

The Right to Information: Facilitating People's Participation and State Accountability

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MKSS Rajasthan

Transparency and accountability are current buzzwords of governance being used unsparingly not only in India, but by governments and international institutions all over the world. They have been a part of the debate on so called political reform in India for a long time.

Two related legislative measures have in fact remained on the fringes of mainstream national debate, coming centre stage for brief moments, and then being brushed aside by the more pressing priorities of political parties. These are the Freedom of Information Bill and the Lok Pal Bill. They are sometimes presented as twin propositions of reform in the corruption ridden Indian polity. The right to information issue has recently come alive with renewed vigour. Beginning with a people's movement in Rajasthan, there has been a sprouting of grass root level efforts supported by a coalition of individuals and groups all over the country, demanding disclosure of concealed government information and legislation for the People's Right to Information. It seems as if the same issue has resurfaced, only this time being raised by a different set of people.

A New Discourse on the Right to Information

In the context of the struggle in Rajasthan, a clear analysis of these efforts becomes imperative. There is a need to examine the similarity and difference in the demands that have emerged from the grass root struggle and the suggestions for change that have been made by policy makers and academics considering and debating political reform. While legislative and systemic change is the goal of both efforts, there is a vast difference in the focus, and perspective not only in the demand, but in the final outcome of such changes.

It is necessary to point out how critical the difference in approach is, to the perspective of the Right to Information movement and of the aspirations of the poor. By resting the sovereign rights with the citizen and making citizens action the focus, these grassroots level demands for the Right to Information (commonly labelled Transparency) and peoples audit (labelled accountability) radically alter the potency, use, and perspective of what seems to be a commonly understood term. Clearly the demand for the peoples right to information emerging from a people's struggle and campaign, is far more incisive than the comparatively limited assertion that the Right to Information is contained within the Constitutional right to the freedom of expression. Because it is rooted in action, facets of the issue have been thrown up which have altered its discourse in India.

There are related questions which are no less important. What do you do with the information once you have it? How do you ensure corrective action? While the corollary to the Right to Information legislation suggested so far has been the Lok Pal Bill, the focus in the campaign has been to explore modes of social audit or a peoples

audit. While the Lok Pal and social audit concepts do not preclude each other and are in fact complimentary institutions, their priorities and suggested power centres are radically different.

This paper is based on the collective experiences and struggles of ordinary people living in central Rajasthan who have tried to change the political parameters of their lives by acting to remove the existing barriers to their own participation in the structures of decision making and governance. By strategically identifying the strands that connect local struggles to larger superstructures of legislation and governance, they have ensured that their issues did not get restricted locally, but have influenced the nature of the debate on related political processes. The fledgling struggle for the right to information in Rajasthan has already demonstrated the capability and necessity for ordinary people to be the architects and initiators of political change in a democratic set up. Their perspective and experiences bring to life the often facile and anti-septic terminologies of political reform. The paper will attempt to point out how vital the perspective of the so called marginalised is for the health of a democracy. It will also detail the impact of the right to information campaign on the current efforts in India for more transparent and accountable governance.

The struggle in Rajasthan was sparked off by an initial demand for details of Panchayat level expenditure, and it grew in four years to a burgeoning movement and campaign for comprehensive legislation at the State and Central levels. While the State right to information legislation was finally passed on the 1st of May 2000, and the Central legislation was tabled in Parliament in July 2000, the movement has now begun to also focus on the related questions of accountability and control over decision making.

Situating the Demand for the Right to Information

One of the biggest problems facing democratic institutions in India today, is the dwindling interest and participation of people fuelled by the sense of helplessness citizens face when relating to institutions of governance. It is in the context of this prevailing atmosphere of cynicism, apathy and despair that the story of the collective efforts to bring about political change by ordinary people in a small part of Rajasthan, becomes remarkable and significant.

The question most often asked – by outside observers is – how is it that a set of largely illiterate and poor rural people have chosen to formulate, and so clearly articulate a demand for something as academic and theoretical as the right to information? The underlying assumption is that such a demand and its linkages to issues critical to the lives of the poor could only have been identified, formulated and articulated by intellectuals, politicians, and theoreticians – all of whom are the ‘real’ architects of political thought. It is also assumed that such architects will be people with an exposure to urban based institutions of learning. As a result, even those who have watched the growth of this movement, tend to attribute its emerging ideology to the urban, formally educated people associated with the movement. To do so is a fallacy which would amount to ignoring the roots of the movement. The potency of these demands have emerged because they have been rooted in a commitment to articulate paradigms of change through action and a healthy respect for the instincts of those with a vested interest in such change. The campaign was born out of the struggles of an organisation of the poor based in central Rajasthan called the Mazdoor

Kisan Shakti Sangathan (MKSS).¹ The nature and character of their struggles gave space and opportunity to the poor to articulate their priorities and suggest changes. The self confidence and conviction of the members of the MKSS that they alone were best placed to make the final judgements about decisions concerning themselves, allowed them to draw upon the support of a range of people without any loss in their sense of equality.

The MKSS, Minimum Wages and the Right To Information

The MKSS was an organisation formed in 1990 with a stated objective of using modes of struggle and constructive action for changing the lives of its primary constituents – the rural poor.

For the MKSS, the seeds of the Right to Information demand lay in the struggle for minimum wages. There is a statutory minimum wage under the Minimum Wages Act, which every State Government has to conform to. In the state of Rajasthan, this law takes on additional importance, because the state regularly runs drought relief programmes. After a drought has been declared under the Famine Relief Code, works are opened to provide relief through productive employment. Most often because of mismanagement and corruption, minimum wages are not paid. Government norms for payment of wages on its own employment programmes are so designed that, the minimum wages declared under the law are the de facto maximum wages.

It was in fighting for minimum wages under these programmes that the MKSS first understood the significance of transparency and the right to information. It was necessary to access records, to prevent corruption, to try and obtain the minimum wage, and to ensure that infrastructure actually got built. Every time the workers made a demand for minimum wages they were told that they had not done the work, as proved in the records. When the MKSS made a demand to see the records, they were told that these records are government accounts and therefore secret. During two struggles for minimum wages when the MKSS sat on hunger strike, first in 1990, and then in 1991, the importance of access to government records became clear to the whole group.

In search of an Appropriate Platform – Jan Sunwais

If people are to come together, apart from the ideological commitment and agreement on the issue, the modes and platforms for mobilisation are also important. A mode had to be identified to bring an eclectic group together to allow for different kinds of expression, for different approaches, and most importantly, allow open participation. For groups like the MKSS who are continually in adversarial positions, conflict and protest offer platforms for one-sided communication of ones own understanding and demands. Protest also generates the emotion and energy which sustain the doggedness necessary for pursuing the issue further. However, modes of protest have their limitations. It was in the search for a more neutral and open platform for democratic expression that the MKSS hit upon the idea of organising village based public hearings called *Jan Sunwais*.

For the MKSS, organising a Public Hearing meant breaking new ground. The very first question was whether people would turn up at all, how much space would it create for participation, and whether it would gain the legitimacy required to expose and deal with conflict-ridden local issues, including specific instances of corruption. Most importantly, it remained to be seen whether an atmosphere could be created where people would find the courage to openly speak out against those who had been

exploiting them and the village even when they were present. Would this kind of democratic space be created?

The *Jan Sunwai* has turned out to be a very powerful mode. It has been conducted in a comfortable, informal idiom of conversation and exchange. Yet it has all the seriousness and impartiality of court proceedings. Every *Jan Sunwai* has a panel of judges with independent credentials, who can ensure that the proceedings are fair, allowing everyone a hearing. The people are a large jury, before whom hiding the truth is, for obvious reasons, more difficult than before the judge in court. The simplicity of the arrangements – a tent with a few chairs and tables for the panellists, a few *durries*, a mike set, loudspeakers and a video recorder are the only logistic requirements. Incidentally, the first Jan Sunwai was held under an old parachute brought home by an ex-serviceman and put up for the day, for shade.

Most important of all, this forum breaks the heavy dependence on the Government for redressal. The face to face dialogue brings home very powerfully the need for accountability, and the urgency and importance of citizens participation in matters of governance.

The First Jan Sunwai – Let the people decide

In the search for a breakthrough on minimum wages and corruption, the MKSS was able to access the records of some works in Raipur Tehsil, Pali District. This was coupled with a decision to hold the first set of Jan Sunwais in December 1994. These records related to the Panchayats of Kot Kirana and Bagdi Kalalia. The records were initially examined on the complaint of a poor, middle-aged man about underpayment of wages. A co-operative bureaucrat who held temporary charge of the Block Development Office, had allowed access to the documents. The contents were copied out by hand, under the disgruntled gaze of the office staff.

The copies of the muster rolls, bills and vouchers pertained to works like check dam construction, deepening of tank beds, and construction of school buildings. The stated objective of these programmes being executed by the Panchayats was to build infrastructure that would prevent drought. Members of the MKSS team took the information from village to village, verifying details. The reactions were beyond all expectations. The persons involved were outraged. Dead people had been paid. The fictitious names on muster rolls included the names of persons who had migrated, middle class women who never went for wage work, the names of an *anganwadi* (crèche) worker, a Public Distribution System shopkeeper, a person employed in the Railways and one in the Roadways Department. None of them knew that their names were on the muster rolls. Their names had blithely been copied from the electoral rolls of the village. There were also stark examples of incomplete works certified as complete. An over billing racket resulted in payments for materials never supplied.

All hell broke lose after the Block Development Officer (BDO) recorded statements of all those defrauded. The local political big-wig, once Deputy Speaker of the Rajasthan Legislative Assembly was quick to understand the distress of the lower bureaucracy. He also had a vested interest in sabotaging this effort, as his relations, the Panchayat Secretary and the Junior Engineer would lose their jobs. He quickly assembled the local ‘goons’ to pressurise those who had testified, to retract their testimonies. Non-co-operation it was made clear, could even make them victims of some violent incident.

In the midst of this frenetic activity, the first Jan Sunwai was held in Kotkirana on the 2nd of December 1994. There was tremendous tension in the village. The local Mafia which was trying to prevent it from taking place, threatened to beat up the MKSS members. Alcohol was freely supplied to would be disrupters. But the enraged citizens of Kotkirana, including retired police and military personnel, and school teachers, were equally determined to ensure that the Jan Sunwai would be held. The combination of the workers demands for payment and the local middle class anger at being defrauded on development works, began a formidable if slightly awkward alliance that has continued to grow ever since.

Sitting under the tattered parachute that served as the tent, the panellists who had come from Jaipur and Ajmer to witness and impartially record the proceedings, and the lone journalist who had been cajoled into attending the Jan Sunwai, realised that a historical happening take place.

The BDO and police sat some distance away, near the incomplete land records office. Ironically, this building had been shown as complete on record. They were the lone representatives of the State Government, and despite invitations to them to join the Jan Sunwai, they refused to move from their observation post. All the district Officials including the collector had been formally invited, but did not come.

In spite of threats and a misinformation campaign that the Jan Sunwai would not be held, over a thousand people collected to state their cases and listen to the stories hidden in the papers. Person after person came to the mike, to say that their name was fictitiously recorded on the muster roll; that they were away on migration; that they did not do manual labour; that the names of their dead fathers and relatives had been entered. Names were even shown as present at more than one place at the same time on the same day and so on. With bills and vouchers too, there were discrepancies which amounted to blatant fraud.

Money was shown as having been paid for purchasing stones that were never supplied for the Land Records Office, as the old building had been pulled down and the same stones were re-used for the construction of the new one.

The people were the jury, approving as correct or shouting out against the rare incorrect statements made by the person at the mike. It was very difficult to lie in front of the whole village where everyone was an eyewitness. When the Jan Sunwai was over, the people still lingered. They were held by the issue and their personal involvement in it.

The Lessons From the First Jan Sunwais

For the MKSS there was fundamental learning from the analysis that ensued. For the first time in the lives of many of the activists of the MKSS, the people had been able to concretely perceive the links between their personal lives and the political processes of democratic functioning. They saw the link between the check dam and the debate over State allocations, the planning process, and the implementation machinery. While lack of money was a reason for denying a number of genuine demands, but even from the funds available there was gross misuse. By exposing a fraud of a few lakhs of rupees in their little Panchayat they had raised an implicit question of the quantum of fraud in the nine thousand Panchayats in Rajasthan. They saw their simple acts of courage as an answer in the issues under national debate. It was an occasion where poor people and common citizens felt that they could be a part of the forces that led to the making or running of the country. In a state which was

preoccupied with stories of traditional valour of kings and wars, the people saw their acts as worthy of valour in a social and political sense also.

The Jan Sunwai put forth four formal demands: for transparency of Panchayat functioning; accountability of officials; social audit; and redressal of grievances. These became the fundamental demands on which the campaign for the right to information was built. Social audit became important because many of the frauds were discovered after financial audit had been completed, and because it became increasingly clear that there would only be enforceable accountability when the controls lay with the people themselves.

The physical access to records and examination of the financial statements brought in a new dimension into peoples lives. They understood, in terms of democracy, the role each citizen would have to play to participate in decision making. They began to see the need to strengthen forums in the Panchayat, and understood that they would have in fact have to monitor the works to see that they were properly implemented. Their role in political participation did not begin or end with the vote. This led to the continued involvement of people in that area, in struggles ranging from the local level, to battles which have gone up to the state capital, Jaipur.

The transformation of the Jan Sunwai into a more universal and systemic mode, was a concern of the MKSS. The social audit of accounts had to gain institutional legitimacy and result in systemic changes. The Jan Sunwai in Kotkirana was followed by four more in late 1994 and early 1995.

The Bureaucracy Reacts

India's bureaucracy has inherited all the colonial reactions to dealing with people. The gut reaction of a bureaucrat to any demand from a citizen is to view it with suspicion and mistrust. There is very minimal identification with the people outside the pale of government functioning. Given a choice between justice and self protection, i.e. protection of the coterie, even 'honest' civil servants waver on the issue of publicising the misdeeds of colleagues. It is, therefore, understandable that they should feel highly threatened by the whole concept of transparency and the right to information.

Unfortunately for the civil servant, the issue has caught them on the horns of a dilemma. On the one hand, in a democratic framework, there is no tenable position that can allow the withholding of information. It is absolutely within the constitutional rights of every citizen of this country to demand both the right to inspect and to take copies of documents related to decisions taken in their name. On the other hand, there is a loss of a kind of power that currently exists, that allows arbitrariness and lack of accountability.

At the panchayat level as well, it was the panchayat level bureaucracy that first expressed horror that they would have to share their information with citizens. It was the lowest unit that immediately grasped the dire threat posed. All the state panchayat secretaries went on strike against supplying information to anyone but audit parties and superiors after the first three Jan Sunwais had been held in 1995. The senior bureaucrats, including IAS officers have had the time to mask their negativity. On the surface, they have paid lip service to the cause, but behind the scenes it has been a different story. Barring the notable exceptions who are genuinely committed to open governance, they have indulged in bureaucratic sabotage. This was most obvious at the time of formulation of the law, and in the intricacies of language used in the draft legislation bureaucrats prepared.

The Politicians Response

The colonial bureaucracy lays claim to understanding democracy better than the common man, because they feel it's a concept imported with western education. In its most elementary though fundamental role of holding the elections successfully the bureaucracy has played an efficient and necessary role. But the spirit and fruits of democracy have been contained within the nexus of the ruling elite, be it bureaucrat or politician. The representative sent to put forth the peoples point of view has been co-opted into the sharing of spoils without much persuasion.

Nevertheless, the politicians played a different game of hide and seek. They too were caught in their own dilemmas. As elected representatives in a democracy they were obliged to respond to the peoples demand by making appropriate and immediate positive noises. For the ruling party, the reluctance to part with information was also quite clear. The only initial difference was that many of the political parties saw that this would give them political mileage. In an environment that spoke for liberalisation, free markets, and the triumph of Western democracy, this was not a demand which could be denied on the surface. But they too got caught in the contradictions between statements and intent. So, the right to information found its way into many party manifestos at the time of two general elections to the Lok Sabha and became an election issue in the Rajasthan State Assembly elections.

The Emerging Lessons

Traditionally, rulers have seen the people as subjects - unintelligent, uninformed, incompetent, incapable. The best of the ruling elite fears that once the people, often referred to as the 'mob' take over, all administration will collapse. They feel that collectivism is impossible. Feudal patriarchs with deeply entrenched roots, which would be further uprooted by genuine democracy, agree with this point of view. So, transparency and information sharing are seen as leading to chaos. The business of governance has been so mystified that the simple task of looking at a muster roll in their minds needs skills that the common citizen is incapable of possessing or acquiring. Simultaneously, a range of arguments are put forth that the burdens this right would create far outweigh its theoretical advantages. It has been suggested that the system will be inundated by applications for information so that functionaries will only be answering queries and not be in a position to do their own jobs. Governance will therefore come to a standstill. Right to information and transparency are understood by them as important concepts, but they are emphatically dismissed as neither practical nor relevant in a country like India.

What the MKSS and the right to information campaign activists have been able to do through their experience with Panchayat records, is to question not only the upwardly directed, secret, internal accountability mechanisms in governance; but also work out details of people accessing information and analysing it in a manner in which most of these myths are substantially and logically destroyed.

The Development Scam

Every year the Government of India spends (we are told) some 8000 crores on rural development and poverty alleviation programmes. In the 8th plan period the total expenditure has been over Rs. 30,000/- crores. Where, everyone asks, has the money gone? The most common answer is to invariably cite one of the most oft quoted statements made by an Indian Prime Minister while in office: Rajiv Gandhi while talking of the failure of rural development programmes said, that of every rupee spent

by the Government for poverty alleviation only 15% actually reached the people. The rest he implied was wasted and pocketed en-route.

Everyone knew that between the information being dished out by the Government about development expenditure, and the reality, there was a yawning gap. It was not a revelation that there was fraud in almost every government work. But the information in the Kot Kirana and subsequent Jan Sunwais provided the missing link which would prove the where, the when and the how of the misappropriation; prove the crime, and help shatter the façade created on paper. These first set of Jan Sunwais showed that the quantum of fraud amounted to at least 30% of the money even reaching the panchayat level. This led to some very quick calculations which showed that in areas where poverty (and its alleviation) was big business, this would be by far the biggest scam. In the nine thousand panchayats and one hundred and eighty three municipalities across Rajasthan and in the hundreds of thousands across the country citizens were being taken for a ride, and here finally was a way for people themselves to expose it.

Similarly, the right to information campaign has helped expose and remove the many impractical norms in development programmes. Incorporated into the manuals and rules to ostensibly increase efficiency and reduce corruption, many of them end up doing the opposite. The products of a closed, top-down system of implementation, such requirements are only met by fudging records. Reminiscent of the Emperor in his new clothes, such falsifying of records is condoned, and becomes the perfect guise for a more widespread swindle. The right to information campaign and Jan Sunwais exposed the degree to which this method was being used, and forced the Government to change some of the impractical requirements.

The Electoral Sham

The second phase of the Jan Sunwais exposed and threatened one of the foundations of the unholy alliance on which the Indian electoral edifice is built. The panchayats and their heads are seen by members of Parliament and the State Legislatures as vote bank managers who can organise and deliver votes at the time of elections. In the increasing alienation of the people from those they elect, the panchayat heads (Sarpanches) are a surviving link who play the role of agents. There are no funds provided by the party for panchayat elections, and very little is provided from party funds for local level expenditure during state and national elections. For the services these sarpanches perform of organising meetings, managing election campaigns and delivering votes, the MPs and MLAs ensure that their “agents” get access to development funds. The sharp upward curve of money available to and being demanded by MPs and MLAs in the discretionary quota under the head of MP and MLA Local Area Development is indicative of the importance of these relationships. The sarpanches provide the votes and the MPs provide the funds. The sarpanches are supposed to use the funds to keep their supporters happy, recover their expenses and be compensated for their troubles. That these “adjustments” are illegal and amount to blatant robbery from the poor is an open secret; but they are considered a small price to pay for democracy. The MPs provide the protection from any enquiry that may take place, and of course everyone knows, but there is nothing anyone can do about it. This is where certified copies of details of development expenditure provided another breakthrough. The MPs and MLAs, who wanted local votes could no longer be openly associated with those sarpanches who stood exposed. And the sarpanches who

had to do the dirty work of forging records, wanted protection and had started asking questions as to why they should organise votes during elections at all.

The Attention To Detail

This struggle also raised what at first glance seemed a fairly small and innocuous demand to see bills, vouchers and muster rolls. Innocuous though it seemed, it was the specificity that made the Government uncomfortable. The bureaucracy is used to feeding people generalities while they themselves deal with the specifics, and in so doing control everything. There was genuine horror that such specific information needed to be shared at all. The bureaucracy controls even the ruling politician, by just this specific attention to detail. Appearing to take a leaf straight out of the BBC Programme of Yes Minister, the Indian bureaucracy has applied in spirit and structure the same machinations that gave Sir Humphrey so much power and joy.

The people on the other hand have to understand that the specifics have to be understood, sometimes challenged and always monitored. The struggle to extract information also had to contend with the culture epitomised by the Official Secrets Act of 1923, where all information, even the most mundane is enshrined in the pall of secrecy. The power the petty bureaucracy derives from such secrecy is easily perceived and has been repeatedly condemned. That is why the specific demand and its wider implications received rapid and comprehensive popular support. It was the threatened bureaucracy, the technocrats and the politicians who combined to stall the demand.

There is plenty of information available or even forced upon the people by the State. Regarding development works and expenditure for instance, there is a whole compendium of aggregates and information about schemes which amount to nothing more than government propaganda. It is important to understand that there are certain kinds of critical information the exposure of which raise uncomfortable questions, prove certain realities, and sometimes even help in changing perceptions. These nerve centres of information need to be identified. As with anything related to struggle for change, it is those people whose lives are most affected; those who are struggling for change, who can most effectively pinpoint the information that can help change their lives.

Controlling the Scams

The people, including those who had never been to school, understood the tremendous power that lay in certain documents. Members of MKSS, insisted from the time of early discussions that those documents had to see the light of day, if they were to prove that they had worked, that corruption was rampant, or that there were no 'versions'. Truth is based on hard fact, especially if it relates to rupees and paise. Muster rolls have their own comic history. Muster rolls when they have been asked to be seen, have been 'eaten by cows', 'disappeared with a strong gust of wind', concealed inside the vest of a 'mate' from where it could not be snatched, and very often not there at all, but replaced by a mini diary, which acted as a substitute.

Vouchers were not shown at all. As a result, it was easy to cook-up material bills and have them booked on development works. The discovery of the ghost company "Bheru Nath and Sons" in Bhim is illustrative. The company jointly owned by development department officials and members of their families, cooked-up bills, approved them, and pocketed the money. This fraud of several lakhs in the Bhim

Block was only discovered when the records came out. The auditors only examined the meticulously maintained paperwork. Therefore, they had no difficulty in placing their stamp of approval on the records of the works where material had been billed but not supplied. Public access to records could have prevented this kind of fraud.

On a larger scale, fraud like the Bihar fodder scam could not have continued unchecked for the fifteen years it did, till the defalcation added up to a whopping thousand crores. Auditors and Government Inspectors became party to the scam, but the people in the villages who were supposed to have received the fodder, would have blown the whistle had they only been allowed access to distribution registers which showed them receiving the non-existent fodder. The power of public access and overseeing expenditure was beginning to be palpably felt by the people in the MKSS area.

Democratic Accountability.

All stages of the struggle for information have underscored the fact that an elected government has to be accountable to its people. . After the first phase of Jan Sunwais in 1995, the Chief Minister of Rajasthan made promises culminating in a statement in the Rajasthan Assembly in April 1995, promising the Right to Information for the people of Rajasthan. The MKSS and NCPRI held the Chief Minister accountable to his electorate, and went through a long agitation and struggle to get him to accede and the Government to amend the Panchayat Raj Rules to allow people to access information. The struggle which took over two years, served as a forum for education and expression to people about their democratic rights and responsibilities.

Following the announcement in the Assembly, the MKSS tried to get access to records based on the Chief Ministers assurance. It was when a series of year long negotiations failed at levels from the District Collector to the Chief Secretary, that the MKSS began the Dharna at Beawar in April 1996. Reacting promptly to the pre-dharna notices, the Government. of Rajasthan hastily issued an order allowing manual inspection of panchayat records. It was immediately and promptly rejected. Illiterate members of the struggle for instance, pointed out that it was impossible to sit and copy muster rolls and bills and vouchers. In any case, without authentication these records had little meaning. The `photocopy', therefore became a synonym for an authenticated document in the common terminology of the struggle.

The Beawar Dharna

The dharna at Beawar lasted forty days. In the last ten days, the dharna continued simultaneously at Jaipur and in Beawar. The main participants were thousands of Rajasthani villagers who stayed a few days and nights, on a rotation basis. At any given time a couple of hundred people ate and slept on the dharna site, bang in the middle of the busy market place at "Chang Gate" in Beawar.

Tired of empty promises and weary of elections that seemed to be no different from the previous one, not knowing which candidate to choose, exhausted by continued pressure of corruption and graft, the people of Beawar were drawn slowly but very surely to the dharna. Baffled by the demand for information on the first day or two, but gradually understanding its significance, a huge cross section of Beawar began to extend financial and other support for what they had gradually begun to see as their own campaign.

(The local and regional press supported the cause as their own. The visits of eminent journalists Nikhil Chakravarthy, Kuldip Nayyar, Ajit Bhattacharjee and Prabhash Joshi to Beawar to join the campaign, not only gave the agitation national coverage, but also helped place the demand in a wider perspective. The significance of the doyens of ethical journalism making trips in the summer heat to the heart of Rajasthan was not lost on the people of Beawar, those on *dharna*, and others across the country. The late Nikhil Chakravarthy made a short but emotional speech explaining the importance of this relatively small dharna in a small town of Rajasthan. He said the Indian Independence movement began in small meetings like this one, where national leaders like Gandhiji exposed the loot of the Indian people by a foreign power. After fifty years of Independence, this struggle offered poor people a tool to expose the plunder of the country by its own rulers. This message was sinking in.)

The large numbers who attended the *dharna* at Beawar, did not only come to support the transparency of bills, vouchers and muster rolls in panchayat works. They saw that it was the thin edge of the wedge. Through the acceptance of transparency in one part of Govt's functioning lay the road to complete transparency and the right to information. For the MKSS itself the specificity of the demand was valid only if there was an acceptance of the people's right to Information. It would have been comparatively easy to get a government order for greater transparency in panchayat works than access to all government documents. It was the greater vision that enabled the MKSS to make the transformation from a small demand, to a campaign with far reaching implications with a demand for transfer of power to institutions where citizens could exercise control.

A Statewide Campaign

The State Government's outrage against any suggestion of a legal entitlement to information was followed by their allegations that the powerless bureaucracy was being hounded by the campaign and the press. Eventually the government brought this dharna to an end by conceding to the demand in principle, but setting up a committee to implement the assurance of the Chief Minister.

Even this committee got its terms of reference and began its sittings only after the MKSS staged yet another dharna outside the assembly and highlighted non-compliance. The committee's recommendations, when submitted, were classified "secret." The MKSS realised that another long agitation would have to be launched, and began the ground work for sustained support and widespread involvement. A contingent of MKSS activists travelled in the back of a truck to all the six divisional headquarters in Rajasthan – Kota, Udaipur, Jodhpur, Bikaner, Ajmer and finally ended in Jaipur, building public opinion through short three day dharnas. These helped involve larger sections of the population in the demand for information.

After the debate and discussion in the six divisional head quarters of Rajasthan, the MKSS pitched its tents near the State Secretariat, at Statue Circle in Jaipur, and began what turned out to be its longest dharna so far.

The Jaipur Dharna

Delegations from all over Rajasthan joined the agitation, and made presentations on the importance of access to information and the stumbling blocks they had experienced while trying to access information in various spheres. The immediate response of the Chief Minister was that the order giving citizens the right to obtain

certified copies of any Panchayat documents would be issued in a day or two. But as with earlier assurances, the Government made commitments, which it did not keep.

All through the 53 day sit in from May to July 1997, there was a sense of confidence amongst the agitationists that victory would be theirs. The dharna was continuously used as a platform for education, - the government called it 'propaganda', so that with each passing day the issue took firmer root in popular perception. It became increasingly clear that the government's intention to tire out the agitationists was boomeranging on itself.

The plurality of participation also enriched the modes of expression that the MKSS used. Theatre, songs and skits, interspersed with the speeches common to every political protest, always managed to attract people to the dharna tent. In many cases onlookers watched, and were then drawn forward to speak on the mike. In Jaipur, seminars and discussions were organised on a range of issues related to transparency and accountable governance at the dharna site itself.

Modes of Expression

Every political happening elicited a response from the agitation. The most innovative of these emerged as a response to the then BJP President L.K. Advani's *Rath Yatra** making an entry into Rajasthan with a call to wipe out '*bhay, bhuk and brashtachar*' (fear, hunger and corruption). It was his party that had refused to legislate on the Chief Minister's assurance on the right to information. His own attitude was no different. "Is this an issue to have a dharna on?" he asked a delegation of the agitationists who met him in Kota.

The answer rolled out of the dharna tent in the form of a dramatic and satirical spoof on fifty years of mis-governance called the *Ghotala*(scam) *Rath Yatra* . In contrast to Advani's air conditioned *Rath*, the "*Ghotala Rath*" was erected on a handcart that vendors use to sell their wares. Placed on the hand cart was a garishly adorned chair topped by an umbrella. This served as the canopy, from which hung several cardboard placards enlisting the notorious scams of the last ten years. A swashbuckling *Kamdar* reminiscent of the feudal past of Rajasthan marched at the head of the procession. The '*neta*' sat on the chair, wearing a white pajama kurta, and a saffron scarf. The *Ghotala Rath Yatra*, shocked, delighted, and finally stimulated people to think. This histrionic procession drew big crowds, and with songs, speeches and an accompanying skit managed to convey the gist of the whole message in a most creative manner.

The '*Rath*' became a vehicle to carry the campaign message to various localities in Jaipur. In the 63 localities it visited in different parts of the state capital it fetched both money and support for the dharna. Migrant workers working in Jaipur as cooks, saw the *Yatra* and insisted on making a contribution. They did so by cooking a rare feast for the 2500 protestors who had come to join the dharna for a day, and condemn the Government's doublespeak on the occasion of "*Pakhand Divas*" (hypocrisy day) as declared by the MKSS. This was the day the Chief Ministers of BJP ruled States were meeting in Jaipur to put forth an agenda for better governance which included the Right to Information as one item on its list of recommendations. There was a hypocrisy day, a '*kala divas*' black day, and after a daily seesaw of negotiations, a "victory day" when the Government finally made public the amended Panchayat Raj rules.

The Reasons for Success

There were two important factors that led to mounting pressure and the final success of this phase of the agitation. The first was the patience, stamina, and resilience, shown by the Campaign. In anticipation of a long sit-in, adequate preparations had been made. In fact, it seemed as if with each day that passed, the Government grew more weary and the agitationists more comfortable. When, with the advent of the monsoon, the regular tent was replaced by a rain-resistant one, the message went out clearly to the Government that this was one headache that could not be wished away.

The second factor was a growing understanding that this was not merely a limited single issue demand, but one with much wider political ramifications. This was significant for the long term impact of the movement. As the scope widened from corruption, to policy making and finally to governance itself, even the mainstream political opposition began to change its attitude. The fifty three days of being in the limelight allowed the 'Right to Information' to be understood as an issue related to basic political change. The campaign was now being recognised as leading to the wider movement for participatory democracy. This helped define the direction the movement would take as soon as the limited legal entitlement was granted. The critical links between localised action and wider political change became increasingly clear.

The Broader Alliances

The Beawar dharna brought national attention to the Jan Sunwai and the right to information effort in Rajasthan. Between the dharna in Beawar in May 1996, and the one in Jaipur in May-June 1997, this attention grew in a number of ways. As with so many novel grassroots level initiatives, the immediate questions asked were whether it had been replicated. As a matter of fact, one indication of it being a movement with an emerging potential was that it was not replicated but grew in different ways, and a range of converging initiatives have emerged in the last three years.

The formation of the National Campaign for the Peoples Right to Information (NCPRI) in Delhi brought a broad spectrum of interested people together, with the twin objectives of having effective legislation passed at the State and Central levels, and supporting grassroots level initiatives for the exercise of the people's right to information. The very close co-ordination between the NCPRI, and the Press Council of India resulted in an open debate on the contents and formulation of model legislation. Interestingly, because of some committed bureaucrats, the National Academy of Administration at Mussoorie also played a supportive and facilitating role in this process. The Press Council draft had inputs from a range of people, and became a base draft on which many bills were formulated.

Apart from the unique, almost activist role that the Press Council has played, and the positive contribution of the National Academy of Administration, there have been certain bureaucrats who have shown through their action that the shackles against transparency in governance can be rattled and even shaken off. A divisional commissioner in Bilaspur, Madhya Pradesh, pushed through a series of local orders giving people the Right to Information in the Public Distribution System, employment, industrial pollution, transport, and development sectors. These orders, as expected, raised a storm in administrative circles. However, while they increased efficiency and reduced corruption, they have failed so far, to be an entitlement which is used enthusiastically by the people. Later on, the Bilaspur orders were to have an

impact on the whole State as the Madhya Pradesh Government passed state-wide orders giving citizens the Right to Information in over forty five departments. This experience has shown that despite the Right to Information being an effective administrative reforms measure, it can become a paper tiger for peoples empowerment if it is not used and shaped by the people.

Alliances of people's organisations like the National Alliance of Peoples Movements, the Rural Workers Campaign, MAVJA- the peoples organisation formed to fight violence against women in Rajasthan, and the Dalit Sangharsh Samiti in Karnataka saw the importance of the issue in their own struggles. It was clearly being understood that the struggle for information is an essential component of all movements. Any viable alternative had to be based on the presentation of an existing reality, where certain facts had to be procured, analysed and presented before the people.

Advocacy bodies and platforms like Lokayan, the Commonwealth Human Rights Initiative, and the National Campaign for Advocacy Studies took up the issue and by organising seminars and workshops, and preparing reading material generated a greater awareness of the Right to Information in different parts of India and South Asia. Their dissemination of papers, pamphlets and resource material have also drawn in a set of opinion makers whose support matters, but who tend to stay clear of dharnas and agitations.

Jan Sunwais – The Second Phase

The procuring of the amended Panchayat Raj rules entitled people to access Panchayat accounts and procure certified copies. Armed with this, the MKSS began the second phase of Jan Sunwais. Even with a legal entitlement to procure copies of any panchayat record within four days, it took the MKSS months to access the information. Between the gram Sewak and the Sarpanch and their disappearing acts, just meeting them and delivering the application was a problem.

There were no provisions of penalties for non-compliance. Therefore, the MKSS had to mobilise interested people in order to have the law enforced. The dissemination of information and verification was even more charged after certified copies were obtained. In Kukarkheda Panchayat, Rajsamand District, for instance, the sharing of information generated great tension and excitement. Every bill, voucher, muster roll, and every entry in the records was received with curiosity, suspicion, and an interest in details. People showed patience, a willingness to wait, to know, to verify, and to counter mis-representation.

The difference between the accessing of information for the first set of Jan Sunwais and the second, was that this time there was a demand and not a request for information. In the initial stages, information was procured with persuasion and protests. The Government at the district and block level had to make it available, though they often claimed ignorance of the new rules. The Jan Sunwai at Kukarkheda on Jan 9th 1998 was watched with great interest by the entire area, including contingent blocks or Tehsils in Ajmer Bhilwara, Pali Rajsamand districts. The Sarpanch, was a woman called Basanta Devi who, backed by her family assumed aggressive postures in the beginning, and refused to part with the records. An erstwhile teacher at a primary school, she only succumbed when she realised that it would be worse if she did not give it. Between her, and her father-in-law a retired teacher, they began lobbying with the MKSS to not make it a 'public' hearing as it would lead to loss of face. The MKSS took a clear stand that embezzlement of

peoples money is an offence, in which the Government and the voters of the Panchayat will decide on the course of action. Eventually, the MKSS could only promise to not register a First Information Report (FIR) with the police, if she returned the amount embezzled, or took responsibility to get it returned.

In a historic Jan Sunwai, the Sarpanch of Kukarkheda publicly returned rupees 50,000 and promised to return 25,000 in two subsequent monthly instalments. This would cover the 100,000 rupees which had been proved through the documents and public depositions as having been defrauded from the Panchayat. She sat through the day long proceedings, as scores of people came to make depositions, about false names on muster rolls, fudging of bills, and so on. The whole area was buzzing with the news. 'Laloo or Jayalalitha did not return stolen money, but Basanta Devi has.' A wave of excitement and hope that matters can be set right resulted in a palpable feeling of empowerment.

From Information to Accountability.

The local district administration was pulverised . Imminent fears of the system being upset gripped them. Emergency meetings were held in Bhim, the Block Headquarters. All Sarpanches were summoned and told, 'on no account should you return money. That is an acceptance of guilt. You must keep quiet. Let them file complaints and FIRs. We are the ones who will conduct the enquiries, and nothing will come of it.' As for Basanta Devi, she was severely admonished, asked not to return the balance Rs. 50,000 she had promised to deposit, and was infact told to withdraw the 50,000 she had paid up.

Meanwhile the Sarpanches of Surajpura and Rawatmal also paid up amounts of Rs.1,14,000 and Rs. 1,47,000 respectively as a fall out of the Public Hearing held ten days later in Surajpura on 19th January 1998. V.P. Singh, former Prime Minister of India, who, as Prime Minister, tried to have a Right to Information Law passed, also attended this Public Hearing. Eminent journalists, civil servants, researchers, social activists, and respected citizens from Ajmer, Jaipur, Delhi and Bombay were the panellists at these two public hearings.

The MKSS was aware of the pitfalls of leaving the fixing of accountability with the same system that made the mistakes. Past experience had made the organisation acutely aware of the inherent flaws of the government's accountability machinery. The agency responsible for the fraud is the one which conducts the investigation. The experience of the MKSS in the case of Basanta Devi, and indeed almost every complaint of corruption it had made, clearly exemplified the complete lack of intent of the Government to book even proved and obvious cases of embezzlement, and fraud. There seemed if anything to be a vested interest in protecting the corrupt. This posed a serious and complex challenge about the follow up if existing systems of accountability had to be relied on. The cases filed with the anti-corruption department met with a similar fate. Even when Sub Divisional Magistrates (SDMs) investigation reports found fraud, the District and the State Governments slept on them. That is why the return of money electrified the area, and threatened those in the development administration. But some very relevant questions raised by critics had to be answered. They questioned the locus standi of the MKSS to move beyond a public hearing to what now amounted to a people's court. Would it not encourage the formation of kangaroo courts, if not here, then in other areas. The MKSS had also been asking itself these questions, and there was an obvious need to find a method of

institutionalising the process of the Jan Sunwai. There was a need for a legally empowered people's audit.

Institutionalising the Peoples Audit

Two simultaneous demands were made in a public dialogue with the Rajasthan Minister for Panchayati Raj in Jawaja on 18th September 1999. The first was that the Gram Sabha, or the general assembly of the citizens of a Panchayat be further divided for purposes of creating a viable unit of face to face democracy into their constituent wards. The corollary demand was that this ward Sabha be vested with substantive powers, including comprehensive powers of social audit. This would shift the systems of accountability away from the implementing hierarchy to the people themselves. The ward Sabha being a general assembly of the citizens of a ward, also had supreme democratic legitimacy. On the second of January 2000, the Rajasthan government issued an ordinance, which was passed as an amendment to the Panchayat Raj Act by the State Assembly in May 2000, amongst other things, creating the legal entity of the Ward Sabha and vesting it with powers of social audit. The Ward Sabhas and Gram Sabhas also have been given the right to remove the ward Panch or Sarpanch from office before the term is over. From the first of May to the 10th of May 2000, the first Ward Sabhas were held in Rajasthan.

There were several extremely significant aspects of the Ward Sabhas. Even with the limited administrative arrangements made by the Government to conduct this vast number of meetings, reports indicate that people did attend. The manageable neighbourhood size of the Ward, seems to have made it a natural and viable unit for face to face Democracy. If even a portion of the over hundred thousand Ward meetings did actually take place in the State of Rajasthan, it has enormous potential implications for the demands that will be placed on the Government machinery. Expectedly, there has been no flurry of Government activity to act on the resolutions of the Ward Sabhas and Gram Sabhas, but it is likely that these meetings will provide people a platform to put pressure on the Government functionaries to perform.

The social audit powers that have been conferred on the Ward Sabhas are even more significant. Even with the slipshod manner in which information was provided to the people, there is enough evidence to suggest that large numbers of resolutions have been passed by Ward Sabhas in Rajasthan refusing to give a stamp of approval to works completed in the past because of proof of corruption. Here again, there is no evidence of Government follow-up action, but in the case of the social audit process, people are likely to demand greater authority and powers for the Ward Sabha to order recoveries and disciplinary action against those found guilty of corruption. This demand has great implications for modes of participatory democracy.

The Right To Information Act in Rajasthan

On the 1st of May 2000, the Rajasthan State Legislature also passed a Right to Information law. The MKSS and NCPRI had contributed substantially to the process of the formulation of the initial draft bill. The more significant contribution was the fact that the government was persuaded by popular outcry that there was a need for a comprehensive law, rather than the executive orders, which were under consideration. The Government committee, which was given the task of preparing the first draft, invited the campaign to present its model legislation. In a unique exercise involving people from all over the state in the formulation of legislation, open debates and

meetings were held in all the divisional headquarters, with simultaneous street corner meetings to mobilise public opinion for a comprehensive and effective law.

The bill, when it was presented to the Assembly, looked completely different from the one presented to the Government by the campaign. It has some draconian restriction clauses, which give bureaucrats substantial discretionary powers to refuse access. It has very weak penalty provisions, and an appeal mechanism where bureaucrats are the appellate authorities. It could not possibly be a surprise to learn that the Bill that was passed into an Act by the state legislature was formulated almost entirely by a group of bureaucrats who knew precisely what they were doing.

Despite the successful bureaucratic sabotage, it was a landmark occasion. Just three year earlier, as a long sit-in was under way on the lawns outside the State Secretariat, the same bureaucrats supported by the ruling politicians at that time had said it was impossible and impractical to give the citizens the right to information even for Panchayat records. The Act in Rajasthan now gives the citizen a legal entitlement to seek and receive information in any sector of Governance.

The passing of this piece of legislation made more news than when it had been passed in Goa, Tamilnadu, or Madhya Pradesh, mainly because of the energetic campaign in Rajasthan. More important however, was the knowledge that this Act will be put to use in Rajasthan and there is a sense of anticipatory expectation about what implications that would have. The campaign in Rajasthan has shown that an effective way to attack weak provisions is to point out and challenge the weaknesses as the entitlement is put to use. The spaces now created are too substantial to be lost by only focussing on the spaces still not available. Democratic space must be used and constantly expanded.

The Law

This variety of efforts, the timing of the demand and the inability of a 'Democratic' State to oppose a concept like Right to Information has accounted for some extraordinary successes, in particular on the legislative side. Tamilnadu passed a very ineffective law in May 1997. Goa passed one based on the Press Council draft in October 1997. Madhya Pradesh passed a bill a year later which was inexplicably sent for assent to the President, rather than the Governor. The assent never came. Rajasthan passed a bill in May 2000, and the Governments of Delhi, Karnataka, and Maharashtra have made commitments to place bills before the assemblies in the next session. The Central Government has made a similar commitment.

There is a lot of value in comparing the relative merits and demerits of the legislation, as well as comparing the central legislation with what other countries have. However, far more critical is the direction the use of the Right to Information will give to the movement. Effective legislation creates certain legal spaces. It is important to realise at the same time that there is a degree of legislative overkill in India, sometimes as a deliberate strategy, where spaces that are built through popular protest are prevented from maturing by providing an illusion of such space.

Putting the Peoples Right to Information to Use

The Right to Information is an easy issue to demand in theory. It is the specifics which contain the seeds of conflict. That is why exercising the right is more important in many ways than the legal entitlement. What Rajasthan has had, which other states have lacked, is a concerted effort to not only seek, but also use the people's right to information. Even today, there is a much larger body of people all over the country,

demanding a legal entitlement, than the numbers of groups who are asking for and exposing hidden information in its detailed and comprehensible form. Exposing such information threatens the controls exercised by vested interests. It invites retribution and counter questioning. And it not only requires a commitment to follow up, but also calls for meticulous and tedious preparation. That is why the effort in Rajasthan has seemed so much more potent than elsewhere, and it is in the use of right to information that Rajasthan continues to break new ground. Goa and Tamilnadu have had acts on the books for longer than Rajasthan. The legal space created has encouraged groups to use it, but the momentum has been very slow. In Rajasthan, as soon as the Panchayat Raj rules were amended, the planned use of even that limited order has connected the issue rapidly with questions of state accountability. And once again, because of concerted grass root level efforts, the demands being made have the potential to fundamentally alter power relationships.

Solutions and Conclusions.

Towards Participatory Democracy.

The current crisis in democratic governance and rising dissatisfaction with agencies of the State has highlighted the need for political change. Are there any ready solutions? Does the riddle posed by Indian socio-political conditions allow any answers?

This campaign has shown that effective answers can be sought and provided based on the determined efforts of people at the bottom. There is a basic agreement that despite all its conceptual limitations, basic democracy and democratic spaces are precious to the citizens of this country. It is a question of defining the kind of democracy we would like to shape for ourselves, and choosing the paradigms of change.

The answer provided by the grassroots level right to information campaign is that Indian democracy needs its citizens to ask more questions and demand answers. Citizens in India, particularly the poor, are not apathetic or cynical. Given an opening, they will seek to participate in governance. The entitlement of the people's right to information gives them one such opening.

Evaluating the Future Potential

The right to information will not only help control corruption and the arbitrary exercise of power – it will also merge with and strengthen the aspirations of people for participatory democracy. Conceptually speaking, there can be no argument about participatory democracy being a purer form of democratic practice, and representative democracy being only a practical necessity. The primary problems with evolving a functioning participatory democracy are related to its apparent impracticality, and absence of viable institutions. By energetically presenting the ward Sabha and social audit as a viable option, the Right to Information campaign in Rajasthan, has opened another door for more effective citizens participation in governance. Transferring power to the people can be more than an attractive slogan.

It is true that the passage of Right to Information laws in a few States has not led to a clamour for information. However, it must be understood that this legislation will only be effectively used over time. There are two separate important factors for consideration, when evaluating the potential and success of the movement.

The first is the effectiveness of the provisions of the legislation. How much does it really open to public scrutiny? Are there effective penalties for non-compliance? Does

it apply to all institutions that affect public interest, including those bodies outside Government? How limited are the exceptions? What are the mechanisms for appeal? What are the mechanisms for making citizen's access inexpensive, practical and effective? Does it help breach the attitude that all matters of the State are secret and sacrosanct. Or does it only apply to matters of governance? These are the questions that must be asked when examining any legislation. They are of great importance, and must be raised when the Central Bill is presented and debated in parliament.

Far more important however, is the need for citizens groups to assert that they have a right to information and make specific efforts to use that right. It is here that the right to information lets the cat amongst the pigeons, upsets comfortable but unholy alliances and opens the doors for democratic debate. The right to information ceases to be a limited measure of reform and transforms into a battle of the dissemination and transfer of power.

The most attractive facet is that it is an instrument that cleanses society because of its double-edged quality. Anyone who uses the right to information provisions must be prepared to face questions and provide answers themselves. It is one issue that symbiotically links democratic and ethical practise. In a poor country like India, this means the ordering of a society along far more egalitarian lines.

Where does one locate the right to information and social (public) audit campaigns in the various efforts for political reform? It is true, that there is if anything, an excess of information, and no subsequent action. However, recent developments in Rajasthan have shown that the social audit process is likely to force the state machinery to act. Even in states like Goa and Tamilnadu, where the law was not the result of a people's movement, the space it has created is beginning to be used to enforce accountability. The eventual outcome will be a shift in accountability, away from hierarchical superiors to people themselves.

In these signs of healthy democratic processes, the right to information is only a first step. But it is a vital and essential step in the direction of restoring sovereign power to the people.

This paper is based on the experiences and efforts of the men and women of the Mazdoor Kisan Shakti Sangathan who have contributed not only through their efforts to create a better world but also through their analysis perceptions and understanding.

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