionally sought to encourage the acceptance and recognition for social audits amongst the district, block and local-level state officials.

In response to the BJP state government's inaction, MKSS and SR Abhiyan also organised 'popular' or public audits of NREGA works. The methodology of these public audits was similar to that of *Jan sunwais* (Chapter 3), with one exception. With the enactment of the Right to information Act and NREGA, the district administration was now obligated to supply information requested under either of the two laws. In order to organise public audits, activists used the RTI Act and the provisions of NREGA, together with its operational guidelines, to obtain official records related to works carried out under NREGA. These were *Jan sunwais* under the altered conditions provided by legislative success—but, as we will see, also in the face of local government intransigence.

The SR Abhiyan invited the state government, particularly the bureaucrats charged with overseeing NREGA at the district level and in the state capital, to attend the public audits. MKSS activists also reached out to representatives in the Ministry of Rural Development, the Government of India and, to the members of the national advisory council for NREGA—the Central Employment Guarantee Council or CEGC (of which some MKSS, NCPRI and PAEG activists are also members)—to participate as independent observers. However, the political state, and specifically the state chief

minister and the minister for rural development, remained inaccessible and largely absent.

In what follows, I draw on participant observation of three public audits organised in Udaipur, Banswara, and Jhalawar districts in Rajasthan (2007 to 2008). I selected these three districts (figure 5.1) because they illustrate the ongoing contention between state and society actors over the NREGA social audits. The Udaipur public audit revealed state scepticism about the specific methodology of these audits used by MKSS and SR Abhiyan. The public audits in Banswara and Jhalawar districts provided different instances of how the legal mandate of NREGA social audit was re-interpreted and resisted by panchayat functionaries.

Public Audits

The Udaipur public audit organised in early 2007 provided MKSS with a unique opportunity to spread the experience and expertise of organising *Jan sunwai* to different parts of Rajasthan. MKSS, along with other organisations in the SR Abhiyan such as Udaipur based non-government organisation *Astha Sansthan*, organised a training camp for participants from other non-government organisations. Along with training participants on how to conduct a social audit, they also worked with SR Abhiyan activists to devise other ways to ensure transparency on the worksite.

The *Jan sunwais* had illustrated to MKSS activists how difficult it was for ordinary villages to understand official records. In order to simplify public records and make them accessible to villagers, MKSS activists prepared new formats for recording information related to NREGA—the process of “conversion” we discussed in Chapter 3. For example, activists prepared forms for each worksite supervisor to record the amount of daily work done per worker. If adopted, this practice of record maintenance

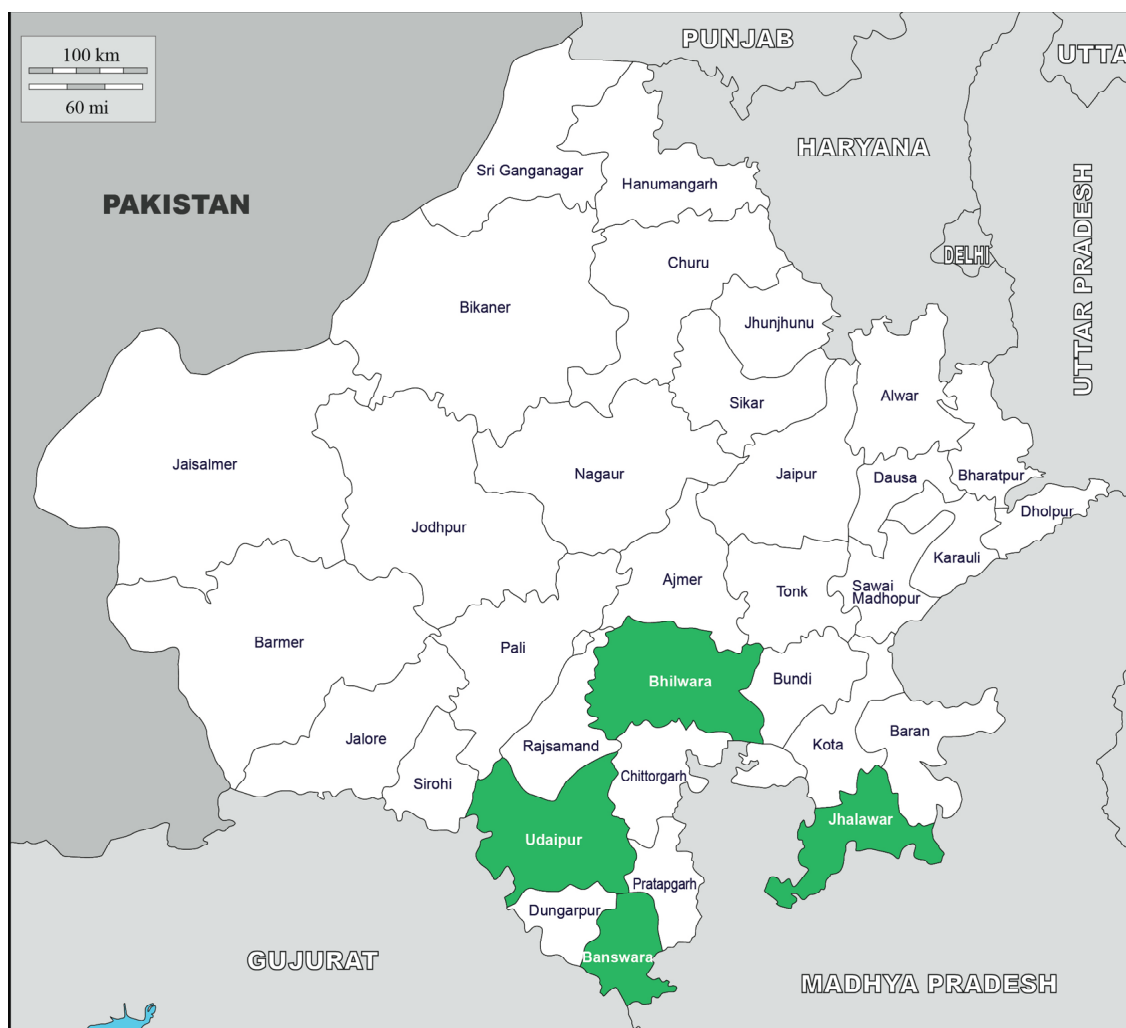


Figure 5.1. District map of Rajasthan.

could enable workers to calculate their total wages and, hopefully, deter *sarpanches* from underpaying them. Activists also drafted model social audit rules that laid down the procedure for constituting a social audit forum, publicising names of its members and, preparing official records necessary to conduct a social audit.

While the BJP state government was not keen to enact social audit rules, it agreed to host a national workshop on how to organise social audits as part of its obligations for administering the employment guarantee scheme. The new forms and model rules prepared by activists were discussed at this national workshop that was co-

organised with the Ministry of Rural Development.¹⁵⁶ For the panchayat and, particularly, for block level officials, the political and economic implications of organising social audits were not known. However, the state government remained sceptical and even unwilling to have groups like MKSS define its approach to NREGA social audits. The state and district level bureaucrats were in favour of an approach strictly attuned to the law, with little room for improvisation on the ground.

The state officials and elites did not immediately perceive the Udaipur public audit as a threat. In contrast, the Banswara and Jhalawar public audits resurrected a latent but entrenched opposition to the practice of public auditing. Two public audits were organised in Banswara (district) in early 2007. During the first round of public audits, MKSS and SR Abhiyan, alongside local villagers, unearthed substantial irregularities concerning material procurement. Material used for NREGA works was procured through unregistered or fake firms owned by relatives of a village *sarpanch*.¹⁵⁷ It was clear that NREGA funds earmarked for ordinary workers were being misused for private gains. These irregularities from Banswara echoed findings in the 1994 *Jan sunwai* of Bhim block (Rajsamand district), where materials were also procured through unregistered firms.¹⁵⁸

Later that same year (2007), an official ‘mass’ NREGA social audit was planned in Banswara district with the collaboration of the district administration and the state

¹⁵⁶ Aruna Roy and Nikhil Dey (MKSS activists) are also members of the steering committee of the independent social audit agency in Andhra Pradesh. These model rules presented at the Udaipur workshop were shared with the officials from state government of Andhra Pradesh who attended the workshop. Later that year, the state government modified the rules and, in 2007, became the first state to enact social audit rules.

¹⁵⁷ MKSS briefing note for Journalists 06 September 2010.

¹⁵⁸ In the case of *Bhaironath and Sons* in 1994 for example, block level officials siphoned off central government funds for employment relief through *fake* firms registered in the names of their wives. Nikhil Dey, MKSS activist, interview with author. Jaipur, Rajasthan. 15.12.2010.

department for rural development.¹⁵⁹ As MKSS and SR Abhiyan stepped up their campaign on social audits, the opposition to the social audit process by *gram sewaks* and *sarpanches* grew from all political parties, including the BJP, Congress, and Janata Dal United (active in the tribal district of Banswara).¹⁶⁰ This was the first instance of social audit being re-interpreted as “anti-panchayats.” The *gram sewaks* from Banswara (district) questioned the role of “outsiders” (in particular, MKSS) and their right to organise and participate in a social audit *gram sabha*, which they argued was the responsibility of a *sarpanch*. Following protests by the gram sewak, the district collector of Banswara, who had earlier agreed to collaborate on the social audit, rejected the request for information or official records related to NREGA works. Members of the State Legislative Assembly (MLAs) also extended support to the *gram sewaks* and *sarpanches*. The state minister for Panchayati Raj, ‘blamed activists for trying to malign panchayati raj bodies.’¹⁶¹ This powerful axis of panchayat staff and state legislators jointly organised *dharnas* (sit-ins) and rallies, eventually filing a writ petition in the Rajasthan High Court to prevent the social audit from taking place.¹⁶²

Lacking concrete evidence of wrongdoing to challenge MKSS activists on any credible grounds, the petition took issue with the lyrics of an MKSS song (written a decade back, during the first phase of the *Jan sunwais* in 1994-1995).¹⁶³ Targeting its

¹⁵⁹Due to the irregularities in NREGA expenditure brought out by the first public audit, the government of Rajasthan selected Banswara to develop a model social audit district. The state government received financial assistance of over Rs. 20 lakhs (US\$ 2 million) from the central government to carry out model social audits.

¹⁶⁰See also Sebastian (2007a)

¹⁶¹Sivakumar (2008)

¹⁶²The Hindu (2007a).

¹⁶³Similarly in 1998 at the height of the struggle for right to information in Rajasthan, the BJP government, unable to find concrete evidence against MKSS activist Aruna Roy, targeted her husband. Bunker Roy, Director of Social Work Research Centre in Tilonia, was issued a notice by the income tax department to review his bank accounts. In response, within a week of receiving the notice the SWRC organised a *Jan sunwai* and opened up all its accounts, including the personal accounts of the Director for public scrutiny. No irregularities were found (see also, *Towards Transparency*. Directed by Apurva Yagnik (n.d.)).

long-term opponent, the *gram sewaks* alleged that MKSS was “anti-panchayat” and disrespectful towards panchayat functionaries. Quoting the lyrics, “BDO *rupiah khagyo*, Secretary *rupiah khagyo*... *Chori Vado Ghano Hogyo, Koyi to Mundo Kholo*... (BDO ate our money, the Secretary ate our money...Corruption is rampant, will someone speak out...)”,¹⁶⁴ *gram sewaks* alleged that MKSS activists painted panchayat functionaries and block level state officials as venal and corrupt (these allegations would be repeated two years later in Bhilwara, in 2009). The petition specifically asked the court to prevent “outsiders” from organising social audits.

The protest by *gram sewaks* in Banswara was unlike previous protests against *Jan sunwais* in its vehemence and success in shaping the future terrain of struggle over NREGA social audits in the state. Previously *gram sewaks* had mobilised to prevent MKSS from organising *Jan sunwais*. For instance, in 1994 in Jawaja block (Ajmer district) *gram sewaks* mobilised across the state against *Jan sunwais*, and filed a petition in the High Court (Chapter 3). Again in 2001, in another panchayat, Janawad, the *gram sewak* prevented access to information and ran away with all official records related to rural development that were necessary to organise the *Jan sunwai*.¹⁶⁵ The opposition to the Banswara public audit in 2007 was different; it was the first time MKSS activists were prevented from carrying out a public audit and expressed complete state intransigence at all levels. To quote an MKSS activist summarising the implications of the boycott by *gram sewaks* in Banswara:

If Dungarpur in 2006 represented a step forward in the right direction and exemplified what cooperation among the people, civil society and government

¹⁶⁴The song satirises the role of panchayat staff, and block level officials in perpetuating corruption in drought relief programmes. MKSS People’s Songs: 18.

¹⁶⁵Lachu ba, resident Janawad, interview with author. Janawad, Rajasthan. 27.07.10. However, by then the Rajasthan state RTI law had been passed, and the information had to be made available, and the *Jan sunwai* was organised.

could do, Banswara 2007 erased all that, taking the Rajasthan Government's position back to a time when neither right to information nor social audits existed.¹⁶⁶

MKSS and SR Abhiyan activists were not hopeful of an audience in the BJP Chief Minister. Thus, activists were forced to maintain their presence in Banswara and agitate outside the District Collector's office; at the same time, however, they scaled up their advocacy efforts. Activists began to lobby politicians and bureaucrats at the national level, where they thought they had better chance of leveraging the issue.¹⁶⁷ Ten days after the Banswara social audit was scheduled to begin, only partial information pertaining to 6 out of the 8 administrative blocks of the district were made available. Unable to organise a full-fledged social audit, activists and local residents took out a *samvaad yatra* (dialogue march) that covered 45 villages in eight blocks of Banswara district. Over 60 public meetings were organised in which information on RTI and NREGA was disseminated through activists explaining the social audit process. Villagers were invited to attend a *Jan samvaad* (public dialogue) at the district headquarters.

This *Jan samvaad* (public dialogue) that marked an end to the *dharna* (sit-in) at the district headquarters in Banswara was organised as another "strategic move" to circumvent the *gram sewak*'s boycott of the social audit.¹⁶⁸ An IAS official from the apex audit agency—the office of the Comptroller and Auditor General—in Delhi (also an MKSS ally and familiar with the *Jan sunwai*) chaired the *Jan samvaad*, and creatively converted it into a *Jan sunwai*. The Banswara *Jan samvaad* was similar to the *Jan sunwai* in Jawaja (1994), where, without access to official information and on the basis of public testimonies, officials were compelled to take note of grievances and

¹⁶⁶Nikhil Dey, MKSS activist, quoted in The Hindu (2007c).

¹⁶⁷Sebastian (2007a, 2007b; see also Indian Express, 2007).

¹⁶⁸Sivakumar (2008); The Hindu (2007b).

complaints. Thus, the *Jan samvaad* at Banswara provided a platform for workers (many of them dalits and *adivasi* (tribal) who were willing to publicly state their grievances on NREGA.

Elected representatives, such as *zilla pramukhs* (district councillors) from other political parties (Congress Party and Janata Dal United) also used the *Jan samvaad* to highlight the BJP government's shortcomings. The *gram sewaks* were invited to participate in the *Jan samvaad*; they did attend, but only as observers. They stood at the far end of the tent occasionally interrupting proceedings by shouting down speakers and accusing them of using the *samvaad* to further their *rajnitik* (political) interests. MKSS, however, had managed to partially salvage the Banswara debacle. However, after the Banswara debacle, the local state successfully counter-mobilised to prevent further social audits. The opposition in Banswara was only the beginning of a concerted effort to organise panchayat staff in other regions of Rajasthan against social audits. This would next come to a head in Jhalawar district.

In early 2008, a grassroots organisation of farmers and labourers called *Hum Kisan* (We Farmers) from Manohar Thana block (Jhalawar district) told SR Abhiyan activists that workers in their block had not been paid minimum wages under NREGA. The Abhiyan announced its next public audit in Jhalawar district, which was also the *Lok Sabha* (parliamentary) constituency of the BJP chief minister. In a public statement, the Abhiyan resolved to push for "an inclusive social audit process" and proceeded to organise the Jhalawar public audit as a *Jan sunwai* (without any involvement from the state government).¹⁶⁹

Right-wing Hindu fundamentalist organisations, such as the *Sangh Parivar*, the *Vishva Hindu Parishad* (World Hindu Council) and, the *Bajrang Dal*, who have close

¹⁶⁹SR Abhiyan (2008)

links to the BJP, have a strong presence in Jhalawar.¹⁷⁰ The relationship between MKSS and the conservative Bharatiya Janata Party (BJP) in Rajasthan has been mostly non-collaborative and at times confrontational.¹⁷¹ Opposition and violence against activists marked the first day of the Jhalawar public audit. Activists were beaten up and terrorised as they were surveying the neighbouring villages where the social audits were scheduled to take place. The presence of a television media crew captured the violence at one of the sites and telecast it live (with several repeats throughout the day). Without access to political elites in government, the campaign continued to maintain pressure on the state government through the media and the CEGC at the national level.

Jhalawar could have been a second failed attempt, but the press coverage had a major impact on the future of the Jhalawar public audit. The media attention created public pressure and raised doubts about the BJP government's commitment to fighting corruption in NREGA. The Jhalawar public audit was thus ultimately executed as planned. It covered five panchayats in Manohar Thana block, and unearthed that the panchayat staff had siphoned off over US \$14 million of central government funds for NREGA. Like the Udaipur social audit in 2007, the Abhiyan invited members of the

¹⁷⁰On my way to Jhalawar I read a sign marking the start of the district boundary, it read, "VHP welcomes you to the Hindu Nations, Hindu State."

¹⁷¹Apart from the BJP government's conservative and deeply myopic understanding of the demands for transparency and state accountability, MKSS's strong resistance to and open condemnation of communalism also clashes with the BJP ideology of Hindu Nationalism. The BJP in the last decade has come to epitomise communalism and is associated with right wing fundamentalism and extreme targeting of religious minorities, particularly Muslims and Christians. The most shocking evidence of this was the communal pogrom targeting Muslims, in Gujarat in 2002. After Gujarat, Praveen Togadia of the *Vishva Hindu Parishad* (World Hindu Council), distributed *trishuls* (a three spear, popularly associated with Hindu fundamentalist) in Ajmer, a Muslim dominated district in Rajasthan. Togadia was arrested after the leader of the opposition (Congress Party), Ashok Gehlot, intervened. The next day BJP/RSS called for a *bandh* (shut down) in the Jawaja block (Ajmer district). MKSS runs two fair price shop in Jawaja market, and refused to adhere to the BJP/RSS call for a *bandh*. In response, the RSS activists shouted insults "you are all sons of Muslims" (*tum saab sangathan wale* (MKSS activists) *musulman ki auulad ho*), and tried to forcibly remove activists from in front of the shops, where they were blocking the entrance. The police eventually intervened, but only after Aruna Roy, MKSS activists, spoke to the Police Commissioner. Shusheelaji, MKSS activists, interview with author. Jawaja, Rajasthan. 17.12.09; see also Srivastava (2003).

Central Employment Guarantee Council (CEGC) and other IAS officials from the Central Vigilance Commission to participate as independent observers.¹⁷² While the state government did not participate in the public hearings, as a result of the media publicity it assured action on the findings of the social audit submitted by SR Abhiyan. This assurance, however, did not translate into action. While the Abhiyan was able to conduct the public audits in the five panchayats as planned, the Jhalawar public audit further entrenched the opposition to the social audit process at the local level. The *gram sewaks* and *sarpanches* felt that detailed public scrutiny of NREGA works, if followed by quick and decisive action by the state government, would undermine their power. Thus, they viewed the audits as a direct threat to their authority at the panchayat level.

Soon after the Jhalawar public audit, the second phase of NREGA went into effect, extending it to all 604 districts across India. Many of the districts where the Abhiyan worked came under the purview of this second phase of NREGA, thus expanding its prospects for organising social audits on its home turf. The following year (2009) the Congress Party replaced the BJP as the state government of Rajasthan, and announced the first state-supported social audit to be organised in Bhilwara (district).

The struggle to implement legally mandated social audits between 2006-2008 illustrates varying responses from the higher and the lower levels of the bureaucratic, and political state. While the political elites in the BJP government initially expressed ambivalence, the panchayat staff, supported by local politicians, staunchly opposed public audits that were organised by SR Abhiyan. This brought the BJP into full support of the local government functionaries, and against the social audits. What this shows is that in addition to a relatively strong grassroots campaign for social audits, political commitment at the top level is imperative to ensure implementation of legally mandated

¹⁷²The Hindu (2008).

social audits. As we will see next, in 2009, under a new political party, civil society actors managed to achieve the necessary political commitment to make social audits work.

THE SECOND PHASE: STATE-SUPPORTED SOCIAL AUDITS

The Bhilwara social audit was the first social audit in Rajasthan that was conducted under the aegis of the state government. The new Congress Party state government in 2009 reiterated its election motto from 1998: “zero tolerance to corruption.” In a public display of its commitment to transparency and accountability, the state government announced the first state supported social audit in Rajasthan. It was a heavily publicised affair.

Unlike the BJP, the Congress state government intended to institutionalise social audits in the state. For inspiration, it looked to its counterpart in the southern state of Andhra Pradesh (AP). Drawing on the AP experience the Rajasthan government’s model for institutionalising social audits was focused on creating a base of trained social auditors at the block and district levels that would facilitate social audits on a regular basis. According to the former NREGA Commissioner, at Bhilwara ‘[our] larger purpose was to impart training.’¹⁷³

Unlike AP, Rajasthan also had civil society actors that had laid the foundation for social audits with the *Jan sunwai*. The Congress state government, therefore, invited MKSS and SR Abhiyan to train officials and to help conduct the Bhilwara district-wide social audit. Thus, almost twenty years after it first developed and used the *Jan sunwai* at the panchayat level in Rajasthan, MKSS was about to embark on the first state supported social audit.

¹⁷³ Former Commissioner, NREGA, Government of Rajasthan, interview with author. Jaipur, Rajasthan. 17.09.10.

While the congress government expressed political support for instituting social audits, the Chief Minister did not have sufficient political capital to follow through on his decision. The selection of Bhilwara as the site for the first state social audit reflected the intersection of party and caste politics. In early 2009, the President of the Congress Party, Sonia Gandhi, visited Nagore (district) in northeast Rajasthan to celebrate the 50th anniversary of *Panchayati Raj* (local self-governance); it was here that the first panchayat was formed. However, the Congress feared that conducting social audits in a Jat dominated belt would alienate one of its major bases of support in the state that are very well organised, and sometimes contentious. As I was told by former NREGA Commissioner, ‘the state government of Rajasthan initially planned to use the 50th Anniversary platform in Nagore to publicly commit to social audit;’ however, ‘being a Jat belt, we did not want to face huge opposition right at the beginning.’¹⁷⁴ Alwar, another Jat-dominated district, was ruled out for the same reason.

The Congress party structure in Rajasthan is over-represented by Jats. From 1952 to 2003 the upper castes and Jats have dominated the Congress Party, and jointly constituted 58 % of Congress MLA’s (Jaffrelot and Robin, 2009; see also Sisson, 1966: 610). Among these, the Jats represented the single largest group (20.2 %) of Congress MLA’s; the Brahmins formed 14.9% and the Rajputs 11.6% of the Congress MLA’s (Ibid).¹⁷⁵ According to former NREGA Commissioner, fears of opposition from Jat

¹⁷⁴ Ibid.

¹⁷⁵ State politics in Rajasthan, in contrast to the rest of the Hindi belt–Bihar, U.P. and Madhya Pradesh–has been elite-based, dominated by the upper castes, Brahmins, and Rajputs, and the intermediate caste, Jats (Harriss, 1999; Jaffrelot, 2009). In the mid 1990s with the BJP’s rise to political prominence, the party in Rajasthan used upper caste Rajputs to extend the dominance of upper castes in the state (Jenkins, 1998). After 2003 the BJP has also managed to win over some traditional Congress supporters such as Jats, Dalits and Muslims (Lodha, 2004).

panchayat functionaries or ‘roadblocks at the very beginning’ that could lead to a ‘premature death of social audits’ in the state forced the government to re-consider.¹⁷⁶

Jodhpur (district), the *Lok Sabha* constituency of Congress Chief Minister, and, Bhilwara (district), the *Lok Sabha* constituency of the Union Minister for Rural Development, were eventually shortlisted as potential (safe) districts for the government to launch the state-supported social audits.¹⁷⁷ Bhilwara was ultimately chosen, as it was the highest spending district under NREGA for 2008-2009. Furthermore, the IAS official in charge of Bhilwara district had previously collaborated with MKSS in 2006 to organise the Dungarpur social audit *padyatra* (foot march).¹⁷⁸ This is how one newspaper summed up the political commitment for the social audit:

[In fact] the stock-taking found Rajasthan and Bhilwara lucky, as the Gehlot [Congress] government [of Rajasthan] put a committed team in place. The Commissioner of NREGS in the State is a senior IAS officer known for his commitment to the social sector, and the Bhilwara Collector has proven credentials in the implementation of the programme.¹⁷⁹

For a first state-supported social audit that covered an entire district, the Bhilwara social audit was politically, as well as practically, an ambitious undertaking. Over a thousand people from sixteen different states in India participated in a social

¹⁷⁶Former Commissioner, NREGA, Government of Rajasthan, interview with author. Jaipur, Rajasthan. 17.09.10.

After Bhilwara as the state government made a public announcement to hold the next social audit in Alwar a Jat belt, MLAs along with *grams sewaks* and *sarpanches* blocked the roads leading to the panchayat in order to prevent the social audit.

¹⁷⁷Over the years in Bhilwara (district), caste dynamics have also undergone change. The intermediate castes like Jat and Gujjars (peasants, and herder castes) have become more dominant than the traditional Brahmin, Rajput, and Baniya (merchant caste). Jats and dalits in rural parts of the district (Bhilwara) have been Congress supporters while Brahmins and Rajputs in the villages, and Baniyas in the city in Bhilwara district have allied with the BJP. Bhanwar Meghwanshi, local Dalit leader and MKSS activist, interview with author. Bhilwara, Rajasthan. 18.12.10.

¹⁷⁸The IAS officer came to be associated with social audits. As a Congress Party leader said at a public meeting in Bhilwara, ‘wherever she goes, she will organise social audit. Manju Rajpal means social audits.’ Author field notes, Bhilwara, Rajasthan. 12.10.09.

¹⁷⁹The Hindu (2009).

audit training conducted by MKSS and SR Abhiyan activists. Many of the participants were also state and district resource persons from Rajasthan. After the Bhilwara social audit they would facilitate social audits in their respective districts, as the state government gradually expanded its social audit plan.

Although the Bhilwara social audit was not organised as a *Jan sunwai*, the training for the social audit closely followed the same methodology (Chapter 3). Awareness *padyatras* (foot marches) were planned in all 381 panchayats (1600 villages) of the district covering 900 NREGA worksites. Of these, 11 panchayat *samitis* (or blocks) were selected for a full-scale social audit.¹⁸⁰ In the 11 panchayats selected for full-scale social audits, teams of 10-12 people spent over a week living in the panchayats. The social auditors were provided complete records of NREGA works in advance. Over 10 days, SR Abhiyan activists, volunteers, and official block, and district-level trainees sought out local villagers to collectively accomplish the following: assess the quality of NREGA works, authenticate the works, verify the expenditure incurred in the works, and spread awareness about the ten entitlements under NREGA.¹⁸¹

At the end of the verification activities, a social audit *gram sabha* was convened as mandated by law (NREGA section 17). In Chapter 1 we got a glimpse of this

¹⁸⁰ As the former NREGA Commissioner told me, ‘everyone wanted to do social audits but not in their districts. Whichever district we (the state government) selected, we would have to explain the choice of district.’ Therefore, the 11 panchayats were selected by a lottery system, drawn in the presence of the Union Minister for Rural Development and Panchayati Raj. Former Commissioner, NREGA, Government of Rajasthan, interview with author. Jaipur, Rajasthan. 17.09.10.

¹⁸¹ A social audit supplements the annual financial audit undertaken by the government, with a review of the ten entitlements under NREGA. These are the right to 100 days employment per year for every rural family; the right to a job card; the right to demand work and get it within fifteen days—or else receive unemployment allowance if work is not provided in time; the right to get work within a five-kilometre radius from their home; the right to select the work in the *gram sabha*; the right to minimum wages; the right to payment within fifteen days—or else receive compensation; the right to worksite facilities—water, shade, medical kits, and crèches; the right to transparency and proactive disclosure of all records; and the right to audit works and expenditure in social audits.

process, where the findings of the social audits were shared with the villagers at the social audit *gram sabha*, which was attended by senior officials from the district and state capital. The District Collector also instructed the *gram sewak*, NREGA support staff (including worksite supervisors, technical assistants, and junior engineers), and the *sarpanch* to be present at the social audit proceedings. Similar to the previous public audits (in Banswara 2007, and Jhalawar 2008), the social audit in Bhilwara unearthed significant financial irregularities in material expenditure on NREGA, in all 11 blocks.

In contrast to the earlier audits where the MKSS had to pressure the government into taking action, this was a state-supported social audit and the government promised prompt action. In one block alone (Suvana) pending wages payments amounting over eight hundred thousand Indian rupees were paid immediately after the social audit was organised. Further, 16 first information reports or FIRs were filed, majority of which were against panchayat staff for financial irregularities in material expenditure, and for authorising use of machinery on NREGA worksites.¹⁸²

The state government set up a social audit Directorate¹⁸³ and appointed a reformist civil servant from the Audits and Finance Department to be director.¹⁸⁴ The government also instituted a new system of payments for materials at the block level in response to the gross irregularities in purchase of materials revealed by the Bhilwara audit. Previously, the power to purchase material and make payments was vested with the *sarpanch*. Through an executive order, this was replaced by a new system of inviting tenders at the block level. Under this new system, *sarpanches* had to place their

¹⁸² Author field notes. Bhilwara, Rajasthan. October 2009.

¹⁸³ The Andhra Pradesh government set up the first social audit directorate in the country, which is an autonomous registered society whereas; the one in Rajasthan is part of the state rural development department.

¹⁸⁴ Back in 2001 this official headed a government-appointed Committee to verify the findings of a *Jan sunwai* organised by MKSS in Janawad panchayat. The Committee confirmed the findings of the *Jan sunwai* but also brought out additional anomalies. Since 2001 this state civil servant has been one of the few reformist civil servants that MKSS regularly consults.

orders for materials at the block level, where all purchases would be made; however, this process was subject to scrutiny by a block level committee that included the *sarpanch*, a junior engineer and a ward member.

While the state government was instituting these changes, opposition to the social audit at the panchayat level was simmering. As the former Commissioner of NREGA said to me soon after the Bhilwara social audit, 'I received calls [from a Congress Party MLA, a Jat], he said, '[We] will lose [the next] elections; [you] have dug Congress's grave [with the Bhilwara social audit].'¹⁸⁵ Senior bureaucrats and politicians continued to express concern over the looming threat from the aforementioned Jat-dominated districts. It appeared that, at the state level, the political commitment for social audits had not been consensually arrived at. The decision was made by the Congress party leadership with the support of the higher levels of the bureaucratic state, with little regard for the lower levels of administration. Therefore, when the Congress Party Member of Parliament (MP) from Alwar, a Jat-dominated district, announced the next social audit (after Bhilwara) would be carried out in his district, the *gram sewaks* and *sarpanches* from the district took a delegation to the Chief Minister in protest.

For his part, the CM assured activists about his commitment for prompt action. At a meeting attended by the author, he stated, 'I agree with the ground reality...corruption must not get ingrained...otherwise NREGA will become redundant.'¹⁸⁶ While he assured activists that issues that have arisen from the Bhilwara

¹⁸⁵ Former Commissioner, NREGA, Government of Rajasthan, interview with author. Jaipur, Rajasthan. 17.09.10.

¹⁸⁶ The CM went on to assure activists of the willingness of his government to act on complaints from Bhilwara. He said to activists, 'the people in the government are of your choice' [referring to the Bhilwara district Collector who had earlier collaborated with MKSS in Dungarpur as well as the new Director of Social Audit who was known to MKSS activists]. SR Abhiyan activists

social audit would get addressed, the CM also told them that *gram sewaks* from Alwar (district) had expressed fear that, after Bhilwara, they would be the next “targets.” In response, the CM said to the Abhiyan activists:

Even when we do good work, vested interests will collaborate to defeat our objectives. [However,] keep an open mind in improving the system. I have reassured the delegates from Alwar district that no innocent *sarpanch* would be affected. If elected representatives are ashamed, it is not in public interest. Imagine its impact on democracy and the democratic processes.¹⁸⁷

On the one hand his government had made a public commitment to ensure transparency in government functioning and combat corruption, on the other hand the CM wanted to avoid another electoral defeat.¹⁸⁸ Thus, the CM started to express caution. Apart from the CM, the state Minister for Rural Development and Panchayati Raj also enjoyed the confidence of activists and of the bureaucrats charged with implementing NREGA. In the lead up to the Bhilwara social audit, the Minister had initiated a monthly dialogue, or *samvaad*, on NREGA, which was held at the Panchayati Raj training institute in the state capital. While receptive towards activists’ demands for an inclusive social audit process, the State Minister—a former *sarpanch* himself—also expressed sympathy for the concerns of panchayat functionaries. While the government assured prompt action on the findings from the Bhilwara social audit, the state minister also cautioned against

meeting with Ashok Gehlot, Chief Minister of Rajasthan, author filed notes. Jaipur, Rajasthan. 29.10.09.

¹⁸⁷ Ibid.

¹⁸⁸ In his first term in 1998 as Congress party chief minister, Ashok Gehlot had reduced the retirement age of government employees from sixty to fifty-eight years. He followed this decision by refusing to increase the dearness allowance (percentage of the basic salary, added to an individual’s salary along with other benefits, such as rent allowance to make up his/her total salary) for government employees. *Gram sewaks*, among several other middle to lower level public officials, counter mobilised, and went on strike, which lasted thirty days. With no signs of an end to the strike, the CM was faced with the possibility of the central government (which at the time was a BJP-led coalition) imposing President’s rule. The strike ended, but it came at a heavy price for the Congress Party. It lost the next state assembly elections in December 2003, and returned the BJP to power in Rajasthan. See also Sethi (2012); Khera (2006); De (2003).

selective targeting of panchayat staff. According to one newspaper, the State Minister for Rural Development and Panchayati Raj stated:

I accept that there is corruption in panchayati raj. I participated in the social audit in one panchayat, and could not miss the apprehensions of the functionaries. I myself had been a *sarpanch* for long. Perhaps instead of blaming those at the lower levels we should first make the persons at the top answerable.¹⁸⁹

In an unusual manoeuvre then, the state Minister together with the NREGA Commissioner—a state civil service official who was promoted to the IAS—actively pursued cases of corruption that implicated three other IAS officials (District Collectors).¹⁹⁰ Usually, only lower level officials are pursued.

What is apparent from these quotes is that the state political leadership was beginning to feel the pressure from the *sarpanch* and *gram sewak* backlash against social audits. As the state government investigated alleged corruption by IAS officials and attempted to implement NREGA at the panchayat level by reconfiguring its institutional design, the panchayat staff asserted its autonomy using the rhetoric of local self-governance. The *gram sewaks* perceived the new system as a direct threat to the possibilities of additional remuneration through implementing NREGA. And counter mobilised against the order. In response, the state government, in its efforts to contain the opposition by *gram sewaks*, announced the constitution of a committee of all “stakeholders” to discuss the new tender system. On the committee was a newly elected dalit *sarpanch* from Rooppura panchayat, Bhilwara (district), who supported the new system. In an interview before he went to the first committee meeting he told me:

¹⁸⁹Quoted in The Hindu (2009). Following the statement, as noted before, IAS officials in charge of NREGA who proceeded with corruption inquiries against other IAS officials faced harassment and were also transferred to other departments.

¹⁹⁰DNA (2010a).

The new [materials] procurement system is very useful for a dalit *sarpanch*, like me. I used to wonder how I would manage in the earlier system, where I would have had to run around [from block to district level] to get funds released to purchase materials. Under this new system I simply need to place my request, and the block level officials manage the purchase. For the rich, this may not be a ‘good’ system but for *sarpanches* like me this system works well.¹⁹¹

For many other *sarpanches* the new government order was interpreted as a lack of trust in the *sarpanches*. It was considered a ‘violation of the rights of the panchayat’ under NREGA and an ‘attempt to weaken the strongest element of panchayats’, that is, the *sarpanches*.¹⁹² They interpreted the changes as an attempt to distribute opportunities for graft upwards. According to the President of the Rajasthan Sarpanches Association, ‘this rule [for purchase of materials] has been introduced by bureaucrats so that government officials can get commission from the big contractors.’¹⁹³

However, the state government’s response to the emerging opposition to the new tender system indicated how entrenched the *gram sewaks* and *sarpanches* were within the established system of managing and delivering welfare programmes. First, the state government was forced to relent and approve all pending material payments that it had withheld after the Bhilwara social audit. These payments were withheld pending further inquiry because the firms that were to receive these payments were unregistered and some were suspected (or found to be) owned or managed by panchayat functionaries or their relatives. As pressure mounted from the panchayat functionaries and local MLAs, the state government gave in and provided a “one-time” approval on pending payments,

¹⁹¹Suresh Chandra Meghwal, Sarpanch Rooppura Panchayat, interview with author. Tilonia, Rajasthan. 07.09.10.

¹⁹²See, Dainik Navjyoti (2010a) for the reactions of *sarpanches* from Bikaner district. In 2010, the majority of newly elected *sarpanches* belonged to the general or other backward caste or intermediate caste categories.

¹⁹³De (2010).

which it justifies as a pragmatic response.¹⁹⁴ In an interview, the state Minister for Rural Development and Panchayati Raj told me:

We did not buckle under pressure; we acted with the best intentions. Why must we always be suspicious of *sarpanches*? You take a step back when the situation requires. Bhilwara did manage to instil fear. We sent a message across the state, a big step forward to make a point regarding accountability.¹⁹⁵

The state government hoped that authorising the disbursement of pending payments would pacify the protesting panchayat staff. It therefore decided to organise more social audits. A fresh round of social audits was announced in the *panchayats* with the highest material expenditure on NREGA. MKSS and SR Abhiyan were once again invited to facilitate the new round of social audits. Two members from the Abhiyan were attached to a team of social audit facilitators, who were trained at Bhilwara. These teams were responsible for organising trainings at the block level for the village social audit committee that would carry out the social audit. However, fresh from the victory over recalling changes to the material purchase system, opposition to the newly announced social audits began with renewed rigour.

The new round of social audits scheduled for the highest spending panchayats across the state was met with widespread opposition by *gram sewaks* and *sarpanches*. Social audits were re-interpreted as selective targeting of democratically elected (and helpless) *sarpanches*. Even those *sarpanches*, who had not experienced a single social audit, in order to prevent their panchayats and themselves from being audited, joined the *gram sewaks* in protest across the state.

The term social audit became synonymous with MKSS, which was seen as its main advocate. MKSS was thus cast as a key opponent of panchayat staff and

¹⁹⁴ Subhramaniam (2009).

¹⁹⁵ Bharat Singh, Minister for Rural Development and Panchayati Raj, Government of Rajasthan, interview with author. Jaipur, Rajasthan. 20.12.10.

legislators. A Member of Parliament from Dausa district told the press, ‘we will not let Aruna Roy [MKSS activist] and her team enter Alwar [district].’¹⁹⁶ A few days later, in Madhogarh panchayat, Alwar (district), the opposition party BJP led protesting *sarpanches*, *gram sewaks*, and MLAs in blocking the national highway (between Rajasthan and Delhi). They refused to get up until the district administration assured them that no civil society representatives would be involved in the social audit.¹⁹⁷ In the same panchayat, the *gram sewak* ran away with all NREGA records making it clear that social audits would not take place in Alwar district, despite the public commitment made by the Congress Party MP from Alwar; this again highlighted the tensions between local and state levels of governance.

In another village, Sameliya (in MKSS’s home district Rajsamand), the social audit team members were physically beaten and threatened at gunpoint by supporters of the sarpanch in order to prevent them from participating in the social audit. Similar cases of disruption, harassment, and threats of physical violence were reported from other districts where SR Abhiyan members are based, such as Sikar, Udaipur, Baran, Bikaner, and Mount Abu.¹⁹⁸ Similar to the Banswara public audit in 2007, the Bhilwara social audit in 2009 saw the *gram sewaks* re-signify social audits as “anti-panchayat”. As a member of the Bhilwara gram sewak association complained to me:

Social audit [done] by social workers is disrespectful to the *sarpanch*...they search for opposition in the village, and guide them...they [MKSS] are anti-panchayats, their intent is to capture NREGA [that is, both the funds and power that comes along with it].¹⁹⁹

¹⁹⁶Subhramaniam (2009)

¹⁹⁷DNA (2009)

¹⁹⁸ NREGA Samvaad, author field notes. Jaipur, Rajasthan. 09.12.09.

¹⁹⁹Spokesperson Bhilwara *gram sewak* association, interview with author. Bhilwara, Rajasthan. 23.08.10.

The opposition, though largely directed at activists, extended to higher levels of the state as well:

The Collector listens to them [MKSS] and promptly issues suspension orders against us. [In order] to hide corruption at higher levels, social audit has been imposed on panchayats.²⁰⁰

Despite the claims of the panchayat functionaries, MKSS and the Abhiyan activists argued that the implementing and auditing agencies should be separated—that is, the *sarpanches* and *gram sewaks* who implement NREGA should not also preside over social audits that review the same works. This was the same struggle to transform the patterns of power and inequality in local governance that MKSS had initiated with the *Jan sunwai* in 1994. The struggle over the NREGA social audits was fundamentally a struggle over the structure of local governance.

Nevertheless, the backlash to the Bhilwara social audit by panchayat functionaries had caught both the state government and the Abhiyan off guard. The state government went into a fire-fighting mode, simultaneously dealing with conflagrations in the lower bureaucracy and in the IAS lobby, which was trying to circumvent the departmental probe on the alleged misconduct of its District Collectors. As it juggled opposition from within, the state government also tried to appease those societal actors that it had invited to help institutionalise social audits. Having retracted on the material payments issue, the Congress government decided to buy itself some time. The upcoming panchayat elections presented it with an opportune moment to do just that: it postponed all social audits until after the elections. In the meantime, the *gram sewaks* went to court.

²⁰⁰ Ibid

A little over a month after the Bhilwara social audit, the High Court of Rajasthan intervened; the *gram sewaks*' associations had successfully obtained a stay order on further social audits. The court held that the state government had not given sufficient prior notice for the second round of social audits, and quoted clause 13 (b) from the law to emphasise the role of *gram sabhas* in organising social audits.²⁰¹ In late 2009, the *gram sewaks* were successful in preventing "outsiders" from participating, facilitating, and assisting in the social audit process. In effect, civil society would be shut out of the social audit process.

The state government used the court order as a justification to suspend all social audits. The second round of social audits planned by the government of Rajasthan in the 31 panchayats with highest material expenditure were now indefinitely on hold. In a letter, the state government of Rajasthan clarified its position to the Government of India: 'Clause 13(b) of the schedule-I [of NREGA] prevents active participation, facilitation or assistance of any outsider in the Gram Sabha, including civil society organisations or Government agencies.'²⁰² Thus, the Rajasthan social audit process came to an abrupt halt, just two months after the first state-supported social audit.

While the *gram sewaks* shifted the struggle to the judicial arena, the higher bureaucracy in the state capital created its own hurdles such as transferring sympathetic higher officials in charge of implementing NREGA. Due to his active involvement in the departmental inquiry to investigate the alleged divergence of NREGA funds by three IAS District Collectors, the presiding NREGA Commissioner was strongly rebuked by other senior IAS officials. He was also accused of being too supportive of

²⁰¹The High Court order held that '... it will be open for the *gram sabha* to conduct social audit of all the projects under the Scheme taken up within the Gram Panchayat, strictly adhering to the norms laid down under Clause 13(b) of Schedule- I attached to the National Rural Employment Guarantee Act, 2005' (Writ Petition No SPCWPs No. 11075/2009 and 10916/2006).

²⁰²Government of Rajasthan (2010a).

MKSS.²⁰³ Ultimately, following a heated argument with a senior IAS official (in the presence of the Chief Minister), the Commissioner was forced to transfer to another department.²⁰⁴ In a domino affect, the newly appointed Director of the new Social Audit Directorate resigned shortly thereafter, citing unaccounted for delays in providing him an office and a support staff. Within two months following the first state-supported social audit, the state government had given in to the demands of the panchayat functionaries on the purchase of materials and the IAS lobby was successful in breaking up the core team of state officials committed to NREGA. MKSS had lost two of its closest allies, and the social audit process was under duress. As a result of the multivalent opposition to social audits from high and low levels of the state, activists were pulled in different directions. Consequently, they searched for other avenues and devised different strategies to keep the struggle alive.

MAPPING THE TERRAIN OF THE STRUGGLE OVER SOCIAL AUDITS

The constant movement of activists from one level of the state to another —local panchayats, the state capital, to the national capital—helps convey the shifting terrains of the struggle over NREGA social audits. The interactions between MKSS and the different levels of the state were configured differently. While the success of the *gram sewaks* in obtaining a stay order pushed the struggle into the judicial arena, the MKSS chose not to enter that arena but to remain in the bureaucratic and political fields.²⁰⁵ They simultaneously maintained a presence at all levels of the state, devising strategies

²⁰³ As I recall the analogy used was “sitting in the laps of MKSS activists”. Author field notes, November 2009.

²⁰⁴ The argument escalated as a result of the senior IAS official using abusive language to refer to MKSS activists, and the enthusiasm displayed by the Commissioner for social audits. Such disagreements are common, and usually end in transfers. See, chapter 5 for a similar instance involving another IAS official, also a founder member of the NCPRI.

²⁰⁵ Sebastian (2009; see also Sethi, 2010).

to resist and engage wherever they got blocked. There are two reasons why MKSS activists chose to engage in a prolonged bureaucratic and political struggle rather than a legal one. First, though a judicial interpretation could conceivably expand the interpretation of the right to conduct a social audit, it could also further limit its scope and use; the activists wanted to avoid the latter possibility at all costs. Second, until the court stay on social audits was lifted, activists felt they had to resist the local state that continued to pocket NREGA funds meant for ordinary workers. Thus, activists had to formulate alternative strategies for ensuring transparency and accountability (instead of expending energy in the courts).

Therefore, faced with the ban on social audits, MKSS devised a strategy to circumvent it by urging the state government to organise “special audits.” This was strategically negotiated at the monthly NREGA *samvaad*, or dialogue platform. The *gram sewak* opposition to the social audit had paralysed the state government, but it had also reinforced its fears about the prospects for rampant corruption. For its part, the state government was not generally opposed to the social audits as much as it was hesitant to confront the panchayat staff. Thus, with two public officials at the state capital (joint director of the social audit Directorate and NREGA Director) willing to conduct the special audits, MKSS activists were able to persuade the state government to undertake the special audits.

All of the highest spending panchayats—one in each of the 31 state districts (except Bhilwara)—were identified for these special audits. As expected, the audits unearthed several cases of corruption in NREGA at the panchayat level. Of the 31

कार्य का नाम	कार्य का अधिकारी	आइटम की संख्या एवं रशि						कार्य पर्यंत कुल व्यय		
		सीमेंट	बजरी	पत्थर	अन्य	दर	प्रम	सामग्री	व्यय	
1. पतलाई बड़कोयरा फेसवाला विमान	JW/GP/1067	215	215	42.49	360	122	280	40MM गिट्टी	340	278339
2. आंगनवाड़ी से जोड़ो का बाडिया सड़क निर्माण	JW/GP/5343	915	215	204.9	360	58.287	280	26.03	340	469326
3. तालाब का जिर्णोद एवं गहरा करवाया खोलेला तालाब सुरिया बड़ा खुर्द	JW/GP/1070	255	215	74.64	360	190.26	280	9.72	340	852012
4. तालाब का जिर्णोद एवं गहरा करवाया उरिया का तालाब सुरिया बड़ा खुर्द	JW/GP/1071	216	215	75.74	360	206.66	280	14.16	340	712287
										171905
										834192

Figure 5.2. An example of JIS: Expenditure details for NREGA works painted on the wall of a primary school in Badkochda panchayat in Jawaja block, Ajmer district, Rajasthan. Photo by author (2010).

special audits undertaken, the most notorious were the findings from Malaton ki Wer panchayat (Ajmer district) where auditors unearthed some 1.3 billion rupees worth of corrupt funds related to NREGA works.²⁰⁶ Thus, activists were able to influence higher levels of the state government via the monthly *samvaad* to some effect. They leveraged openings at the higher bureaucratic level to exert pressure on lower levels of government.

Another strategy devised to circumvent the ban on social audit was the *Janata Information System* (JIS). Through a JIS, all information related to NREGA was to be publicly displayed by painting it on the walls of panchayat offices and in the villages where NREGA works were undertaken (figures 5.2 and 5.3). At the urging of MKSS, the Rajasthan government agreed to implement these JIS—bright yellow boards to be

²⁰⁶Shrinivasan (2010); see also, Dainik Bhaskar (2010a, 2010b); DNA (2010b).

[illegible]

Figure 5.3. Another example of JIS: In Heera Ki Bassi village, Vijayapura panchayat, Devgarh block, Rajsamand district, Rajasthan. Painted on the wall of a house is a list of job cardholders along with the total number of workdays and wages received. Photo by author (2010).

painted on the side of government buildings—in every panchayat in Rajasthan. This temporary replacement for social audits was designed to ensure the flow of NREGA expenditure information to the public.²⁰⁷ In 2001, this type of public disclosure act had led the villagers in Janawad panchayat to seek information on the development works carried out in their panchayat, motivating them to organise a *Jan sunwai*.

Faced with an antagonistic local state, MKSS also decided to move more forcefully into resistance mode by forming NREGA workers' unions at the panchayat level. A two-week long *padyatra* (foot march) was organised in April 2010 across Rajsamand (district) in an effort to mobilise workers to join NREGA workers' unions. On 1 May, over 200 unions from central Rajasthan marched from their villages to attend MKSS's annual May *mela* (May Day fair) in Bhim (Rajsamand district). These were not officially registered unions, but informal groups of 10-15 NREGA workers. At the

²⁰⁷ See also Mohan (2009)

mela, MKSS took the responsibility of getting the unions registered at the state capital.²⁰⁸

The state government, however, refused to register the NREGA workers' unions, stating that NREGA workers did not qualify as employees as per the definition under the Trade Union Act.²⁰⁹ MKSS continued to organise informal unions at the village level while also devising ways to register them at the state level. In late 2010, after a 43-day *dharna* (sit-in) in the state capital (demanding a minimum wage increase under NREGA), MKSS was able to negotiate the formation of NREGA workers unions with the Congress state government.²¹⁰

Finally, in order to circumvent the court order banning "outsiders" from participating in social audits, the MKSS and the Abhiyan activists decided to support some of their own members to contest the local *panchayat* elections in early 2010. In their election manifesto, the new aspirants promised, if elected, to institute an inclusive social audit process. Once again SR Abhiyan activists used the NREGA *samvaad* to prevent newly elected *sarpanches* from being manipulated by social and political elites in the village. As part of its *Panchayati Raj Sashaktikaran Abhiyan* (campaign to strengthen panchayats), activists demanded that the Social Audit Directorate duly audit all accounts of the previous *sarpanches* before they handed over charge to the newly

²⁰⁸In 2008 MKSS initiated the process of forming NREGA workers unions in Rajasthan; also see Sebastian (2008).

²⁰⁹For instance, using existing case law this is how Additional Labour Commissioner in his order explained his decision: 'the term trade union defined under the Trade Union Act 1976 contemplates the existence of employer and employee engaging in the conduct of trade or business (meaning a commercial undertaking).' By such a interpretation the official concluded, 'the applicant union does not fulfil the necessary requirement for the purpose of registration under the Trade Union Act 1976 as they [Rajasthan Rojgar Guarantee Mazdoor Union or NREGA Workers' Union] are not employer or employee engaged in trade or industry.' (Government of Rajasthan, 2010b).

²¹⁰At the end of the *Mazdoor Haq Satyagraha dharna* or Civil Disobedience for Worker's Rights, the state government and SR Abhiyan reached an agreement on four demands one of which was "to register NREGA Worker's Union on appeal against the refusal order."

elected *sarpanches*.²¹¹ Here MKSS's access to senior politicians at the state level, and in particular to the Minister for Rural Development—who was particularly inclined to strengthen local self-government—was crucial for obtaining the executive order to ensure the audit of all previous NREGA records of outgoing *sarpanches*. This mandate would force incumbent *sarpanches* to open up their records to the scrutiny of senior officials and, in particular, to the government auditors.

As these various strategies were being negotiated, in May 2010, almost eight months after the Bhilwara social audit, the Rajasthan High Court lifted its stay order on social audits. The Court stated that organising social audits as per the law (section 17(2) of NREGA) were the responsibility of the *gram sabha*, and reminded the state government of its failure to give the necessary prior notice (14-days in advance) for scheduling the social audits. The state government, however, still upheld the controversial clause 13(b) of NREGA that limited the role of outsiders in social audit proceedings. This clause, the state government argued, had to be amended at the national level in order to enable the participation of others outside the village *gram sabhas*. Predictably, MKSS, NCPRI and PAEG activists had already begun to engage politicians and bureaucrats at the national level on the controversial clause 13(b).

Following the High Court decision, the Rajasthan state government announced a fresh round of social audits in July 2010. This time, however, the audits were done without the involvement of any societal actors or groups like MKSS. With strict adherence to legislative provisions, the state government announced a new social audit schedule along with the procedure for selecting the village social audit committees, who would be responsible for conducting the audits. In this new round of state-led social

²¹¹Dainik Bhaskar (2010c).

audits, the village social audit committees, the panchayat functionaries, and the block staff all aided the panchayats in organising the social audits.

In late August 2010, a month before the social audits were scheduled to begin, the *gram sewaks* throughout the state of Rajasthan threatened to go on strike, stating a lack of staff and financial support for implementing NREGA. Again the *gram sewak* association in Bhilwara led the protest with a *NREGA mukti padyatra* (“liberation from NREGA protest march”). Their slogan “deliver us from NREGA” drew attention to the lack of adequate staff and financial resources with which *panchayat* staff were expected to implement NREGA. Rather than negotiate with the state government to redress their grievances, the *gram sewaks* criticised and protested the Congress state government’s “obsession” with social audits.

Three days after speaking to protesting *gram sewaks* in Bhilwara, I attended a ‘state-led’ social audit in Tilonia village (Ajmer district). It was presided over by the *sarpanch* who had authorised the works that were being audited. The social audit, however, could not go ahead as the *gram sabha* did not have the necessary quorum (1/3rd resident members from the village). As I watched the social audit proceedings, the son of the *sarpanch* along with a few other villagers started to pull people into the meeting from the side of the road, making them sign the attendance register. The majority of these people did not stay for the meeting. Attempts to achieve an artificial quorum, and objections by some residents (also members from the Social Work Research Centre, a non-government organisation based in Tilonia) led to confusion and chaos, and the social audit was terminated midway.²¹²

Within a week of this new round of social audits, *sarpanches* had joined the *gram sewaks* in a symbolic show of strength and agreed to go on strike in solidarity

²¹² Author field notes. Tilonia, Rajasthan. 26.08.10.

with them. Approximately five thousand panchayat functionaries had been mobilised over nine months (November 2009-August 2010). On 2 September 2010, these *gram sewaks* and *sarpanches* boycotted the social audits and marched to Jaipur to surround the state assembly in protest.²¹³ *Sarpanches* also clashed with the police, while trying to gain entry into the state assembly.²¹⁴ In Bhilwara (district), where the opposition had originated, the *sarpanches* collected a thousand rupees from each *sarpanch* to form an association. Those who refused to pay or join the protest in Jaipur were ordered not to hold the scheduled social audit. Even though *sarpanches* publicly touted loss of sovereignty of panchayats as their reason for protesting social audits, their primary reason to oppose the social audit was the fear of being exposed as corrupt. As the dalit *sarpanch* from Rooppura *panchayat* told me:

When I refused to become a member [of the association in Bhilwara] and said I will organise the social audit on 2 September they put a lot of pressure on me. I received phone calls from a MLA who tried to convince me to go to Jaipur and join the protest rather than organise the social audit...I stayed and organised the social audit [anyway].²¹⁵

As these protests were underway in Rajasthan, MKSS, NCPRI and PAEG activists had also become active at the national level: they had become members and chairs of three of six central government “working groups” on NREGA. The apex national advisory body on NREGA, the Central Employment Guarantee Council (CEGC) constituted these six working groups to improve NREGA implementation.²¹⁶ One CEGC working group was set up to advise the central government on transparency

²¹³Hindustan Times (2010).

²¹⁴Dainik Navjyoti (2010b, 2010c; see also Yadav, 2010).

²¹⁵Suresh Chandra Meghwal, Sarpanch Rooppura Panchayat. Tilonia, Rajasthan, inter view with author. 07.09.10.

²¹⁶CEGC is a national level advisory council headed by the Minister for Rural Development. Its members include members of Parliament, representatives of state governments, and representatives of grassroots groups associated with the right to work.

and accountability in NREGA and was headed by MKSS activist Aruna Roy. These working groups were not a response to the protests against social audits in Rajasthan *per se*; rather they were a kind of political opening (however limited) that MKSS used to scale up its advocacy for social audits at the national level.

The working group included some old friends of MKSS and fellow *eminent activists* such as Shekhar Singh of NCPRI and Sowmya Kidambi (a former MKSS activist) the Director of the social audit agency of Andhra Pradesh. The working group also included other civil society groups, think tanks as well as representatives of the Central Vigilance Commission, and of the Comptroller and Auditor General (CAG). However, the appointment of these representatives was left to the heads of departments. The chairperson and MKSS activist Aruna Roy reached out to Central Vigilance Commissioner and to the CAG; she was successful in incorporating a set of progressive civil servants from these departments who supported social audit. She also sought out senior civil servants from the Departments of Panchayati Raj and Rural Development in Kerala, Tamil Nadu, Rajasthan, and Bihar. The working group also consulted eminent judges and lawyers who were not official members of the working group but whose legal opinion was incorporated into the group's final report to the government.

The ban on social audits in Rajasthan compelled the working group to submit its first set of immediate recommendations to the Government of India: an amendment to the controversial NREGA clause 13 (b) that altered the clause by making the social audit proceedings open to all.²¹⁷ As part of its recommendations to the central government, the group also framed the Transparency and Accountability rules for social audits, which were to be notified by the ministry of rural development.²¹⁸ These rules

²¹⁷ Interim recommendation on Clause 13(b) of Schedule-I of NREGA (Government of India, 2010).

²¹⁸ Government of India (2010).

elaborated the legal mandate for social audits by laying down the procedure for organising biannual social audits, as well as constituting an independent social audit agency in each state to ensure social audits were duly conducted. As I noted earlier, prior to this, no social audit rules had been framed apart from those drafted by activists in Udaipur (2007), which were then revised and adopted by the Andhra Pradesh government.

Also at the national level, the MKSS and SR Abhiyan lobbied the leaders of the Congress Party and, through one of its core activists (Aruna Roy), also lobbied the National Advisory Council (NAC), of which she was also a member. The NAC was reconstituted in June 2010, and, soon after, it set up a sub-group to advise the government on improving transparency and accountability in the delivery of various welfare programmes. In the Transparency and Accountability sub-group meetings, NREGA corruption and the disruption of the social audits due to clause 13(b) were debated in detail.²¹⁹ Through the NAC, MKSS activists and officials in the AP social audit directorate attempted to bring pressure on the Ministry of Rural Development that had earlier (in December 2008) amended the controversial clause 13(b) to limit the role of outsiders in social audit proceedings. It took another nine months, and, after consulting the Comptroller and Auditor General and the Ministry of Law, the Ministry of Rural Development amended the controversial clause 13 (b), making social audits more inclusive. The Ministry additionally ordered the formation of independent social audit directorates at the state level to conduct social audits. The government of India, based on the recommendations of the CEGC working group, also enacted the social audit rules.²²⁰ This was a significant success and arose from the tireless movement between levels of the state by MKSS activists and their allies at the state and national

²¹⁹ I participated in two meetings, organised in August and October of 2010.

²²⁰ Government of India (2011).

levels. Trying to implement national legislation locally, it found itself blocked by local government functionaries, then the judiciary, and then by a half-willing and half-timid state government. Going above their heads to the national government, activists were successful in at least removing the legal obstacle to social audits under NREGA. This was largely the state of affairs when I finished my fieldwork in 2010. The battle continues.

CONCLUDING REFLECTIONS

This chapter tells a previously untold story about India's right to information struggle: the post-legislative struggle to realise the original goals of the RTI by institutionalising social audits under NREGA. It was an effort by MKSS and its allies in the SR Abhiyan to make legislative victories translate into an actual transformation in the everyday practices of state agencies on the ground. As we have seen, the implementation of social audits has been deeply contentious, illustrating the stakes involved. The opposition to social audits is deeply entrenched in the local state, and the struggle for it is indeterminate and on-going. In Rajasthan, the presence of strong civil society actors pushing for social audits has intensified the tensions between different levels of the state charged with monitoring NREGA and implementing social audits. The above narrative demonstrates that as the struggle was pushed out of villages and into the state capital, different levels of the state alternately blocked and supported social audits in different phases in accordance with shifts in the political balance of forces on the ground.

For *gram sewaks* and *sarpanches*, organising social audits meant a reduction of power, influence and monetary gains at the village level. More specifically, they believed they were being 'targeted,' whereas other (line) departments, such as irrigation

and public works, were exempted from the social audit process. They conceived the social audit as bureaucratic high-handedness and believed they were being singled out. The state government was paralysed and seemed hesitant to take any action against the protesting *gram sewaks*. Explanations for the state government's response include infighting within the state government and the compulsions of electoral politics. Having lost the previous elections by confronting the lower bureaucracy over a different issue, the Congress state government did not want to risk another electoral defeat. It seemed like an opportune moment for the BJP (as the party in opposition) to politicise the issue. Despite their best efforts, however, the BJP was unable to manipulate the protests.²²¹ The inability of either political party to contain or appropriate the protest is illustrative of the complex nature of relations between the different levels and parts of the state in Rajasthan. In particular, it highlights the friction between the local state and higher levels of the bureaucracy. Additionally, it demonstrates the dependency of the political state on the panchayat staff.

The opposition to the NREGA social audits in Rajasthan also saw the coalescence of what we might call a *sarpanch* class identity, expressed in the term "*sarpanch jati*." For instance, the President of the Rajasthan Sarpanch Association told the media, 'we came here [to Jaipur] as a single force, irrespective of our political inclinations, in the larger interest of rural development.'²²² A startling example of the alliance building between *sarpanches* that cut across castes was the participation of a former MKSS activist and, dalit *sarpanch* from Tilonia village (Ajmer district), Naurti bai. I have discussed Naurti bai's pioneering role in the struggle for enforcement of minimum wages in *Harmada* village in 1981 (Chapter 3). In September 2010, however,

²²¹ Times of India (2010a)

²²² Ibid.

as thousands of *sarpanches* marched to the state capital, Jaipur, Naurti bai shocked the MKSS in joining the march to express solidarity with the thousands of protesting *sarpanches* against the NREGA social audit. This alliance demonstrated the significance of the re-interpretation of social audits and its potential to galvanise support on the pretext of loss of sovereignty of panchayats. A few months later, Naurti bai told MKSS activists that she had been persuaded to join the protest primarily because she was told that as an elected representative, the social audits would also target her.

How do we make sense of this resistance by the local state that managed to indefinitely stall social audits in Rajasthan? As an explanation, I want to look back on the iterative trajectory of the rights to information and work. We recall that in 1991 MKSS's struggle for the enforcement of minimum wages started locally, at the panchayat level. However, MKSS was forced to scale its activities up to higher levels of the state in order to make its demands actionable. While scaling up was necessary to secure a national RTI law, shifting scales also made the MKSS less visible at the village level. As its activists gained prominence and access to higher levels of the bureaucratic and political state, increasing MKSS's ability to push for legislative gains, the group simultaneously compromised its mobilising capacity at the panchayat level. This left it vulnerable to the *gram sewak* and sarpanch counter-attack.

Twenty years later, it was the *gram sewaks* who took the struggle from the village/panchayat level to the judicial arena and higher levels of the state. Fearing an adverse judicial decision, MKSS chose not to enter the judicial arena; instead, it responded by keeping the struggle alive in the state capital and at the national level. As MKSS engaged the state and central governments, activists simultaneously resisted the local state. MKSS, through its strategies of multi-scalar engagement and resistance, tried to take the struggle back to the village level with the objective of reinvigorating the

effort to transform the everyday practices of the local state (that, as we saw in Chapter 3, MKSS had begun with the *Jan sunwai*).

This account of the struggle over social audits in Rajasthan has, I believe, provided insight into the iterative nature of state-society interaction at multiple levels. It shows how a fragmented Indian state forces activists who aim to transform it to constantly shift scales and alternate between strategies of engagement and resistance. Following victory at the national level, MKSS returned to where it began: organising for transparency in the local implementation of right to work programs, this time with the initial backing of the state government. However, this effort elicited an intense counter-mobilisation by local state functionaries, who were themselves successful in scaling up the struggle and blocking these efforts with the help of the judiciary and a cowered state government. Faced with recalcitrance at local government and hesitation at state government, the MKSS went back to the national level to help change the rules governing social audits at the national level. Having exploited a sympathetic opening at the national level, they at least removed any legal blockage to the organisation of participatory social audits in Rajasthan. A modest victory after relentless campaigning at all levels. We are, nevertheless, still far from seeing a thorough institutionalisation of social audits across Rajasthan. That struggle continues. This chapter has, however, provided an understanding of the form that struggle for transparency and accountability will continue to take: a relentless shifting across scales and oscillation between engagement and resistance in the effort to leverage different parts of the state against one another and thereby gradually push them all in a more democratic and social accountable direction.

Having followed the full trajectory of the intertwined struggles for rights to information and work, in the concluding chapter I reflect on what this trajectory reveals

about the nature of the Indian state, the vision of transparency and accountability underpinning this multi-scaled activism and its broader implications for our understanding of social movement activism in general.

Chapter 6. Conclusion: Pragmatic Activism and the Rights to Information and Work

This dissertation has traced the trajectory of the inter-linked struggles for right to information and work in India. It has examined multi-scaled activism that began with the *Jan sunwai* in the villages of Rajasthan; progressed towards an ultimately successful campaign for a national right to information legislation; and returned to rural Rajasthan in an (ongoing) effort to institute social audits in the implementation of the newly won right to work. I have shown how this ‘long arc’ of activism has been shaped by the sustained efforts of MKSS/NCPRI activists to creatively and pragmatically look for openings and find leverage in different parts of the Indian state. Where activists found openings, they engaged; where they were blocked, they mobilised to force an opening or found new levers of engagement in different parts of the state. This account makes an original contribution to the existing literature on the right to information in India by showing how each stage of the campaign, until now studied separately, fits into a single larger trajectory of activism. Focusing on the larger trajectory reveals how the campaign for the rights to information and work moved continuously between scales and oscillated between engagement and resistance. It also highlights that this ongoing campaign has been driven by a larger objective than the struggle against corruption—it has been driven and framed as a struggle to transform the Indian state, to make it more democratic, responsive and accessible to the poor.

The study began with an historical account and theorisation of the role of *Jan sunwais* in this larger trajectory. Chapter 3 showed how the right to information emerged from the struggle over wages in public works projects in rural Rajasthan. When MKSS’s efforts to ensure transparency in the local implementation of drought relief programs in Rajasthan encountered a hostile local state, they resisted and created

alternative public spheres (the *Jan sunwais*) to expose the misuse of public funds. In effect, the *Jan sunwai* attempted to turn the table by allowing ordinary citizens to interrogate the state and its officials. Of course, while challenging local power inequalities, the *Jan sunwais* did not eliminate them at the village-level. And they ran into significant resistance by the vested interests they challenged.

When officials of the local state proved hostile to the *Jan sunwai*, recognising the limits of this localised resistance, MKSS activists shifted scales, and created a national network of ‘eminent activists’ to advocate for an RTI Act at the central level, utilising the symbolic capital of these privileged activists to *engage* different segments of the national government. Chapter 4 showed how this network of eminent activists significantly advanced the struggle for the right to information at the national level: it persuaded government officials and infiltrated the state apparatus through the IAS training institutes; writing about it in national news papers; building alliances with other people’s movements and issue campaigns; and by drafting a national right to information law. Thus, this study illuminates an often mentioned but under-theorised aspect of many social movements in India: the role of elite supporters in helping to institutionalise changes originating from more subaltern struggles. This is well-established in the social movement literature and studies of activism in other national contexts that note state-engaging protests benefit when they enlist supportive fractions of the educated classes to gain public and government support (McAdam, 1999; Tarrow, 1994; Houtzager, 2000; Hung, 2011).

With the enactment of a national right to information and its incorporation into the newly won right to work, MKSS activists turned their attention to the implementation of the right to work at the local level. MKSS’s effort to institutionalise social audits in the implementation of NREGA reflects its long-term and unfinished

objective of democratising the state and, in particular, making it more accountable to poorer citizens. With the leverage provided by national legislation, the MKSS returned to rural Rajasthan to try to enforce its writ. In the face of fierce resistance by increasingly organised local government functionaries to social audits, the MKSS had to again switch scales and strategies, trying to gain support from state and then central government. During this phase, we saw a more constant and rapid shifting between resistance and engagement as avenues for engagement at the state-level dried up in the face of an effectively mobilised opposition. This oscillation continues today with the outcome yet to be determined.

It is this back and forth across multiple scales and strategies over time that defines the pragmatic, long-term efforts of MKSS and NCPRI to transform the Indian state. It is a long, slow and excruciatingly difficult process, but these efforts have generated some significant (perhaps even uncommon) achievements: the model of collective, open public hearings represented by the *Jan sunwai*; the path breaking RTI legislation; and, however partial and imperfect so far, social audits institutionalised into NREGA.

This conclusion seeks to develop some of the implications of the kind of activism explored in this study by addressing three further questions: 1) what does the long trajectory of activism tell us about the nature of the Indian state and the conditions or possibility for its democratisation and responsiveness to the poor?; 2) is the type of civil society activism embodied by MKSS necessary for the achievement of transparency and accountability in government programs like NREGA, or are there alternative paths? and 3) what lessons, if any, does this kind of activism have for other rights-based campaigns in India, and what does this study illuminate about social movement activism more generally?

A Fragmented and Differentially Embedded State

The trajectory of the rights to information and work over the course of two decades provides some important insights into the nature of the Indian state. While Marxists and Weberians alike have tended to see the state as a monolithic entity, debating whether “it” is more, less, or “relatively” autonomous (Kohli, 1987, 1990a, 1990b; Rudolph and Rudolph, 1987, Vanaik, 1990, Kaviraj, 1991, Chatterjee, 1998, Bardhan, 1984, 1989), several decades of interaction between the MKSS and different parts of the Indian state points to a different reality. In a similar vein as the ‘everyday state’ literature in India that points to the disjuncture between the national and the local or ‘everyday state’ (Fuller and Harriss, 2000; Wade, 1982; Gupta, 1995; Jeffrey, 2000; Robbins, 2000; Parry, 2000; Oldenburg, 2006), what the campaigns have come up against is not “the state,” but rather a sprawling and fragmented body composed of different parts that appear to be more or less “autonomous” and more or less “embedded” with different social groups at different points in time.

What do we learn about the literature on the Indian state that has focused on either the very top or bottom levels of the state? And how do we think about/frame the struggles that seek an enduring transformation of the state’s different levels? *There is a significant degree of incoherence to the state; and this incoherence can and has provided space and leverage for movements seeking its transformation.* This is not to join the group of scholars who argue that the state is a mere “effect” than a substantive entity (Mitchell 1999); it is rather to argue that the state is a complex of offices, officers, and activities that lacks a singular will, and that this messy complex provides the opportunity for social movements to leverage and arbitrage parts of the state against each other. We therefore need to move beyond the “cohesive state” portrait found in

many studies of the Indian state and of right-based campaigns, and address this complexity head on.

This dissertation has provided many instances of activists being blocked at one level of government, yet finding sympathetic officials in different parts of the state that have helped overcome such blockages. While the dissertation has provided more instances of higher level government officials helping to overcome blockages at the local level, the point here is not simply that the central government or elite IAS officials are more willing to support progressive state reforms than members of the local state. While in broad strokes there is some validity to this claim, the point is rather that openings for social movements do not statically adhere at any particular level of government, but dynamically change over time. Numerous factors, including the balance of political forces and vicissitudes in electoral politics produces such opening at different points in time. The central government, for example, only provided an opening after the Congress Party came to power on a platform that included the rights to information and work. The state government in Rajasthan provided no opportunity for engagement under the BJP, forcing the movement to remain in resistance mode. While the Congress government that subsequently came into power in Rajasthan provided important support at times, this also changed as the reaction of the local *sarpanches* and *gram sewaks*, who grew in strength over time and began to outflank MKSS on the ground in Rajasthan. The art of rights-based campaign strategy, the case of the rights to information and work suggests, resides in constantly reading these changes, adapting to modifications in what the social movement literature calls the ‘political opportunity structure,’ (McAdam, McCarthy, and Zald, 1996), alternating between engagement and resistance as expediency demands.

Civil Society-led versus State-led Transparency: Rajasthan and Andhra Pradesh Compared

The next question I want to turn to is whether this civil society activism is the best or only way to “open up” the state, or whether the state is capable of opening itself up to broad public scrutiny? I address this question by briefly contrasting the role of MKSS in the role out of social audits in Rajasthan, and the more autonomous state-led effort to institute social audits in Andhra Pradesh (AP).

The social audits on NREGA were introduced in markedly different ways across India. In Rajasthan, the case explored in detail in this dissertation, civil society played the lead role in trying to implement social audits. In contrast, in Andhra Pradesh the state government has instituted social audits on its own initiative (albeit inspired by the MKSS model). This raises the question: is the kind of activism practiced by MKSS the best or only way to go about making the Indian state more transparent and accountable in its functioning?

In 2004, Y.S. Rajasekhara Reddy (YSR), from the Congress party was elected Chief Minister of Andhra Pradesh. He came to power on a platform that included the implementation of welfare programmes, such as the Food for Works and NREGA. At the same time, the Congress Party was also hoisted to power at the Centre or national-level on a platform that included the right to work. Once in power, YSR was confronted with the well-known problem of corruption in the implementation of social welfare programmes, and fulfilling his party’s electoral promise: to tackle an agrarian crisis in the state by improving the implementation of social welfare programmes (Aiyar et al, 2011). He decided to implement NREGA social audits, which were first piloted to assess the implementation of Food for Works programmes.²²³ A year later, the Andhra

²²³ Sowmya Kidambi, Director SSAAT, Government of Andhra Pradesh and former MKSS activist, interview with author. Hyderabad, Andhra Pradesh. 22.05.10.

Pradesh government invited MKSS to provide consultation on how to set up social audits, and a former MKSS activist was invited to join the Strategy and Performance Innovation Unit (SPIU), located within the Department of Rural Development and responsible for the training and oversight of the cadre of officials who conduct social audits across the state. While inspired by MKSS, the Andhra Pradesh social audit initiative would be state-led and followed a different strategy from the civil society one in Rajasthan. First, and counter to the national legislation the AP government decided to keep NREGA implementation in the hands of the state bureaucracy rather than the panchayats. Second, it would be the state government itself that would undertake the audits through a parastatal agency created specifically for the purpose: Society for Social Audit Accountability and Transparency (SSAAT, which was earlier the SPIU). Third, the state government would train ordinary people, in particular youth from dalit households, from different parts of the state, to conduct the audits in different constituencies. Finally, a separate vigilance agency would follow up on the social audit reports submitted by the parastatal audit agency.

The decision to centralise NREGA implementation in a government agency, and organise social audits through that agency was meant to keep NREGA free of corruption, and avoid the fate of other government social welfare schemes. However, putting such a system into place required a significant effort to build support and legitimacy *inside* the government itself.

Two factors facilitated the Andhra Pradesh government's social audit initiative. First, the Chief Minister enjoyed strong political capital within his party and emerged as its undisputed leader in the 2004 state elections. He appointed pro-poor, reformist civil servants to senior positions in the state Department of Rural Development in charge of implementing the employment guarantee scheme. These high-level bureaucrats were

given a “free hand” in implementing NREGA.²²⁴ And they actively mobilised political support for their efforts both inside the state and in society, and used the media to capitalise on every press conference and public appearance of the Chief Minister to shape public (political) opinion in favour of social audits. Through the press conferences, it was made clear, support for social audits meant support for the Chief Minister. Meanwhile, the underlying message the Chief Minister communicated to his party members was: keep your hands off NREGA. A politically powerful CM had thus declared the program politically out of bounds for profiteers within his own party.²²⁵ Second, the Andhra experience suggests a unique history of concerted efforts to disempower panchayats, and this disempowerment of local government provided the political conditions for a centralised social audit initiative—a condition that is not shared in Rajasthan or some of the other states in India.²²⁶

²²⁴Former Principal Secretary, Government of Andhra Pradesh, interview with author. Hyderabad, Andhra Pradesh. 20.05.10.

²²⁵YSR, the Chief Minister of Andhra Pradesh was considered to be one of the most corrupt Chief Ministers, as I was told repeatedly while in Andhra, by several independent researchers, retired civil servants. Implementing NREGA won him titles like “people’s messiah”, but he made all his money elsewhere (infrastructure contracts). This is how one independent researcher described the former Chief Minister: ‘YSR believed everyone had a price, you might refuse a few thousand rupees, but half a million rupees will make you reconsider...and then he gave you five billion, and you didn’t know what hit you!’ Anant M., independent researcher, interview with author. Hyderabad, Andhra Pradesh. 24.11.2010.

²²⁶For example, as I was told by an independent researcher based in Hyderabad, in the early 1980’s N.T. Rama Rao, Chief Minister of Andhra Pradesh from the Telegu Desam Party (TDP) came to power on a platform to ‘rid Andhra Pradesh from a corrupt Congress Party.’ After coming to power he created *mandals* or administrative blocks to limit the influence of panchayats that he considered were Congress party strongholds. Later, Chandrababu Naidu, also from the TDP, was Chief Minister of the state in the 1990’s. His ‘competitive neoliberal populism’ further destroyed the powers of the *sarpanches*, and ‘turned everyone into a small time contractor’ by creating middle level institutions like self help groups, water user associations, and joint forest committees. These institutions were created to address the ‘needs’ of different ‘stakeholders’, replacing the discourse of ‘rights and entitlements.’ These middle level stakeholder institutions received money from the state government to implement (World Bank funded) government projects and reduced the financial and decision making power of the *sarpanches* at the village level. Anant M., interview with author. Hyderabad, Andhra Pradesh. 24.11.2010.

The Andhra Pradesh model has achieved notable results. It is the only state that has organised regular, bi-annual social audits since 2007, a feat not matched even by Rajasthan, where social audits originated. In the five years since social audits began, the AP government has recovered over \$20 million in embezzled NREGA funds, and over 4,500 public officials have faced administrative and criminal charges.²²⁷

In contrast to Rajasthan then, in AP we have a responsive state with high state capacity, minimal civil society involvement and good results.²²⁸ So, what does this experience suggest about the role of civil society in generating transparency and accountability? The AP example illustrates that, when a Chief Minister enjoys high levels of political capital it is possible to transform parts of the Indian state (or at least part of its functioning) from above. In contrast, in Rajasthan infighting within the Congress Party and dispute over the party leadership failed to produce the necessary political support for the government's social audit initiative. Furthermore, the panchayat system in Rajasthan is relatively well entrenched and was able to mobilise against social audits.

Among the questions this comparison raises, without civil society pressure, how did the Andhra Pradesh government win its battles with other levels of the political and administrative state? Answering this question is beyond the scope of this dissertation and requires further research.

There are three reasons, however, that suggest that the relative success of the AP experience should not lead us to conclude that civil society activism will be superfluous to achieving transparency and accountability anytime soon. First, the AP experience

²²⁷ Sowmya Kidambi, Director SSAAT, Government of Andhra Pradesh and former MKSS activist, interview with author. Hyderabad, Andhra Pradesh. 22.05.10.

²²⁸ Here by the state government's responsiveness we might mean, both taking a lead to implement social audits, rather than being responsive to a campaign or 'the poor' as well as responding to its electoral mandate.

suggests that the ability of the state to reform itself depends on political support, which does not exist everywhere and clearly changes over time. What happens after the supportive ruling party leaves power, and the opposition has no interests in upholding the efforts of its predecessors? Further, the role of civil society in the implementation on NREGA in each state will also shape the path each state will take. For example, in Andhra a senior official in the rural development department told me, ‘lack of civil society actors [also] made social audits appear an independent process under the aegis of the government.’²²⁹ Given the history of political protest in Andhra Pradesh: dalit assertion as well as the *Naxal* movement (Maoist insurgency) that were anti-state, rights-based campaigns, dalit organisations and progressive left groups are suspicious of the state; they do not ‘critically engage the state’ as the MKSS has done in Rajasthan.²³⁰

There are, of course, tradeoffs for civil society when they enter policy arenas. Grassroots groups can not be present at all levels at all times, and engaging different/higher levels of the state may make them less visible at other/local levels. As we saw in Chapter 5, civil society actors in Rajasthan were outflanked by reactive *sarpanches* at the local level. But in the absence of strong civil society pressure, there is nothing to prevent the state from back-tracking on its commitments. Does the absence of civil society actors in state-supported social audits, then, make them politically more vulnerable or sustainable, irrespective of the political party in power? In Andhra Pradesh, it remains to be seen.

Second, while there are surely gains, there may also be something lost in the qualitative nature of social audits when governments rather than civil society activists and villagers run them. For some civil society actors in Andhra Pradesh the problems

²²⁹Former Principal Secretary, Government of Andhra Pradesh, interview with author. Hyderabad, Andhra Pradesh. 20.05.10.

²³⁰P.S. Ajay, member Andhra Pradesh Agricultural Workers Union (APVVU), interview with author. Hyderabad, Andhra Pradesh. 27.11.10.

with the state-led process are its focus on financial aspects of NREGA rather than the overall implementation of the right to work, and the questionable commitment of village social auditors who may be more interested in government promotion than the long-term support of the communities they are auditing.²³¹ Further, many of the critics view the state-led process as highly centralised, insulated, and designed to ‘exclude panchayats.’²³² Whatever we make of these criticisms, it may be the case that state-led audits do produce a different kind of accountability than what many social movements would like to see. State-led social audits may be very effective at curbing corruption and making social programs more effective; they will likely not be vehicles for long-term organising for social change that has driven MKSS in Rajasthan over the past two decades.

Third, it should be kept in mind that the AP model was directly inspired by MKSS’s efforts in Rajasthan. It represents, in essence, a scaling up of MKSS’s experiments with *Jan sunwais* and then social audits. State-led processes of reform, we might conclude, often take their models from civil society, and do not necessarily mean no role for civil society. The creative experiments of civil society activists are likely to remain significant even for state-led efforts at increasing transparency and accountability for the foreseeable future. Indeed, civil society actors behind the

²³¹P.S. Ajay, Member Andhra Pradesh Agriculture Worker’s Union (APVVU), interview with author. Hyderabad, Andhra Pradesh. 27.11.10; Ravikumar, WASSAN, interview with author. Hyderabad, Andhra Pradesh. 29.11.10.

²³²K.S. Gopal, Centre for Environment Concerns, Hyderabad, Andhra Pradesh. 24.11.10; also see, Gopal (2009); Some studies also point to problems of ‘co-option’ of village-level social auditors and district level resource persons, and suggest that signs of ‘routinisation’ (Aiyar et al, 2011) are emerging—that is, like Rajasthan, people whose interests are most challenged are learning how to beat the system.

Rajasthan social audit experience were invited onto the team of the AP unit overseeing its state led initiative.²³³

How might such forms of civil society or state-led processes for institutionalising accountability play out in different national contexts? Or in other states in India that do not have the Andhra Pradesh capacity, which way are they going to go, and can we expect to see a greater role for civil society? These questions need to be explored in further research, but what we can conclude for now is that state-initiatives to scale up the efforts of civil society can have different strengths and weakness. Studying the various permutations of each type of initiative and the conditions under which they emerge, and for their success, will require detailed comparative research across Indian states.

Defensive and Offensive Engagement: Two Forms of Social Movement Activism

Is the type of social movement activism analysed in this dissertation relevant for other kinds of rights-based struggles in India? Is the inter-linked struggle for the rights to work and information unique in some ways, or does it share characteristics with other movements like the campaign for the Forest Rights Act? What lessons may the long trajectory of the right to information and the right to work have for the literature on social movements and social movement activism in India that has been largely framed in terms of defensive/conflict struggles—protests against the denial of existing rights by the state (Kumar and Kerr, 2012; Sundar, 2001, 2011; Menon and Nigam, 2007; Dwivedi, 2006; Ray and Katzenstein, 2005; Sheth, 2004; Brass, 1995; Omvedt, 1993)? What the case of the long trajectory of the rights to information and work shows is that

²³³The Director of the parastatal agency in charge of social audits in Andhra is a former MKSS activist. And two other MKSS activists (Aruna Roy and Nikhil Dey) are also members of the steering committee that advises the Andhra audit agency.

rights-based campaigns and contemporary social movements in India are arrayed against different arms of the state. We therefore need to move towards thinking about how to frame such struggles that do not fit neatly into the defensive framing.

In Chapters 1 and 2, I introduced a distinction between state-engaging and state-resisting movements. This distinction draws on the work of Ho-fung Hung (2011), who proposes it as an alternative to Tilly's (1978) "reactive" and "proactive" movements. I have shown, however, that the movement for the rights to information and work has been characterised by a continuous oscillation between state-engagement and state-resistance. It pragmatically resists where it is blocked, engages where it has an opening. This oscillation, I argue, is not unique to MKSS but is also deployed by other movements who confront the Indian state on a range of issues. This general feature of movement struggles supports my argument about the nature of the Indian state—a stratified and multi-layered India state necessitates movements to resist and engage its different parts at different phases of their struggle—that they are all arrayed against. But, there is, I would argue, an important distinction between the MKSS, whose ultimate mission is to transform the Indian state and achieve new rights, and those movements whose purpose is essentially to prevent the Indian state from encroaching on existing (*de jure* or *de facto*) rights and entitlements.

In other words, we must re-introduce Tilly's distinction between pro-active and re-active movements. The first are engaged in an ongoing effort to transform the Indian state and broaden its capacities to serve the poor and support other resistance struggles; the second engage the state out of defensive necessity to prevent their dispossession or encroachments on existing entitlements. While each might oscillate between engagement and resistance, what they are seeking to achieve is quite different. This

distinction becomes clear by comparing the Right to Information and Work campaign with the campaign for the Forest Rights Act.

In 2003, activists from the Front for Tribal Self Rule met in Delhi to build a national network—the Campaign for Survival and Dignity (CSD)—to protest against the eviction orders issued by the Ministry of Environment and Forest (MoEF). This network of tribal and forest dwellers’ organisations had already been campaigning for the effective implementation of another legislation: Panchayat (Extension to Schedules Areas) Act or PESA.²³⁴ At the meeting in Delhi, in 2003, the CSD drew up a plan for coordinated protests at the state and district-levels as well as to seek out Members of Parliaments in the national capital. A national public hearing followed state-level agitations against the MoEF eviction orders, where thousands of tribals testified against evictions and human rights violations (Kumar and Kerr, 2012; Asher and Agarwal, 2007). Additionally, some members of the Campaign for Survival and Dignity in states such as, Andhra Pradesh, Maharashtra, Madhya Pradesh, and Rajasthan, also filed writ petitions in high courts to stop evictions; with the exception of Andhra Pradesh, no other state was able to obtain a stay order on the evictions (Asher and Agarwal, 2007).²³⁵

FRA’s starting point is defensive. It seeks to protect vulnerable populations from the coercive (dispossessing) arm of the state. It arises, as Kumar and Kerr (2012) note, from a long history of attempts by tribal and other traditional forest dwellers to fight

²³⁴ A former Commissioner of the Scheduled Castes and Scheduled Tribes Commission, B.D. Sharma, played a pivotal role in drafting PESA, a law passed in 1996 that, gives tribal communities substantive powers with regard to natural resource management and self-governance (Sundar, 2001).

²³⁵ In India, the experience of using Courts to gain social economic rights has produced uneven results. For instance, in the case of forest rights, Upadhyay (2001) notes that state forest policies (however prohibitive) provided tribal rights activists with existing ‘legal spaces’ to uphold constitutional guarantees for tribal communities. On the other hand Menon (2007) argues while courts have upheld ‘adivasi’ rights in the abstract, they have been less willing to recognise their specific rights to land, forest rights, or more broadly, even livelihood.

evictions and infringements on traditional use rights by the colonial and post-colonial state.²³⁶ The practices of the forest bureaucracy, which Sundar notes (2001: 2018), are designed to ‘serve the interest of revenue and not villagers,’ have been the focal points of this resistance and counter-mobilisation by tribal (*adivasi*) communities and forest rights activists. Further, recent studies on the Forest Rights Act (Kumar and Kerr, 2012; Kashwan, 2012; Sundar, 2011; Varma, 2008; Asher and Agarwal, 2007) identify the 2002 Ministry of Environment and Forest’s executive orders that resulted in the eviction of large groups of tribal and other forest dwellers from forestland across the country, to explain the emergence of a national level Campaign for Survival and Dignity. The campaign thus emerged out of defensive necessity to protect the land rights of forest dwellers. In the face of a recalcitrant forest bureaucracy that refused to implement the Panchayat (Extension to Scheduled Areas) Act that provided for greater control over natural resources by local gram sabhas (Sundar, 2001), the Campaign for forest rights moved to a legislative route once political conditions became favourable with the General Election of 2004 that hoisted the Congress and Left parties into a coalition government (Kumar and Kerr, 2012).²³⁷ After the passage of the act, activists have—like MKSS—struggled over its implementation (Sundar, 2011). So, without going

²³⁶ Also see, Gadgil and Guha (1994: 104) who argue, taking over of forests by the colonial state was a watershed act in many ways: political, social and ecological. State control and authority over forests were expanded to satiate the colonial state’s commercial interests while simultaneously curbing local access and rights of village communities. This ‘radically altered patterns of natural resource use’ (Gadgil and Guha, 1994: 104). Since independence, the poor, Gadgil and Guha (1994:119) argue, were made to ‘bear the cost of economic development in the form of declining availability of natural resources, pollution and physical displacement.’ For a more recent analysis of the impact of the commercial orientation of state forest policies on tribal’s and other traditional forest dwellers, see Kashwan (2012).

²³⁷ In their Common Minimum Programme, the Congress led United Progressive Alliance government stated, ‘eviction of tribal communities and other forest-dwelling communities from forest areas will be discontinued’ (Singh, 2005). The government’s willingness to prevent eviction of forest dwellers, Varma (2008) notes, was also linked to its concerns of national security and rising threat from the maoist insurgency in central India. In states like Chhattisgarh and Jharkhand, Maoists had overturned state policies, taken control over forests and even distributed land titles (Sundar, 2011).

further into the details of this similarly successful campaign, I want to draw out some of the salient differences between it and the struggles over right to information and work.

First, even though forest rights activists moved from resistance to engagement, their end goal has been to prevent evictions of tribal and forest dwellers from forestland. The issues that they are organised around—defending vulnerable people against the dispossessive arm of the state—makes them necessarily defensive. This campaign, as with dispossession struggles more generally, always begin as defensive struggles against the state (Levien, 2013). When they engage the state, it is because they find an opening to push changes that weaken the coercive ability of the state and solidify their defensive position. This is no criticism; but springs from the very nature of the issues that animate them.

MKSS, in contrast, is organised not to beat back the coercive arm of the state but to expand and strengthen the welfare arm of the state. When trying to make some of its positive functions work better (rather than trying to put a stop to its negative and predatory functions), people have to engage with a state. MKSS/NCPRI's strategy involves more proactive engagement with the state over an extended period of time, an engagement that does not end when threats abate. So while both pro-active and reactive struggles change scales and oscillate between engagement and resistance (these are, as I have argued, strategically shrewd responses to the nature of the Indian state), their trajectories have different beginning and end points.

It is, of course, rare that any struggle/movement is only reactive or proactive, but on the whole the distinction between the two holds true. Because the ultimate goal of struggles against eviction and dispossession is to defend against the encroachments of the state's coercive arm, they begin with resistance and subside when dispossession is prevented. Struggles to expand the state's welfare arm are, however, different and in

principle unlimited in their aims. In taking as their goal increasing the effectiveness of the state itself, MKSS's goals do not aim to defend what exists but to create what does not. The last moment in the dialectic is thus always, necessarily, engagement.

Moreover, the rights MKSS struggles for might be considered meta-rights. The right to information is primarily an enabling right, or a right to access other rights (Somers and Roberts, 2008: 413). We have seen how it has enabled the right to work, but it has also been used more widely in many contemporary social movements and rights-based struggles. Generally movements fighting displacement—such as, the Anti-dam movement or *Narmada Bachao Andolan*—to get government documents that were usually withheld, used the RTI. Moreover, groups have used RTI to gather information on planned projects under the controversial Special Economic Zone policy and organised public audits to build a broader campaign against land acquisition. More recently, forest rights activists in the western state of Maharashtra have used the RTI Act to obtain information on land titles. The Right to Food Campaign and the National Commission for the Protection of Child Rights has also used the RTI and social audits to monitor the implementation of PDS, mid-day-meal programmes, and the implementation of the Right to Education Act. The anti- GMO or genetically modified campaign of Greenpeace India after an 18-month battle against the Department of Science and Technology and Ministry of Environment and Forest obtained access to documents pertaining to genetically modified or bt-brinjal. These documents highlighted inconclusive tests on the use of genetically modified food, and were later used to pressurise the central government that placed a moratorium on the approval of bt-brinjal for public consumption. The RTI, because it pro-actively opens up the state, has contributed to all these different struggles for improving the state. In the lives of ordinary people, RTI has been used to advance many rights that, in everyday life are not

separable: from obtaining work to accessing subsidised food grains from the public distribution system, trying to educate children in dysfunctional government schools, and seeking medical care at under-equipped hospitals. In one moment, people might need the right to work, in another to food, education, or health. The RTI makes a contribution to each.

So, while multi-scaled oscillation between engagement and resistance illuminated in this study is, I believe, applicable to many social movements in India, I believe I have also called attention to an important distinction between movements that are, in the last instance, state-engaging and those that are state-resisting. Each encounters different arms of the state and develops their strategies accordingly. Keeping that in mind can help scholars understand strategic differences across movements as corresponding the complementary issues they are fighting, rather than reflecting degrees of “radicalism” or “reformism.”

Conclusion

The long arc of activism for the rights to information and work illuminates a different vision of transparency and accountability from that found in the anti-corruption framing in India and other low and middle income countries that has become influential and a potentially powerful tool to increase administrative capacity and efficiency of public bureaucracies.²³⁸ The alternative framing examined in this dissertation is [instead] linked to social justice and emerged from the lived experiences

²³⁸ Various expressed as increasing citizen voice, decentralising governance, supporting good administration, increasing political accountability, combating corruption and guaranteeing transparency (World Bank, 1992, Shah, 2007). Or more recently in India, the demand for a central ombudsman, or ‘lokpal’, with unlimited powers to pursue corruption at all levels of the government that was framed and articulated by the headline grabbing middle class campaign against corruption: India Against Corruption (Sengupta, 2011; Visvanathan, 2011; Menon and Nigam, 2011; Mohanty, 2011).

of subaltern citizens. It focuses on the creation of alternative, deliberative platforms that make people central to governance. At best, this kind of activism to transform or open up the state, though never achieved in full measure, can ensure greater transparency and accountability when it incorporates a broader social welfare enhancing aim, rather than narrowly corruption combating. What the intertwined struggles for the rights to information and work provide is a glimpse of what a more transparent state that works for India's subaltern citizens might look like and some lessons for how to get there. Each national context will, of course, determine how the demand for right to information is articulated/framed.

In general, in regions with gross inequality and poverty, poor citizens see the state as the ultimate guarantor of welfare. Ordinary people then, do not value the right to information as a means to “good governance” or to an ideal liberal state. Pragmatically, citizens value this right to the extent that it can be used to pressure state institutions to realise the other rights necessary to life. The right to information, then, cannot simply be about combating corruption. Rather, insofar as citizens rely on state systems to provide basic needs, it pervades all other socio-economic rights—including work, food, education, and health. Therefore, by linking various socio-economic and civil-political rights advocates of these rights can harness their potential to democratise politics and change public priorities in other low and middle-income countries.²³⁹ Keeping that in mind will, I believe, contribute to social justice struggles of many individuals and organisations. In particular, this understanding will benefit those concerned with strengthening parts of the state to which the interests of the poor are closely tied.

²³⁹ See also Drèze (2004).

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