

Fighting for the Right to Know in India

by Aruna Roy and Nikhil Dey

It was April 1996, and summer had just begun. The heat was searing the busy market town of Beawar, in central Rajasthan, but the residents were trying to go about their daily chores and errands, even as many of them picked up a strange rumbling in the distance. It didn't take long, however, before the sound began to become more recognisable and the source of it visible: a thousand-strong group of men and women bearing banners were marching towards Beawar, shouting slogans and singing songs.

The marchers were from the rural hinterlands. The women, who made up more than half of the group, were dressed in colourful *lahengas* (long skirts) and most of the men wore traditional peasant dress. As the Beawar residents watched with growing curiosity, the long procession snaked its way through the town, stopping for a moment to hand a representative of the state government a sheaf of papers. Then the visitors made their way to the town centre, where they began setting up tents of flimsy material and making preparations for what would turn out to be a long *dharna* (sit in). While Beawar was no stranger to agitations, this was unfolding to be a rather extraordinary one.

In fact, what made it really unusual was the demand of the motley and fairly bedraggled group that arrived in Beawar. Instead of asking for the customary *roti, kapda* or *makan* (food, clothing or shelter), what the visitors wanted was, of all things, a right to information! What they had handed Beawar's sub-divisional officer was a memorandum asserting the people's right to information (RTI), with the specific demand for the right to obtain certified copies of details of development expenditure.

This demand had been whispered about in the surrounding villages a few years before. But for Beawar – and the rest of India – it was a surprising addition to the list of demands of rural people. Few could have also imagined that what they were witnessing that hot summer day would grow into a nationwide movement for the right to information.

It took a while for the people of Beawar to understand that what the protesters were asking for was nothing less than an effective tool to force open the doors of participation in governance. In time, the connection between asking questions and demanding accountability was slowly but surely worked out. It would help villagers sift through the layers of deceit, hypocrisy and half-truths that had become a part of governance throughout India. More importantly, the Beawar experience proved that informed citizens would assert their rights and break out of the prevailing sense of apathy and helplessness.

Today, Rajasthan has a Right to Information law, as do seven other states in India. Similar legislation is also under consideration in at least three more states and even in the national parliament. The struggle in Rajasthan had led to the birth of the National Campaign for the People's Right to Information (NCPRI) in 1997. And even though the resulting laws have been far from perfect, many still recognise these as solid achievements by the people of India, especially its enlightened poor.

It is often said that the poor do not need esoteric things like freedom and democracy – they need food. That everyone needs food and other basics for survival is something the poor know better than anyone else. But they have also long been aware that they equally need a platform on which they can protest about the lack of these basics.

In fact, it is the poor who really know and understand the critical importance of even the crude form of democracy we practice. They realise that the once-in-five-years vote gives them more political power than they have had for centuries. They are the ones who have fought for every freedom enshrined in the Constitution and have taken to the streets to fight against the repeated threats to democratic rights. They realise that while the elite may have a voice under any system, it is democracy that has allowed the impoverished such as themselves the little space they have to even express their distress.

Any understanding of India's condition today will have to begin with a recognition of this strong will to keep the democratic system alive. But as a reflection of the extraordinary complexity of the texture of Indian democracy, the people's faith in the democratic system is also accompanied by dismay, fear and a sense of hopelessness. Many despair of ever finding a way to sort out the contradictions, the corruption and the complete lack of ethics that appear to have taken root in public life in India.

A people's response

Most often, ordinary people stretch their ethics to make the system work for themselves. Or as they say in rural Rajasthan, "*Ya tho jack ho, ya cheque ho* (You must have contacts to use or money for bribes)." It is in the context of cynicism, apathy and despair that the story of the efforts for change of ordinary people in a small part of Rajasthan becomes remarkable and significant.

The right to information demand formulated initially by members of the Mazdoor Kisan Shakti Sangathan (MKSS) is indeed a story of the extraordinary efforts of ordinary people. A combination of their clarity of thought and purpose and their instinctive understanding of the problems they faced in their lives has led to simple and

straightforward translations of their ideas into practice. An NGO, the MKSS consists of poor farmers and workers, men and women alike, many of whom have never been to school. Yet their organisation has not only raised the issue of RTI in such a potent manner, it has also changed the discourse on what had been seen for many years largely as an academic issue.

When the MKSS was formed in 1990, its stated objective was to use modes of struggle and constructive action to change the lives of its primary constituents: the rural poor. In the period leading up to the formulation of this objective, the group had taken up issues of land redistribution and minimum wages. These are seen traditionally as the two basic issues of the rural landless poor, and it was only natural that an organisation of peasants and workers would initiate struggles on minimum wages and land.

The MKSS staged two hunger strikes – one in 1990 and the other the following year – to push for just pay. But it was also in this fight for the payment of the statutory minimum wage under government- sponsored public works programmes that the group first understood the significance of transparency and the right to information. Every time the workers asked to be paid the minimum wage, they were told that they had not done the work, a claim that, they were also told, was based on records. When the MKSS demanded to see the records, the reply was that these were government accounts and therefore secret.

And so it was that a simple demand for minimum wages became a fight for the right to information. Those who descended upon Beawar in April 1996 were even astute enough to time the *dharna* with the campaign period of that year's national parliamentary election. Citizens were offered a small glimmer of hope to break out of the vicious cycle

that was Indian politics, which forced them to choose among undeserving candidates. For a change, during that election campaign in Beawar, democracy was being debated and redefined.

Those on *dharna* began to drive home the point that by using the right to collectively and individually ask questions and demand answers, citizens could begin to shift controls from the ruling elite to the people. It was a first step towards participatory governance, where the disadvantaged and the dispossessed could establish their right to livelihood, and in a democracy, to effectively govern themselves. The poor started to see that they had to be involved to the RTI campaign because it was an issue connected intrinsically to their livelihood and survival. One of the slogans born during the struggle is self-explanatory: “The Right to Know, The Right to Live”.

Journalist Nikhil Chakravarty, who came to Beawar during the *dharna*, said in a speech that the struggle was like a second battle for independence. Leaders of the independence movement, he said, exposed how the riches of the people were looted by foreign rulers. *This* struggle, said Chakravarty, showed the way to uncover how the people’s own homegrown rulers were now robbing them. These were dramatic words, especially for a small struggle in such a huge country. But what had apparently drawn Chakravarty’s attention was the fight’s potential to allow ordinary citizens to address many of the fundamental shortcomings of parliamentary democracy as practised in India. The demand was not to do away with democracy but to create opportunities for more meaningful and appropriate democratic practice.

Parliamentary democracy in India

At the time of independence in 1947, parliamentary democracy was not the system ideal for every group struggling for change. It was, however, the one most acceptable to all of India's peoples. For the country's ruling elite, it represented a means of retaining the economic control they enjoyed as they looked for legitimate means to step into the shoes of the former British colonial masters. The transfer of political power into their hands was by then a fait accompli. The Indian Civil Service became the Indian Administrative Service, and the only real change in Lutyens'^{i[1]} New Delhi was the remarkable ease with which it made room for its new occupants. For an outside observer, it would seem as if nothing had changed except the colour of skin of the people in power.

And yet, even for the most oppressed in India, this was a historic moment. For the subjects in rural Rajasthan, even the limited right to vote every five years wiped out in a single stroke the stranglehold of centuries of pre-ordained feudal values: a network of kings and lords from the rulers of princely states, to village "Jagirdars"^{ii[2]} who headed and enforced the most oppressive of socio-political orders – the permanent hierarchy of caste. The Indian parliamentary system did not do away with caste, but it did provide an opportunity to break the hierarchies it had been designed to perpetuate. For the Dalits^{iii[3]}, the vote – and the strength of their numbers – was one opening. Another was the other was the provision for "job reservation" and other special benefits made by the Constituent Assembly under Part XVI of the Constitution, which for the first time allowed Dalits to gain entry to the centres of power.

Still, even that early, democracy was being hijacked in India. Most critical to this development has been the continued separation of the rulers from the people. Much like

the British, elected representatives in democratic India soon revealed their narrow and self-centred approach to governance. Today, more than half a century later, it has become all the more clear that elected representatives at all levels from Parliament to the Panchayat^{iv[4]}, represent first and foremost themselves and the club they have gained entry to, and then only after that the people – and only when forced to. To make matters worse, the systems of accountability vis-à-vis the people of both elected representatives and the bureaucracy have proved so woefully inadequate that the ruling elite can continue to ignore the needs of an increasingly vocal and strident constituency. If there is anything that influences policy decisions these days, these would be limited to the requirements of an international economic order willing to let its agents have their share of the pie as long as they can ensure a “liberal economic regime” with an economic environment free of disruptive activities.

Internal accountability in India, meanwhile, is only of the rulers to each other. For decades, regular sops have been handed out in the form of half-hearted land reform, poverty alleviation, public distribution measures, reservations, statehood, lip service to education and health – the list is endless. The present demands of India’s citizens, however, are no longer for a particular concession, but for a share of governance itself.

The first steps toward self-governance

The 1996 *dharna* in Rajasthan put forth an immediate demand for an amendment in the Panchayati Raj^{v[5]} law to allow citizens to obtain certified photocopies of any document in local government offices. Particular focus was placed on records of expenditure like bills, vouchers and muster rolls.^{vi[6]} Simultaneously, a demand was made for a comprehensive law for the People’s Right to Information in all spheres of governance.

This calibrated approach has characterised the right to information campaign, where partial success has been used as a wedge to extract greater and greater openness.

Resistance to the people's efforts to ease access to public records has been strong. For example, it took over two years before the amendments to the Panchayati Raj rules were made. But the resistance to provide a legal entitlement only served to highlight the importance of such a provision and helped more people understand its great potential. In addition to agitational activities like *dharnas* and rallies, the continuous use of the mode of public hearings helped apply these concepts, even while the struggle was on.

It took another couple of years for the state of Rajasthan to pass a right to information law, albeit one that was toothless and full of loopholes. Yet its passage alone should be considered a victory for the people. After all, the same establishment that had repeatedly pronounced that acceding to the limited demand for information on public works was "impossible, impractical and inconceivable" now accepted a comprehensive legal entitlement as inevitable.

But there has been another aspect to the RTI struggle that has allowed for its organic growth. To be sure, the right to access government records was an assertion of many democratic principles and a claim on a share of governance. There was, however, a simultaneous search for a platform that could demonstrate its efficacy and help compel the process of institutionalising modes of self-governance. And what made it more a wonder was that these were ordinary people struggling against sophisticated forms of systemic control. Yet they came up with solutions that questioned the exclusive logic and indispensability of representation and its institutional structures.

One such solution was the public hearing or *Jan Sunwai*.^{vii[7]} Being an open platform where anyone could come and have their say on matters being examined, it acquired a kind of democratic legitimacy that agitations did not have. These *Jan Sunwais* were dramatic affairs where “information” and its analysis revealed the who, the how and the why of various misdeeds and gave courage to the exploited to bring their predicament out into the open. The records provided the proof and revealed the details, on a platform that saw new alignments take place. The RTI on its own caused a change in the power balance. The *Jan Sunwais* had a multiplier effect. The mode of the *Jan Sunwai* proved to be a complementary force in breaching the walls of control and exclusion. As a result, the conceptual, legal and practical search has continued along these multiple paths.

In Rajasthan, such *Jan Sunwais* not only demonstrated the importance of being able to access information but also the critical need to have a platform controlled by citizens where the information could be put to use. Thus, along with the institutionalisation of the right to information through a law, there was as well the successful struggle for the institutionalisation of public hearings. This was done through the legal sanctity provided to public audits (termed “social audit” in the Panchayat Raj Act). Implicit in this legal provision is the principle of the citizens’ right to audit all activities of their (local) government.

It is therefore not a coincidence that Rajasthan’s RTI law was passed on the same day as the amendments were made in the Panchayat Raj Act, giving the Ward Sabha (a group of 50 to 80 homes) legal status and the right to conduct social audits of works carried out in its area. This was an ideal size for planning, monitoring, implementing and auditing development efforts in a small community. The right to information struggle and

its persistent use of the fast developing mode of public hearings has in fact provided a critical impetus to the wider struggle for participatory democracy. In concrete terms, at a local level, it has helped demonstrate the conceptual difference between decentralisation and self- governance.

The rhetoric and action of implementation

As mentioned above, however, existing RTI laws leave much to be desired, making their implementation difficult and subject to individual interpretation. Rajasthan's groundbreaking law, for instance, does not have penalty provisions. At the very least, this has meant that action against errant officials is still dependent on the already discredited and cumbersome procedures of the civil service conduct rules.

Other important shortcomings in Rajasthan's RTI law include its many exemption provisions that have only given authorities ample scope to deny all kinds of information, even if doing so would be against the spirit of the law. The provisions for *suo moto* disclosures are also so weak and vague that it is left to the discretion of the bureaucracy to decide what its "duty to disclose" is. Moreover, the final appellant authority, the Rajasthan Civil Services Tribunal, is still not a truly "independent appeal mechanism".

The other RTI laws passed elsewhere in India have their own comparative areas of strengths and weaknesses. For instance, those of Delhi, Goa and Karnataka have better penalty provisions, while those in Maharashtra and Tamil Nadu are so weak that they are considered as fundamentally flawed by the RTI campaign. Sadly, not one of the laws – including Rajasthan's – meets the standards of the model bill prepared by the campaign. That implementation of such laws has been tardy and poor can only be expected, so much so that in Rajasthan, there are no government figures available on how many people have

sought information from which office. There are no known cases of any formal legal appeals having been filed due to authorities' denial of information, although there have been several documented cases of officials and even Panchayats refusing to provide information on completely arbitrary grounds – even through written resolutions and decisions. This is partly because the legal regime has not been detailed or publicised at all in Rajasthan. In contrast, in the state of Delhi, which passed an RTI law much later, there have already been several cases of appeals being filed and favourably decided by the appellate authority.

Still, while the right to information is part of the Rajasthan government's rhetoric, there has been no matching evidence of a pro-active campaign or effort to change the prevalent culture of opaqueness and arbitrariness. This is not to say that the rhetoric has not played its part in propagating the issue. But it should be emphasised that it has been the sustained pressure by a growing list of groups and individuals – including many who are not formally associated with the movement – that has extracted the visible action to implement the right to information law.

It was because of such that some officials have been publicly reprimanded by Rajasthan's chief minister for not providing information applied for by citizens. Orders have also been passed to hold officials responsible for not providing information by transferring them out. "Social audit" has become a mandatory part of all development and drought relief works, and the state government has been forced to take some action on some of the prominent cases of corruption unearthed through this exercise. Thus, although the Rajasthan government has not moved forward enough to proactively ensure implementation, it should be pointed out that it has also been firm and unequivocal in not

succumbing to pressure from elected village council heads and other powerful lobbies to roll back any of these measures.

The results so far

Throughout India, the impact of the Right to Information campaign has gone far beyond its immediate context. The public hearings, the institutionalisation of RTI through social audit, exemplary action taken in certain cases, the fact that the right to information gives any citizen even at a future point an opportunity to check the (mis)deeds of any authority by personally examining details – these have all had a dramatic and salutary effect on the prevalent modes of brazen corruption. In Rajasthan, for example, it has been universally acknowledged that the RTI campaign has contributed to the fact that for once, much of the Rs. 600 crores^{viii[8]} said to have been spent on drought relief last year really went to such and not to the pockets of corrupt officials.

The infamous case of Janawad Panchayat^{ix[9]} is another good illustration of the potential – as well as challenges – faced by the movement. It had taken the MKSS more than a year to obtain copies of this Panchayat's records in Rajsamand District, even after an RTI law had been passed there. But the information was worth the wait. The public hearing was followed by a government report showing more than Rs.70 lakhs^{x[10]} of fraud in a six-year period in one single Panchayat. The report also revealed a complete breakdown of all supervisory and monitoring systems.

The report and public pressure led to a series of suspensions, arrests, recoveries and other actions, which in turn have had a serious effect on the Panchayats and their functionaries all over the state. Since any fraud in Janawad takes on huge proportions

when multiplied by the 9,000 Panchayats in the state, even a conservative assessment of the impact of this high-profile case on Panchayat leaders and officials would probably translate into massive savings made because the numerous leakages and fraud that could have, but did not, happen.

The movement has also led to some serious introspection about the development establishment and its priorities. For the first time, policy anomalies in rural development and Panchayati Raj institutions are being addressed in a manner that can only result in the elimination of these anomalies, rather than their cultivation, which has made them a convenient excuse for corruption. For instance, the law requires that at least 60 percent of the funds for rural development works should go to employment, with no more than 40 percent being spent on materials. The unreasonable manner in which this has been implemented has meant that Panchayat officials have had to fudge records just to maintain the ratio. At the same time, it has become an open secret that much more was being fudged so that money could be siphoned off.

Now that the public has access to the rural works records, however, the magnitude of this double scam has come out, and with concrete proof to boot. It has been revealed as well that not only were policy objectives of using money for labour being flouted, but those very objectives were being used as a screen for corrupt practices. The right to information has thus taken away the protection provided by secrecy to carry out such misdeeds in the name of development. These days, the Sarpanches^{xi[11]} are swearing to do what they should have done all along: that they will not fudge any records. At the same time, the government has been forced to adopt a more pragmatic and committed approach to meet policy objectives. And as more citizens and civic groups strain to get copies of

reports of investigations, audits and other data that were so hard to obtain before, national government agencies are beginning to face questions similar to the ones Panchayat Raj institutions faced six years ago.

The right to information, however, forces equal standards of transparency and accountability on the users of information. Thus, as the RTI siege intensified in Rajasthan, the political establishment through various spokespersons turned around to ask NGOs and citizens' groups to disclose their own accounts. This set in motion a very healthy trend that persists to this day: the holding of transparency meetings, during which NGOs place details of their accounts before the people of the area where they work. In the future, this could lead to NGOs being accountable to a wider community, through the Gram Sabhas^{xii[12]} and Ward Sabhas. The transparency meetings could also prompt the community to get more involved in the planning implementation and monitoring of all activities of funded and non-funded organisations.

Campaigns, crusades and the right to information

The RTI campaign has consistently recognised that its strength lies in its integral relationship with other movements. This symbiotic relationship will continue to provide it creativity and strength.

Today many other civic groups are using the right to information much like a weapon in their respective battles. The women's movement in Rajasthan, for example, has used it to track the progress on cases of atrocities against women, demanding that the women concerned be informed of the progress on their cases and the contents of various important medico-legal and forensic reports. Many civil liberties and human rights

groups across the country are now also using RTI principles to ensure transparency and accountability of the police and custodial institutions.

People displaced by dams and factories, those denied their rights by the ration shop dealer, communities suffering from the effects of a polluting industrial unit, forest dwellers being evicted from their fields and homes – all these are examples of various people's movements wielding RTI provisions in order to score victories. In most cases, the information is still not being provided in the manner or time frame that it should be. In some cases, it is not being provided at all. But it has now become almost impossible to deny the people outright the information they seek. As movements and groups sharpen their questions and the establishment is forced to part with information, it can be expected that more and more citizens will use the right to know as a means of moulding democratic structures to make democracy meaningful for themselves.

There have already been several cases of individuals using the right to information as a means to ensure accountability from the power structures they have to deal with. These include a college lecturer in Bhilwara who was in charge of the women's study unit and wanted to see accounts of money spent by the principal from unit funds. Applicants aggrieved by the manner of selecting primary school teachers in Jawaja also used their right to information to demand copies of the interview sheets and basis for selection of other candidates. Even an independent member of the Rajasthan Legislative Assembly has followed the example set by the former leader of the opposition (now the chief minister) in Goa to use the RTI Act rather than assembly questions to seek information.

Clearly, the right to information has been established in the socio-political lexicon of the state, even as the contours of RTI are still being defined through the actions of people's movements and citizens' groups. It is thus only fair to say that the potential of the right to information is just beginning to be seen. The irony is that the solution to the problems now facing the movement lies in fighting for even more information.

Challenges and dilemmas of the campaign

As it is, the campaign itself has already thrown up in the air several contentious issues. Some of them present a moral dilemma. Others, meanwhile, will always be a cause for debate as society tries to come to terms with the changes a transparent regime is likely to bring about. And some will relate to questions of prioritising and strategising to achieve that goal.

The first challenge is how to deal with – or to be more precise, how to remove – the shortcomings in the present laws and their implementation. Corollary to this is what to do with the persistent lack of action by the authorities even after relevant information is obtained and presented. Obviously, the criminal justice system – which has been twisted to protect the powerful and frustrate those working for change – has to be made redundant or replaced altogether.

In early 1998, during the first set of public hearings in the MKSS area, held after the Panchayat Raj rules were amended in Rajasthan, Sarpanches and officials faced with incontrovertible evidence of fraud offered to, and did make, public apologies. They also returned the defrauded funds to the Panchayat coffers. Government officials, however, raised questions about the legitimacy of public hearings sponsored by “civil society organisations” and their right to negotiate the liability of offenders. These were legitimate

questions and the campaign responded by demanding an institutionalisation of public audits in Gram Sabhas and Ward Sabhas. Yet even after more amendments were made in the Panchayat Raj Act, pertinent questions remain. For instance, to what extent can quasi-judicial decisions be left to a body where vested interests may dominate and influence decision-making? And how does one find a practical way of coming to terms with, and reconciling the ills of, past actions while working to establish a new democratic culture?

Another factor that fundamentally threatens the process toward true right to information is the authorities' apparent lack of intent for it to prosper. The willingness to pass radical measures, with no intention of implementation, is the kind of sophisticated subterfuge that has been repeatedly used by the ruling establishment in India. Of the resolutions passed in the many meetings in the over 100,000 ward sabhas across Rajasthan, for instance, almost none have been looked at or acted upon by the government machinery. In effect, these resolutions are under serious threat of losing credibility. Interest in them could well wane, giving the authorities the opportunity to blame the public for neglecting such a people's platform.

Today transparency and accountability are terms in vogue, used liberally by people on both sides of the fence. In both the anti-corruption and transparency debate, however, it must be recognised that the one who frames the questions determines the parameters of the answers. When the language of people on all sides of the spectrum is the same, then only action can determine true intent. That is why the RTI campaign must continue to stress public action by the poor and the marginalised, so that their basic questions of survival cannot be brushed under the carpet in a sham debate on transparency and accountability.

The right to information movement in Rajasthan has offered hope to people striving to generate the culture, institutions and principles necessary for a participatory democracy. The RTI is finally a demand for an equal share of power. But it is also a fetter on the arbitrary exercise of power by anyone. Its legitimacy in a democratic set-up gives it the potential to keep widening the horizons of struggles for empowerment and change. This legitimacy is strengthened further by its capacity to make transparent and accountable the user of the right as much as the power centre being held accountable. As a campaign issue with theoretical, ethical and practical connotations, it will reveal new layers and raise new questions as it makes progress. This presents a potential and a challenge.

So far, by taking the lead in defining the contours of the debate, organisations of the poor and citizens' groups in Rajasthan have made it crucially relevant to the marginalised and disadvantaged, even as they have found ways to use it to make an impact on the mainstream. Continuing to push its boundaries while using it creatively is going to be the greatest challenge for such groups in the days ahead.

^{i[1]} The architect who designed the colonial capital of New Delhi

^{ii[2]} The official term for feudal landlords under a king, whose fiefdom extended to an area called a *jagir*.

^{iii[3]} People from the oppressed castes at the lower end of the caste hierarchy. *Dalit* is a term oppressed communities have chosen to use to describe themselves.

^{iv[4]} Panchayat is an official unit of rural local government, usually consisting of a village council of a few villages.

^{v[5]} Local Government Act and rules

^{vi[6]} Worker lists that are maintained at the government work sites and in which the rates to be paid to the labourer for each day of work put in are entered. Usually, these lists are for 15 days of work put in by each labourer, after which a new set of workers are employed.

^{vii[7]} Translates literally into people's hearing

^{viii[8]} A crore is Rs.10 million or approximately US\$200,000.

^{ix[9]} Janawad Panchayat is located near Gomti Churaha on the National Highway 8, between Jaipur and Udaipur in Rajsamand District, where the MKSS and the people of the village jointly organised a public hearing on the 3 April 2001.

^{x[10]} A lakh is a hundred thousand rupees or approximately US\$2,000.

^{xi[11]} The elected head of the Panchayat or village council.

^{xii[12]} The general assembly, consisting of all the voters of a village, or group of villages in a panchayat.