

Incorporating people's will in governance

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ON a December evening in 2021, as I was leaving the premises of the Nehru Memorial Museum and Library (NMML) in Teen Murti Marg, New Delhi, the guard stopped me at the gate saying that the prime minister's motorcade was about to pass. The roads had to be cleared as part of a security protocol. The Indian prime minister was journeying back to his residence, a few blocks from the library, in his shiny new Mercedes Maybach 650, along with police convoys and security personnel, as we waited inside the gates in silence.

I had spent most of December conducting archival research at the library for my doctoral thesis. When I boarded the Uber taxi to head home that evening, the driver apologized for his delay as he was held up on the other side of the road. The cabbie complained about not being able to relieve himself behind a bush as a policeman had caught him, asking him to get back into the car quickly because the PM was about to pass by any moment!

During the rest of the trip, we chatted about how the common man often felt insignificant before the ruling powers who displayed their power and pelf unabashedly. At that point, I asked my driver if he knew anything about the right to information movement – the topic of my research – and how the Right to Information (RTI) Act was meant to empower common citizens to hold the ruling class to account. He knew very little about the law, or the history of the struggle behind it, but asked a question that has remained with me ever since: 'Did it make any difference at all?'

In this essay, I approach that question by elaborating on the formative phase of the right to information movement, when a disclosure policy was prepared in India with civil society organizations playing an influential role in the process. I use the files and records of the Mazdoor Kisan Shakti Sangathan¹ held in the NMML archives to narrate how a people-centred vision of governance was created and sustained within the movement, which eventually found its way into the political mainstream. In keeping with the overall theme of the symposium, I unpack the idea of 'the people' here by visibilizing a specific constituency of the Indian people and demonstrating how the actors concerned mobilized the idea of a rights-bearing citizen to incorporate the will of the people into the framework of the RTI Act.

Voting is seen as the primary mode through which 'the people' of a nation exercise their democratic will. But since the 1960s, when the 'crisis in governability'² started in India, voting was viewed as inadequate to

1. The Mazdoor Kisan Shakti Sangathan is a civil society organization started in 1987 by a former Indian civil servant Aruna Roy with two of her activist colleagues Nikhil Dey and Shankar Singh in Devdungri village of Rajasthan, India. The voluntary organization today has over 10,000 members across the state comprised mostly of small farmers and unorganized labourers. But it also enjoys a strong network amongst academics, journalists and intellectuals from rural and urban India, and abroad.

2. A. Kohli, *Democracy and Discontent: India's Growing Crisis of Governability*. Cambridge University Press, Cambridge, 1990.

realize the will of the many. Participation in the political process, as Rajni Kothari observed, was a 'prerogative particularly denied to the masses in whose name development took place.'³ The 'Ye azadi jhooti hai' generation had already raised questions regarding how genuine the 1947 Indian independence was.⁴ The question that grassroots social movements working outside formal party politics grappled with was: how could lay citizens make their presence felt in the political sphere outside of the electoral process?⁵

A plethora of social issues – poverty, rampant corruption, and bureaucratic apathy – plagued India since Independence. Could the people of India be considered free when they had not been freed from the scourge of hunger and homelessness? Grassroots social movements were primarily concerned with how the Indian welfare state could live up to its development goals. It was in this context that the demand for the right to information arose as among the many tools to address the crisis in governability.

The struggle waged by the Mazdoor Kisan Shakti Sangathan to ensure fair wages for labourers employed in public works in Rajasthan during the late 1980s became one of the starting points for securing *real* freedoms. My research explored how the Sangathan, and its network of civil society allies

3. R. Kothari, 'The Non-Party Political Process', *Economic and Political Weekly* 19(5), 1984, pp. 216-224.

4. P. Chatterjee, *Nationalist Thought and the Colonial World: A Derivative Discourse*. University of Minnesota Press, Minneapolis, 1993; and S. Sharma, 'Yeh azaadi jhooti hai!': The Shaping of the Opposition in the First Year of the Congress Raj', *Modern Asian Studies* 48(5), 2014, pp. 1358-1388. <https://doi.org/10.1017/S0026749X13000693>

5. R. Kothari, 'The Non-Party Political Process', *Economic and Political Weekly* 19(5), 1984, pp. 216-224.

intervened to create a template for involving ordinary people as citizens to participate in various tiers of governance structures – national, state-level, and the village panchayat level. The Sangathan's grassroots attempts resonated with what was being articulated in international development fora such as the 1995 World Summit for Social Development in Copenhagen, which observed that 'democracy and transparent and accountable governance and administration in all sectors of society are indispensable foundations for the realization of social and people-centred sustainable development.'⁶

The earliest such intervention happened in 1996, after the Sangathan successfully organized a 40-days-long protest in Beawar, when the Rajasthan government failed to implement an oral assurance given by the Chief Minister Bhairon Singh Shekhawat in the state assembly for the inspection of files and records of public works held in the gram panchayat office. The demand for this originated from the grassroots experience of Sangathan activists struggling to access muster rolls of labourers employed on public works or obtaining details of disputed landownership involving private appropriation of village commons. Information held in government records became crucial to aid the struggle for fundamental rights to land and livelihood that the activists were waging on the ground. Also, without access to government records, activists could not verify the state government's expenditure claims on development programmes.

Essentially, the battle for information was embedded in local power struggles over the capture of public resources facilitated by the state. For instance,

6. Copenhagen Declaration on Social Development – Introduction. (n.d.). United Nations. Retrieved 24 May 2022, from <https://www.un.org/development/desa/dspd/world-summit-for-social-development-1995/wssd-1995-agreements/cdosd-introduction.html>

government officials could fabricate records of salaries paid to workers employed in a road laying project and thus siphon off public funds, if information held in those records were not made accessible to the workers. Initially, the government allowed only a physical inspection of government files held in the gram panchayat office; when the Sangathan activists pressed for the right to photocopy such documents, the administration resisted.

In a note addressed to the government, the Sangathan leader Aruna Roy observed that denying the right to obtain photocopies or certified copies relating to public works restricted where and how the information could be used. The records relating to development expenditure were difficult to copy by hand, even for highly literate ones, she observed. The note also pointed out that such an arrangement (of physical inspection of records alone) would increase dependence on intermediaries, lacked legal validity, and ultimately prevented an in-depth study of the document as most of the evidence, such as signatures and thumb impressions of workers involved in public works, would not be available for cross-checking with the local people for accuracy.

We witness here a process of direct intervention in framing a disclosure policy that was the exclusive preserve of the ruling class. The activists interpreted what would be beneficial from a commoner's perspective and conveyed it to the government, pressing them to include these in the policy. These demands were often framed in consultation with Sangathan members. As a result of such pressure from below, the state government amended the Rajasthan Panchayati Raj Rules in 1996 to include provisions for inspecting and copying government

records relating to public expenditures at the gram panchayat level.⁷ Following the success of the Beawar struggle, the Sangathan and its allies formed the National Campaign for People's Right to Information in 1996 as a broad country-wide coalition of concerned citizens fighting for transparent governance. The campaign was conceived to draft legislation and coordinate a national-level right to information movement.⁸

Despite the positive changes, accessing information from public authorities remained challenging for citizens. In 1998, members of the Rajasthan Mazdoor Kisan Morcha, an ally of the Sangathan, sought information on public works executed in Harmara panchayat. They had to visit various government offices at least 60 times in their quest for information. The Morcha members were frustrated and threatened to launch a state-wide agitation, on the eve of which the panchayat officials released partial information to them. Similarly, in Janawad, the Sangathan waged a struggle in 2000 to obtain information on public works executed there from 1995 to 2000. These works only existed on paper and could not be verified at the site.

When the activists sought information regarding this under the Rajasthan Panchayati Raj rules, they were denied information for three months despite the CEO of the Panchayati Raj department issuing a

7. The Rajasthan Panchayati Raj Rules, 1996 section 321-328, lists out various provisions for accessing records from the gram panchayat which allow for the inspection and copying of files and also lists the fees to be paid for the said purpose. It also stipulated a time limit of 24 hours to up to four days for provision of requisite files depending on the urgency of the request.

8. A. Roy & MKSS Collective, *The RTI Story: Power to the People*. Roli Books, Delhi, 2018.

letter facilitating the release of information. The former sarpanch of Janawad resisted the release of files and got the gram sabha to pass a resolution stating that giving information would cause law and order problems. The Sangathan activists lodged a protest with district and state officials against this move. With the intervention of the minister and secretary of Rajasthan's Panchayati Raj department, these resolutions were cancelled.

When the state government demanded the relevant records for inspection, the gram sevak (village council secretary) disappeared with them and obtained a stay order from the Jodhpur High Court against disclosure. Though the Rajasthan Panchayati Raj rules stipulated that officials should provide copies of files demanded by the public within four days of receiving a written request, in the case of Janawad, this was not met for more than a year. The Sangathan members learned from this experience how blatant flouting of the law could happen with the tacit backing of the district administration. These experiences pushed the movement to demand a penalty clause for non-compliance with the disclosure law, provisions for independent appeal, and fixing liability for providing information.

Since 1996, several versions of a national law to facilitate access to information to citizens were drafted, the earliest being the one prepared by the Press Council of India chairman Justice P.B. Sawant. Civil society organizations favoured this law, but the Government of India did not adopt it. In 1997, the Bharatiya Janata Party-led National Democratic Alliance government formed a committee headed by the consumer activist H.D.

Shourie to draft a Freedom of Information Bill. This Bill and its later versions, reintroduced in 1999 and 2000, were criticized for its widespread exemptions and an unfriendly approach to the provision of information.

A critical intervention that the Sangathan made in this context was to push for access to information to be recognized as a fundamental 'right' instead of merely 'freedom'. A submission made by the Sangathan to the Parliamentary Standing Committee on Home Affairs on the FoI Bill 2000⁹ noted that the Bill suggested that this law was creating a right in favour of citizens while the Constitution had already provided for such a right.

The most important work accomplished by the Sangathan in this regard was to make the connections between the various other rights guaranteed to the citizens under the Constitution – such as the right to life and liberty – and the right to information. The right (to information) already existed as interpreted by the Supreme Court in previous judgments,¹⁰ and the FoI law was merely establishing a system for the provision of this right. More importantly, the FoI Bill placed the burden of seeking information on the citizen, overlooking the duty of the state to disclose information proactively.

The Sangathan also highlighted that the competent authority under the law,

9. Freedom of Information Bill 2000. (n.d.). Commonwealth Human Rights Initiative. Retrieved 25 May 2022, from https://www.humanrightsinitiative.org/programs/ai/rti/india/legislation/foi_bill_2000.pdf

10. In the 1975 State of Uttar Pradesh vs. Raj Narain case and later the 1981 S.P. Gupta vs. Union of India case, the court concluded that the right to information was a fundamental right flowing out of Article 19 of the Constitution.

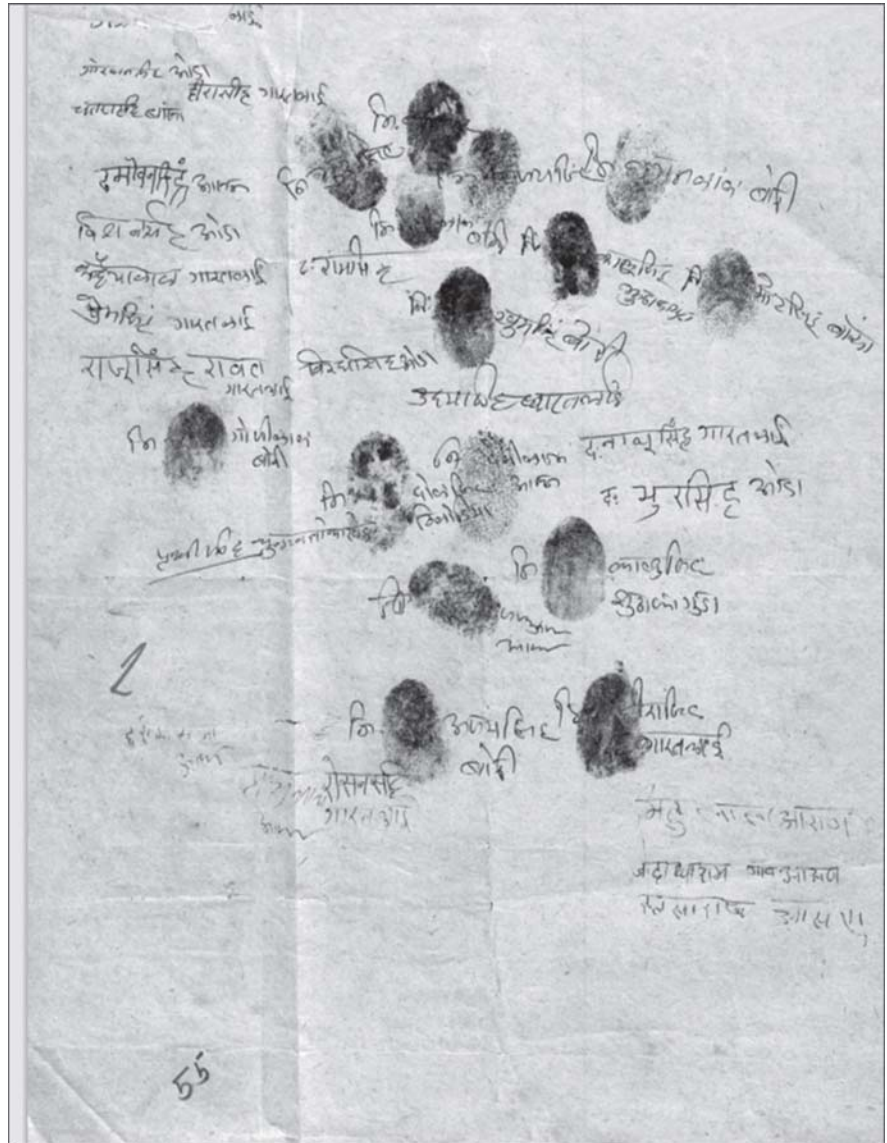
such as the Speaker, Chief Justice of India, or the President/Governor, only empowered the state-level authorities, and no aspect of decentralization was envisaged within the Bill. It objected to the absence of an appeal mechanism in the Bill directed at an independent body outside the government in case a public authority denied information. Further, it was also highly critical of the blanket exemptions given to intelligence and security organisations in the Bill under the pretext of safeguarding national security. In his comments submitted to the parliamentary committee, lawyer Prashant Bhushan, a member of the NCPRI, observed that the FoI Bill did not facilitate access to file notings, correspondences, and opinions issued by public servants. He also noted that the Bill's lack of penalty provisions for *mala fide* non-disclosure of information would force citizens to seek appeals which would be laborious and time-consuming.

At the state level in Rajasthan, the Sangathan similarly pushed for citizen-friendly provisions to be included in the information law. In 1999, when the Rajasthan government formed the P.N. Bhandari Committee to make recommendations for drafting a state RTI law, the NCPRI served as the nodal agency for preparing a model draft of the Bill. The NCPRI organized open discussions in various public meetings across six districts of Rajasthan, and the feedback gathered here was conveyed back to the committee. The committee concurred with most of the recommendations, primarily stressing these three broad principles for framing the state law: (i) disclosure of information should be the rule and secrecy the exception; (ii) the exceptions should be clearly defined; and (iii) there should be an independent mechanism for

adjudication of disputes between the citizens and public authorities. When the Rajasthan RTI Act was adopted in 2001, it featured several of the empowering clauses initially demanded by the grassroots movement.

In 2004, the Congress-led United Progressive Alliance government listed strengthening of the RTI Act as an administrative

Sangathan leader Aruna Roy further influenced this process as a member of the National Advisory Council in 2004. In 2005, when the UPA government finally passed the RTI Act, it incorporated many of the empowering provisions for citizens missing in earlier drafts of the Bill. Thus, at both the state and national levels, the RTI Act became an expression of 'people's will'.



Thumb impressions and signatures of MKSS members who participated in a discussion on the draft RTI Act.

reform agenda in its Common Minimum Programme.¹¹ The

11. Common Minimum Programme of UPA Government. (n.d.). Retrieved 25 May 2022, from <http://www.panjab.org.uk/english/cmp.htm>

Until now, we have seen how civil society interventions to frame the information law created avenues for people's participation in governance. Now let us consider how ordinary

people utilized it. The provisions for inspecting government files in the Panchayati Raj rules allowed the Sangathan to conduct a series of social audits of public works in various villages of Rajasthan starting in 1995. These audits brought to light numerous discrepancies in the implementation of development programmes. With the 2001 state law, the scope of public inquiry expanded beyond village public works to include the functioning of all public authorities.

During my doctoral fieldwork in Rajasthan, I documented the story of one such social audit relating to the government hospital in Jawaja. Susheela Devi, a Sangathan member who participated in the 1996 Beawar protest, filed her first information query under the 2001 Rajasthan RTI Act. She demanded five years' records from the government hospital in Jawaja relating to the treatment of patients and expenditure accounts of public funds. Most government hospitals receive a set of medicines meant to be distributed free of cost. These include tuberculosis drugs, rabies injections, snake bite medicine, among others. Pregnant women were also entitled to free medicines if they gave birth in the hospital. So, Susheela asked the hospital to provide details of what medicines were supplied for free distribution and how many patients had availed of these. The hospital took a month to respond to the query.

When Susheela got the patient's records, she went to the village and began to verify if the names of the beneficiaries were indeed correct. She found that many women who had given birth in the hospital were charged up to Rupees 1000 for the treatment and billed separately for the medicines though these were free. She also discovered inconsistencies in the

records and that not all the claims of beneficiaries matched.

The Sangathan organized a public hearing in the village on this matter. Most residents from Jawaja and even nearby villages participated, numbering about 3000 men and women in total. Doctors and senior health department officials from Jaipur, the state capital, attended the hearing. The hospital staff was pulled up for their misconduct when the villagers openly testified that they had not received benefits due to them. The hospital also lacked any information board publicizing the details of medicines to be distributed free of cost. After demands for erecting it were made at the hearing, the hospital installed a display board next to the pharmacy counter listing the names of all the medicines it stocked. The villagers also cleaned the hospital premises as it was filthy.

Susheela recalled the memory of this hearing with pride, noting that the public hospital in Jawaja maintained the display board they had got installed in 2001 to this date. Between 1995 and 2000, several such social audits were carried out across a number of villages in Rajasthan, which resulted in many panchayat officials getting caught misappropriating public money intended for development work. In some instances, the embezzled money was also recovered from the panchayat officials. Following a successful uncovering of corruption in public works in Janawad in 2000, the government of Rajasthan instituted a system of organizing state-led social audits, facilitating an open collaboration between the government and citizens to ensure accountable governance.¹²

12. A. Roy & MKSS Collective, *The RTI Story: Power to the People*. Roli Books, Delhi, 2018.

The civil society organization Parivartan led by Arvind Kejriwal, who was working in the Income Tax Department in Delhi at that time, experimented with the Rajasthan model of social audit in the local shantytowns of north-east Delhi. In 2001, when the Delhi government under Chief Minister Sheila Dikshit adopted a state RTI Act,¹³ Kejriwal and his activist colleagues started using it to seek information on a range of issues such as the provision of municipal sanitation services, delivery of subsidized food grains via the Public Distribution System (PDS), provision of electricity, and the laying of roads. Between 2000 and 2005, Parivartan organized many social audits focusing on the quality of public service delivery. One such audit on the poor quality of road laying works in Sunder Nagri generated a robust response. The audit exposed contractors cutting corners in road laying projects in connivance with local politicians.

A report produced by Parivartan volunteers notes that as part of the 2002 public hearing, Mohalla Samitis (Local Area Committees) with representatives from each street for each block in Sunder Nagri was formed. These committees were entrusted with assessing what residents in their blocks required and communicating this to the government so that public funds were not squandered away. The Samitis were to monitor the execution of all civil works and prevent projects from starting until its contract was made public as per the RTI Act. The report notes that several MLAs met Sheila Dikshit and requested her to prevent another public hearing as it adversely affected their

13. Delhi Right to Information Act 2001. (n.d.). Delhi Jal Board. Retrieved 25 May 2022, from http://delhijalboard.nic.in/sites/default/files/DelhiRTIAct2001_0.pdf

electoral prospects. Local politicians with a vested interest in making money out of public works tried to discredit Parivartan, albeit with little success.

Another significant intervention made by Parivartan through the use of the right to information in Delhi was in 2004, when documents accessed under the Delhi RTI Act revealed how the World Bank tried to persuade the Delhi government to privatize water supply across the capital city. Kejriwal and his activist colleagues exposed wrongdoing in awarding tenders in the project. They found that the private agency PricewaterhouseCoopers was unduly favoured for a million-dollar consultancy disregarding the opinion of Indian civil servants in the matter. The proposal to privatize water supply was also condemned on the grounds that it would lead to hikes in water tariffs, thus depriving poor residents of access to water.¹⁴ Parivartan raised a hue and cry over the proposal, stating that it would result in a lack of accountability from water companies and censured the Bank loan's impact on the state government's finances.¹⁵

In 2012, when the Aam Aadmi Party was formed under the leadership of Kejriwal, the Party drew upon its earlier activism to fashion itself into a populist entity exemplifying the vision of the common man through its politics. The promise of free water supply and reduced electricity bills, which made its way into their election manifesto during the 2013 and 2015 Delhi assembly elections, built mainly on its earlier information activism in this area. We witness here a process by which ideas of centering the people in government decision-making,

developed, and sustained in the realm of civil society, came to be integrated into the political mainstream.

In this essay, I have elaborated on how civil society organizations managed to incorporate the will of 'the people' into the agenda of governance. This led to the use of social audits, encouraging people to evaluate the implementation of various government programmes and address gaps. Such a continuous assessment of government performance looped back into opinion formation in the public sphere, which could potentially influence electoral outcomes, as witnessed in the case of the AAP in Delhi.

As India commemorates 75 years of Independence this year, it is worth looking back at the legacy of the right to information movement to cherish its significant contributions to realizing accountability in governance. And as the struggle since the 1990s has demonstrated, the right to information was always hard-won and faced stiff resistance from the state.

But in the end, returning to the question from the taxi driver that I originally began with, I would like to say that the right to information movement has undoubtedly made a difference. In 2015, the Aam Aadmi Party that emerged from within this movement abolished the VIP culture of government officials flashing 'laal battis' on their cars to reduce the gap between citizens and the state. Two years after the AAP took this decision in Delhi, the Union Cabinet amended the Motor Vehicles Act in 2017, banning red beacons in all government cars. The Indian prime minister adopted this measure subsequently. So, while the common man may still have to step aside and give way when a state dignitary and his entourage drive past, their loud sirens have been silenced once and for all.

14. R. Sehgal, *Reclaiming Public Water: Experience of Delhi*. The Transnational Institute (TNI), 2007. <https://www.tni.org/files/article-downloads/waterdelhisehgal.pdf>
15. Ibid.